S T A T E O F N E W Y O R K

8369

I N S E N A T E

June 25, 2010

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the real property tax law, in relation to tax exemption for new multiple dwellings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 288 of the laws of 1985, is amended to read as follows:

(i) Within a city having a population of one million or more, new multiple dwellings, except hotels, shall be exempt from taxation for local purposes, other than assessments for local improvements, for the tax year or years immediately following taxable status dates occurring subsequent to the commencement and prior to the completion of construction, but not to exceed three such tax years, EXCEPT FOR NEW MULTIPLE DWELLINGS THE CONSTRUCTION OF WHICH COMMENCED BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH SHALL BE EXEMPT FROM TAXATION FOR LOCAL PURPOSES, OTHER THAN ASSESSMENTS FOR LOCAL IMPROVEMENTS, FOR THE TAX YEAR OR YEARS IMMEDIATELY FOLLOWING TAXABLE STATUS DATES OCCURRING SUBSEQUENT TO THE COMMENCEMENT AND PRIOR TO THE COMPLETION OF CONSTRUCTION, BUT NOT TO EXCEED SIX SUCH TAX YEARS, and shall continue to be exempt from such taxation in tax years immediately following the taxable status date first occurring after the expiration of the exemption herein conferred during construction so long as used at the completion of construction for dwelling purposes for a period not to exceed ten years in the aggregate after the taxable status date immediately following the completion thereof, as follows:

(A) except as otherwise provided herein there shall be full exemption from taxation during the period of construction or the period of three years immediately following commencement of construction, whichever expires sooner, EXCEPT FOR NEW MULTIPLE DWELLINGS THE CONSTRUCTION OF WHICH COMMENCED BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH SHALL BE ELIGIBLE FOR FULL EXEMPTION FROM TAXATION DURING THE PERIOD OF CONSTRUCTION OR THE PERIOD OF SIX YEARS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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IMMEDIATELY FOLLOWING COMMENCEMENT OF CONSTRUCTION, WHICHEVER EXPIRES SOONER, and for two years following such period;

(B) followed by two years of exemption from eighty per cent of such taxation;

(C) followed by two years of exemption from sixty per cent of such taxation;

(D) followed by two years of exemption from forty per cent of such taxation;

(E) followed by two years of exemption from twenty per cent of such taxation;

The following table shall illustrate the computation of the tax exemption:

CONSTRUCTION OF CERTAIN MULTIPLE DWELLINGS

	Exemption
During Construction (maximum three years, EXCEPT FOR CONSTRUCTION COMMENCEMENT BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH HAS A MAXIMUM OF SIX YEARS)	100%
Following completion of work Year:	
1	100%
2	100
3	80
4	80
5	60
6	60
7	40
8	40
9	20
10	20

S 2. Clause (A) of subparagraph (ii) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 288 of the laws of 1985, is amended to read as follows:

(A) Within a city having a population of one million or more the local housing agency may adopt rules and regulations providing that except in areas excluded by local law new multiple dwellings, except hotels, shall be exempt from taxation for local purposes, other than assessments for local improvements, for the tax year or years immediately following taxable status dates occurring subsequent to the commencement and prior to the completion of construction, but not to exceed three such tax years, EXCEPT FOR NEW MULTIPLE DWELLINGS THE CONSTRUCTION OF WHICH COMMENCED BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH SHALL BE EXEMPT FROM TAXATION FOR LOCAL PURPOSES, OTHER THAN ASSESSMENTS FOR LOCAL IMPROVEMENTS, FOR THE TAX YEAR OR YEARS IMMEDIATELY FOLLOWING TAXABLE STATUS DATES OCCURRING SUBSEQUENT TO THE COMMENCEMENT AND PRIOR TO THE COMPLETION OF CONSTRUCTION, BUT NOT TO EXCEED SIX SUCH TAX YEARS, and shall continue to be exempt from such taxation in tax years immediately following the taxable status date first occurring after the expiration of the exemption herein conferred during such construction so long as used at

the completion of construction for dwelling purposes for a period not to exceed fifteen years in the aggregate, as follows:

a. except as otherwise provided herein there shall be full exemption from taxation during the period of construction or the period of three years immediately following commencement of construction, whichever expires sooner, EXCEPT FOR NEW MULTIPLE DWELLINGS THE CONSTRUCTION OF WHICH COMMENCED BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH SHALL BE ELIGIBLE FOR FULL EXEMPTION FROM TAXATION DURING THE PERIOD OF CONSTRUCTION OR THE PERIOD OF SIX YEARS IMMEDIATELY FOLLOWING COMMENCEMENT OF CONSTRUCTION, WHICHEVER EXPIRES SOONER, and for eleven years following such period;

b. followed by one year of exemption from eighty percent of such taxation;

c. followed by one year of exemption from sixty percent of such taxation;

d. followed by one year of exemption from forty percent of such taxation;

e. followed by one year of exemption from twenty percent of such taxation.

S 3. Subclause b of clause (C) of subparagraph (ii) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 288 of the laws of 1985, is amended to read as follows:

b. the local housing agency has imposed a requirement or has certified that twenty percent of the units be affordable to families of low and moderate income.

The following table shall illustrate the computation of the exemption:

CONSTRUCTION OF CERTAIN
MULTIPLE DWELLINGS

	Exemption
During Construction (maximum three years, EXCEPT FOR CONSTRUCTION COMMENCEMENT BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH HAS A MAXIMUM OF SIX YEARS)	100%
Following completion of work Year:	
1 through 11	100%
12	80
13	60
14	40
15	20

S 4. Clause (A) of subparagraph (iii) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 702 of the laws of 1992, is amended to read as follows:

(A) Within a city having a population of one million or more the local housing agency may adopt rules and regulations providing that new multiple dwellings, except hotels, shall be exempt from taxation for local purposes, other than assessments for local improvements, for the tax year or years immediately following taxable status dates occurring subsequent to the commencement and prior to the completion of construction, but not to exceed three such tax years, EXCEPT FOR NEW MULTIPLE DWELLINGS THE CONSTRUCTION OF WHICH COMMENCED BETWEEN JANUARY

FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH SHALL BE EXEMPT FROM TAXATION FOR LOCAL PURPOSES, OTHER THAN ASSESSMENTS FOR LOCAL IMPROVEMENTS, FOR THE TAX YEAR OR YEARS IMMEDIATELY FOLLOWING TAXABLE STATUS DATES OCCURRING SUBSEQUENT TO THE COMMENCEMENT AND PRIOR TO THE COMPLETION OF CONSTRUCTION, BUT NOT TO EXCEED SIX SUCH TAX YEARS, and shall continue to be exempt from such taxation in tax years immediately following the taxable status date first occurring after the expiration of the exemption herein conferred during such construction so long as used at the completion of construction for dwelling purposes for a period not to exceed twenty-five years in the aggregate, provided that the area in which the project is situated is a neighborhood preservation program area as determined by the local housing agency as of June first, nineteen hundred eighty-five, or is a neighborhood preservation area as determined by the New York city planning commission as of June first, nineteen hundred eighty-five, or is an area that was eligible for mortgage insurance provided by the rehabilitation mortgage insurance corporation as of May first, nineteen hundred ninety-two or is an area receiving funding for a neighborhood preservation project pursuant to the neighborhood reinvestment corporation act (42 U.S.C. SS180 et seq.) as of June first, nineteen hundred eighty-five, as follows:

a. except as otherwise provided herein there shall be full exemption from taxation during the period of construction or the period of three years immediately following commencement of construction, whichever expires sooner, EXCEPT FOR NEW MULTIPLE DWELLINGS THE CONSTRUCTION OF WHICH COMMENCED BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH SHALL BE ELIGIBLE FOR FULL EXEMPTION FROM TAXATION DURING THE PERIOD OF CONSTRUCTION OR THE PERIOD OF SIX YEARS IMMEDIATELY FOLLOWING COMMENCEMENT OF CONSTRUCTION, WHICHEVER EXPIRES SOONER, and for twenty-one years following such period;

b. followed by one year of exemption from eighty percent of such taxation;

c. followed by one year of exemption from sixty percent of such taxation;

d. followed by one year of exemption from forty percent of such taxation;

e. followed by one year of exemption from twenty percent of such taxation.

S 5. Subclause b of clause (D) of subparagraph (iii) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 288 of the laws of 1985, is amended to read as follows:

b. the local housing agency has imposed a requirement or has certified that twenty percent of the units be affordable to families of low and moderate income.

The following table shall illustrate the computation of the exemption:

CONSTRUCTION OF CERTAIN MULTIPLE DWELLINGS

	Exemption
During Construction (maximum three years, EXCEPT FOR CONSTRUCTION COMMENCEMENT BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH HAS A MAXIMUM OF SIX YEARS)	100%

Following completion of work Year:	
1 through 21	100%

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5  23                                                    60
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6 24 40

S 6. Item (B) of subparagraph (iv) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as added by chapter 832 of the laws of 1992, is amended to read as follows:

(B) Such new multiple dwellings, except hotels, shall be exempt from taxation for local purposes, other than assessments for local improvements for the tax year or years immediately following taxable status dates occurring subsequent to the commencement and prior to the completion of construction, but not to exceed three such tax years, EXCEPT FOR NEW MULTIPLE DWELLINGS THE CONSTRUCTION OF WHICH COMMENCED BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH SHALL BE EXEMPT FROM TAXATION FOR LOCAL PURPOSES, OTHER THAN ASSESSMENTS FOR LOCAL IMPROVEMENTS, FOR THE TAX YEAR OR YEARS IMMEDIATELY FOLLOWING TAXABLE STATUS DATES OCCURRING SUBSEQUENT TO THE COMMENCEMENT AND PRIOR TO THE COMPLETION OF CONSTRUCTION, BUT NOT TO EXCEED SIX SUCH TAX YEARS, and shall continue to be exempt from such taxation in tax years immediately following the taxable status dates first occurring after the expiration of the exemption herein conferred during such construction so long as used at the completion of construction for dwelling purposes for a period not to exceed twenty years in the aggregate, as follows:

a. except as otherwise provided herein, there shall be full exemption from taxation during the period of construction or the period of three years immediately following commencement of construction, whichever expires sooner, EXCEPT FOR NEW MULTIPLE DWELLINGS THE CONSTRUCTION OF WHICH COMMENCED BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH SHALL BE ELIGIBLE FOR FULL EXEMPTION FROM TAXATION DURING THE PERIOD OF CONSTRUCTION OR THE PERIOD OF SIX YEARS IMMEDIATELY FOLLOWING COMMENCEMENT OF CONSTRUCTION, WHICHEVER EXPIRES SOONER, and for twelve years following such period;

b. followed by two years of exemption from eighty percent of such taxation;

c. followed by two years of exemption from sixty percent of such taxation;

d. followed by two years of exemption from forty percent of such taxation;

e. followed by two years of exemption from twenty percent of such taxation.

The following table shall illustrate the computation of the exemption:

CONSTRUCTION OF CERTAIN
MULTIPLE DWELLINGS

During construction (maximum three years, EXCEPT FOR CONSTRUCTION COMMENCEMENT BETWEEN JANUARY FIRST, TWO THOUSAND SEVEN AND JUNE THIRTIETH, TWO THOUSAND NINE WHICH HAS A MAXIMUM	Exemption 100%

OF SIX YEARS)
Following completion of work year:

1 through 12	100%
13-14	80%
15-16	60%
17-18	40%
19-20	20%

S 7. The opening paragraph of item (A) of subparagraph (iv) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 618 of the laws of 2007, is amended to read as follows:

Unless excluded by local law, in the city of New York, the benefits of this subparagraph shall be available in the borough of Manhattan for new multiple dwellings on tax lots now existing or hereafter created south of or adjacent to either side of one hundred tenth street [which] THAT commence construction after July first, nineteen hundred ninety-two and before December twenty-eighth, two thousand [ten] FOURTEEN only if:

S 8. Subparagraph (ii) of paragraph (c) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 618 of the laws of 2007, is amended to read as follows:

(ii) construction is commenced after January first, nineteen hundred seventy-five and before December twenty-eighth, two thousand [ten] FOURTEEN provided, however, that such commencement period shall not apply to multiple dwellings eligible for benefits under subparagraph (iv) of paragraph (a) of this subdivision;

S 9. Paragraph (g) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 995 of the laws of 1981, is amended to read as follows:

(g) [For] NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN ANY OTHER STATE OR LOCAL LAW, FOR purposes of this section, construction shall be deemed "commenced" [when excavation or alteration has begun in good faith on the basis of approved construction plans] UPON THE DATE THAT, PURSUANT TO ANY PERMIT APPROVED BY A DEPARTMENT OF BUILDINGS, (I) A NEW METAL OR CONCRETE STRUCTURE THAT SHALL PERFORM A LOAD BEARING FUNCTION IS INSTALLED AS PART OF A FOUNDATION, (II) AT LEAST ONE FULLY DRIVEN PILE OR CAISSON IS INSTALLED, OR (III) THE ACTUAL CONSTRUCTION, ALTERATION OR IMPROVEMENT OF A PRE-EXISTING BUILDING OR STRUCTURE BEGINS IN A PROJECT THAT INCLUDES NEW RESIDENTIAL CONSTRUCTION AND THE CONCURRENT CONVERSION, ALTERATION OR IMPROVEMENT OF A PRE-EXISTING BUILDING OR STRUCTURE; PROVIDED, HOWEVER, THAT WITH RESPECT TO SUBPARAGRAPHS (I), (II) AND (III) OF THIS PARAGRAPH, THE CONSTRUCTION OF SUCH MULTIPLE DWELLING IS COMPLETED WITHOUT UNDUE DELAY.

S 10. The opening paragraph and paragraph (iv) of subdivision 3 of section 421-a of the real property tax law, the opening paragraph as amended by chapter 655 of the laws of 1978 and paragraph (iv) as amended by chapter 703 of the laws of 1976, are amended to read as follows:

[Application forms for exemption under this section shall be filed with the assessors between February first and March fifteenth and, based on the certification of the local housing agency as herein provided, the assessors shall certify to the collecting officer the amount of taxes to be abated.] If there be in a city of one million population or more a department of housing preservation and development, the term "housing agency" shall mean only such department of housing preservation and development. [No such application shall be accepted by the assessors unless accompanied by a certificate of the local housing agency certify-

ing the applicant's eligibility pursuant to subdivisions two and four of this section.] No [such] certification of eligibility FOR BENEFITS PURSUANT TO THIS SECTION shall be issued by the local housing agency until such agency determines the initial adjusted monthly rent to be paid by tenants residing in rental dwelling units contained within the multiple dwelling and the comparative adjusted monthly rent that would have to be paid by such tenants if no tax exemption were applicable as provided by this section. The initial adjusted monthly rent will be certified by the local housing agency as the first rent for the subject dwelling units. A copy of such certification with respect to such units shall be attached by the applicant to the first effective lease or occupancy agreement. The initial adjusted monthly rent shall reflect the full tax exemption benefits as approved by the agency.

(iv) The adjusted monthly rent per room per month shall be multiplied by the room count of each rental dwelling unit to provide the initial adjusted monthly rent for such dwelling unit. The agency may allow adjustments in the initial adjusted monthly rent for any particular dwelling units provided that the total of the initial adjusted monthly rents for all of the rental dwelling units in a multiple dwelling shall not exceed the total expenses of such multiple dwelling.

The agency shall determine the estimated comparative adjusted monthly rent that would have to be paid if no tax exemption were applicable as provided by this section by adding to the adjusted monthly rent for each dwelling unit as hereinabove computed an amount equal to (a) the difference between the projected real property taxes which would be levied on the multiple dwelling and the land on which it is situated at the time OF estimated initial occupancy if no tax abatement were applicable as provided by this section and the projected real property taxes hereinabove utilized in connection with the computation of total expenses; (b) divided by the room count of the building as per this section; and (c) multiplied by the applicants approved room count of each such dwelling unit.

The local housing agency may promulgate rules and regulations to carry out the provisions of this section, not inconsistent with the provisions hereof, [and may require a reasonable filing fee in an amount provided by such rules and regulations] INCLUDING, BUT NOT LIMITED TO, RULES AND REGULATIONS RELATING TO THE FILING FEE AUTHORIZED PURSUANT TO PARAGRAPH B OF SUBDIVISION FOUR OF THIS SECTION.

S 11. Paragraph b of subdivision 4 of section 421-a of the real property tax law, as added by chapter 744 of the laws of 2004, is amended to read as follows:

b. The local housing agency [may] SHALL require a filing fee not to exceed the greater of (i) four-tenths of one percent of the total project cost, or (ii) if the building will be owned as a cooperative or condominium, four-tenths of one percent of the total project cost or four-tenths of one percent of the total project sell-out price stated in the last amendment to the offering plan accepted for filing by the attorney general of the state, at the option of the applicant. Such total project cost or total project sell-out price shall be determined pursuant to rules promulgated by the local housing agency. Notwithstanding the foregoing, the local housing agency may promulgate rules imposing an additional fee if an application, or any part thereof, or submission in connection therewith, is defective and such defect delays the processing of such application or causes the local housing agency to expend additional resources in the processing of such application.

S 12. Subparagraph (i) of paragraph (a) of subdivision 6 of section 421-a of the real property tax law, as added by chapter 110 of the laws of 2005, is amended to read as follows:

(i) "Covered project." (A) A new building located within the Greenpoint - Williamsburg waterfront exclusion area, (B) two or more buildings which are part of one contiguous development entirely located within the Greenpoint - Williamsburg waterfront exclusion area, (C) two or more buildings which are located within the Greenpoint - Williamsburg waterfront exclusion area and are part of a single development parcel specifically identified in section [62-831] 62-931 of the local zoning resolution, or (D) where so authorized in writing by the local housing agency, one or more buildings located within the Greenpoint - Williamsburg waterfront exclusion area and one or more buildings located outside the Greenpoint - Williamsburg waterfront exclusion area but within Community District Number One in the borough of Brooklyn. The cumulative number of affordable units located outside the Greenpoint - Williamsburg waterfront exclusion area in all covered projects described in clause (D) of this subparagraph shall not exceed two hundred. A building located outside the Greenpoint - Williamsburg waterfront exclusion area which is part of a covered project described in clause (D) of this subparagraph shall not contain any affordable units with respect to which an application pending before a governmental entity on the effective date of this subdivision or a written agreement in effect on the effective date of this subdivision provided for the development of such affordable units.

S 13. This act shall take effect immediately.