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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. MORELLE -- Multi-Sponsored by -- M. of A. ALFANO -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to extending the enhanced STAR exemption to permanent total disabled volunteer firefighters

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

Section 1. Paragraph (a) of subdivision 2 of section 425 of the real property tax law, as amended by section 1 of part E of chapter 83 of the laws of 2002, is amended and a new subdivision 4-b is added to read as follows:

(a) Overview. There shall be two variations of the exemption authorized by this section: an exemption for property owned by persons who satisfy the criteria set forth in subdivision three of this section, which shall be known as the "basic" STAR exemption, and an exemption for property owned by senior citizens, AND PERMANENT TOTAL DISABLED VOLUNTEER FIREFIGHTERS who satisfy the criteria set forth in both subdivisions three and four of this section, OR FOR PROPERTY OWNED BY PERMANENT TOTAL DISABLED VOLUNTEER FIREFIGHTERS WHO SATISFY THE CRITERIA SET FORTH IN SUBDIVISION FOUR-B OF THIS SECTION, TOGETHER which shall be known as the "enhanced" STAR exemption. The exempt amount for each assessing unit shall be determined annually as set forth in this subdivision, by multiplying the "base figure" by the locally-applicable "sales price differential factor," if any, multiplying the product by the appropriate "equalization factor" for the assessing unit, and, if necessary, increasing the result to equal the applicable "floor." The result is then rounded to the nearest multiple of ten dollars.

4-B. PERMANENT TOTAL DISABLED VOLUNTEER FIREFIGHTERS. THE ENHANCED EXEMPTION SHALL BE PROVIDED FOR PROPERTY OWNED BY PERMANENT TOTAL DISABLED VOLUNTEER FIREFIGHTERS, AS SUCH PERSONS ARE DEFINED IN SECTION EIGHT OF THE VOLUNTEER FIREFIGHTERS' BENEFIT LAW.

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

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S 2. Section 425 of the real property tax law is amended by adding a new subdivision 5-a to read as follows:

5-A. PERMANENT TOTAL DISABLED FIREFIGHTER. (A) ENHANCED EXEMPTION. THE ENHANCED EXEMPTION SHALL BE PROVIDED FOR PROPERTY OWNED BY PERMANENT TOTAL DISABLED FIREFIGHTERS. THE FOLLOWING REQUIREMENTS SHALL BE MET: (I) THE OWNER SHALL BE A PERMANENT TOTAL DISABLED FIREFIGHTER AS DEFINED IN SECTION EIGHT OF THE VOLUNTEER FIREFIGHTERS' BENEFIT LAW; AND (II) THE COMBINED INCOME OF ALL OWNERS, AND OF ANY OWNERS' SPOUSES RESIDING ON THE PREMISES, MAY NOT EXCEED THE APPLICABLE INCOME STANDARD SPECIFIED IN THIS SUBDIVISION.

(B) INCOME. (I) THE COMBINED INCOME OF ALL OF THE OWNERS, AND OF ANY OWNERS' SPOUSES RESIDING ON THE PREMISES, MAY NOT EXCEED THE APPLICABLE INCOME STANDARD SPECIFIED HEREIN.

(A) FOR FINAL ASSESSMENT ROLLS TO BE COMPLETED PRIOR TO TWO THOUSAND THREE, ELIGIBILITY FOR THE EXEMPTION SHALL BE BASED UPON INCOME FOR THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE DATE OF MAKING APPLICATION FOR THE EXEMPTION, AND THE INCOME STANDARD SHALL BE SIXTY THOUSAND DOLLARS.

(B) FOR FINAL ASSESSMENT ROLLS TO BE COMPLETED IN TWO THOUSAND THREE, ELIGIBILITY FOR THE EXEMPTION SHALL BE BASED UPON INCOME FOR THE INCOME TAX YEAR ENDING IN TWO THOUSAND ONE, AND THE INCOME STANDARD SHALL BE THE PREVIOUSLY-APPLICABLE INCOME STANDARD OF SIXTY THOUSAND DOLLARS INCREASED BY THE COST-OF-LIVING-ADJUSTMENT PERCENTAGE FOR TWO THOUSAND ONE. FOR PURPOSES OF THIS COMPUTATION, THE COST-OF-LIVING-ADJUSTMENT PERCENTAGE FOR TWO THOUSAND ONE SHALL BE EQUAL TO THE "APPLICABLE INCREASE PERCENTAGE" USED BY THE UNITED STATES COMMISSIONER OF SOCIAL SECURITY TO DETERMINE MONTHLY SOCIAL SECURITY BENEFITS PAYABLE IN TWO THOUSAND ONE TO INDIVIDUALS, AS PROVIDED BY SUBSECTION (I) OF SECTION FOUR HUNDRED FIFTEEN OF TITLE FORTY-TWO OF THE UNITED STATES CODE.

(C) FOR FINAL ASSESSMENT ROLLS TO BE COMPLETED IN EACH ENSUING YEAR, THE APPLICABLE INCOME TAX YEAR, COST-OF-LIVING-ADJUSTMENT PERCENTAGE AND APPLICABLE INCREASE PERCENTAGE SHALL ALL BE ADVANCED BY ONE YEAR, AND THE INCOME STANDARD SHALL BE THE PREVIOUSLY-APPLICABLE INCOME STANDARD INCREASED BY THE NEW COST-OF-LIVING-ADJUSTMENT PERCENTAGE. IF THERE SHOULD BE A YEAR FOR WHICH THERE IS NO APPLICABLE INCREASE PERCENTAGE DUE TO A GENERAL BENEFIT INCREASE AS DEFINED BY SUBDIVISION THREE OF SUBSECTION (I) OF SECTION FOUR HUNDRED FIFTEEN OF TITLE FORTY-TWO OF THE UNITED STATES CODE, THE APPLICABLE INCREASE PERCENTAGE FOR PURPOSES OF THIS COMPUTATION SHALL BE DEEMED TO BE THE PERCENTAGE WHICH WOULD HAVE YIELDED THAT GENERAL BENEFIT INCREASE.

(D) IN NO CASE SHALL AN INCOME STANDARD BE DECREASED FROM ONE ASSESSMENT ROLL TO THE NEXT.

(E) IF THE INCOME STANDARD INITIALLY COMPUTED FOR AN ASSESSMENT ROLL IS NOT EXACTLY EQUAL TO A MULTIPLE OF FIFTY DOLLARS, IT SHALL BE ROUNDED UP TO THE NEXT HIGHER MULTIPLE OF FIFTY DOLLARS.

(F) IT SHALL BE THE RESPONSIBILITY OF THE STATE BOARD TO ANNUALLY DETERMINE ALL INCOME STANDARDS PURSUANT TO THIS SUBDIVISION BEGINNING WITH FINAL ASSESSMENT ROLLS TO BE COMPLETED IN TWO THOUSAND NINE, TO CAUSE NOTICE THEREOF TO BE PUBLISHED IN THE STATE REGISTER, TO DISSEMINATE NOTICE THEREOF TO ASSESSORS, COUNTY DIRECTORS OF REAL PROPERTY TAX SERVICES, AND SUCH OTHER PARTIES AS IT MAY DEEM APPROPRIATE, AND TO POST NOTICE THEREOF ON ITS WEBSITE.

(II) THE TERM "INCOME" AS USED HEREIN SHALL MEAN THE "ADJUSTED GROSS INCOME" FOR FEDERAL INCOME TAX PURPOSES AS REPORTED ON THE APPLICANT'S FEDERAL OR STATE INCOME TAX RETURN FOR THE APPLICABLE INCOME TAX YEAR, SUBJECT TO ANY SUBSEQUENT AMENDMENTS OR REVISIONS, REDUCED BY DISTRIBUTIONS, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME,

RECEIVED FROM AN INDIVIDUAL RETIREMENT ACCOUNT AND AN INDIVIDUAL RETIREMENT ANNUITY; PROVIDED THAT IF NO SUCH RETURN WAS FILED FOR THE APPLICABLE INCOME TAX YEAR, "INCOME" SHALL MEAN THE ADJUSTED GROSS INCOME THAT WOULD HAVE BEEN SO REPORTED IF SUCH A RETURN HAD BEEN FILED.

(III) ANY INFORMATION OR DOCUMENTATION SUBMITTED BY THE APPLICANT IN CONNECTION WITH APPLICATIONS FOR OR RENEWAL OF THE EXEMPTION AUTHORIZED UNDER THIS SECTION TO VERIFY INCOME, SHALL BE DEEMED CONFIDENTIAL, AND THE ASSESSOR, ANY MUNICIPAL OFFICER OR MUNICIPAL EMPLOYEES ARE PROHIBITED FROM DISCLOSING ANY SUCH INFORMATION, EXCEPT FOR ANY DISCLOSURE NECESSARY IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES, AND EXCEPT AS AUTHORIZED BY SUBPARAGRAPH (V) OF THIS PARAGRAPH. ANY UNAUTHORIZED DISCLOSURE OF SUCH INFORMATION SHALL BE DEEMED A VIOLATION OF SECTION EIGHT HUNDRED FIVE-A OF THE GENERAL MUNICIPAL LAW.

(IV) EFFECTIVE WITH APPLICATIONS FOR THE ENHANCED EXEMPTION ON FINAL ASSESSMENT ROLLS TO BE COMPLETED IN TWO THOUSAND NINE, THE APPLICATION FORM SHALL INDICATE THAT THE OWNERS OF THE PROPERTY AND ANY OWNERS' SPOUSES RESIDING ON THE PREMISES MAY AUTHORIZE THE ASSESSOR TO HAVE THEIR INCOME ELIGIBILITY VERIFIED ANNUALLY THEREAFTER BY THE STATE DEPARTMENT OF TAXATION AND FINANCE, IN LIEU OF FURNISHING COPIES OF THE APPLICABLE INCOME TAX RETURN OR RETURNS WITH THE APPLICATION. IF THE OWNERS OF THE PROPERTY AND ANY OWNERS' SPOUSES RESIDING ON THE PREMISES ELECT TO PARTICIPATE IN THIS PROGRAM, WHICH SHALL BE KNOWN AS THE STAR INCOME VERIFICATION PROGRAM, THEY MUST FURNISH THEIR TAXPAYER IDENTIFICATION NUMBERS IN ORDER TO FACILITATE MATCHING WITH RECORDS OF THE DEPARTMENT OF TAXATION AND FINANCE. THEREAFTER, THEIR INCOME ELIGIBILITY SHALL BE VERIFIED ANNUALLY BY THE STATE DEPARTMENT OF TAXATION AND FINANCE AND THE ASSESSOR SHALL NOT REQUEST INCOME DOCUMENTATION FROM THEM, UNLESS SUCH DEPARTMENT ADVISES THE ASSESSOR THROUGH THE STATE BOARD THAT THEY DO NOT SATISFY THE APPLICABLE INCOME ELIGIBILITY REQUIREMENTS, OR THAT IT IS UNABLE TO DETERMINE WHETHER THEY SATISFY THOSE REQUIREMENTS.

(V) (A) EXCEPT IN THE CASE OF A CITY WITH A POPULATION OF ONE MILLION OR MORE, THE ASSESSOR SHALL FORWARD TO THE STATE BOARD, IN THE TIME AND MANNER REQUIRED BY THE STATE BOARD, INFORMATION IDENTIFYING THE PERSONS WHO HAVE ELECTED TO PARTICIPATE IN THE STAR INCOME VERIFICATION PROGRAM.

THE STATE BOARD SHALL FORWARD SUCH INFORMATION TO THE DEPARTMENT OF TAXATION AND FINANCE IN THE MANNER PROVIDED BY THE AGREEMENT EXECUTED PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-O OF THE TAX LAW, AND SHALL NOTIFY THE ASSESSOR OF THE RESPONSE OR RESPONSES IT RECEIVES FROM SUCH DEPARTMENT PURSUANT TO SUCH AGREEMENT. AFTER RECEIVING SUCH RESPONSE OR RESPONSES, THE ASSESSING AUTHORITY SHALL CAUSE NOTICES TO BE MAILED TO PARTICIPANTS AS PROVIDED BY PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION. INFORMATION OBTAINED BY THE STATE BOARD IDENTIFYING SUCH PERSONS, AND RESPONSES OBTAINED FROM SUCH DEPARTMENT SHALL BE CONFIDENTIAL AND SHALL NOT BE SUBJECT TO DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

(B) IN THE CASE OF A CITY OF ONE MILLION OR MORE, THE ASSESSOR SHALL FORWARD TO THE DEPARTMENT OF TAXATION AND FINANCE, IN THE TIME AND MANNER REQUIRED BY THE DEPARTMENT, INFORMATION IDENTIFYING THE PERSONS WHO HAVE ELECTED TO PARTICIPATE IN THE STAR INCOME VERIFICATION PROGRAM.

THE DEPARTMENT SHALL ADVISE THE ASSESSOR OF ITS FINDINGS IN THE MANNER PROVIDED BY THE AGREEMENT EXECUTED PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-O OF THE TAX LAW. AFTER RECEIVING SUCH RESPONSE OR RESPONSES, THE ASSESSING AUTHORITY SHALL CAUSE NOTICES TO BE MAILED TO PARTICIPANTS AS PROVIDED BY PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION. INFORMATION OBTAINED BY THE STATE BOARD IDENTIFYING SUCH

PERSONS, AND RESPONSES OBTAINED FROM SUCH DEPARTMENT SHALL BE CONFIDENTIAL AND SHALL NOT BE SUBJECT TO DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

(VI) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH, WHICH ESTABLISH A STAR INCOME VERIFICATION PROGRAM, INCOME DOCUMENTATION MUST BE SUBMITTED TO THE ASSESSOR IN CONNECTION WITH EACH OF THE FOLLOWING: (A) INITIAL APPLICATIONS FOR THE ENHANCED STAR EXEMPTION; (B) RENEWAL APPLICATIONS SUBMITTED BY A PERSON OR PERSONS WHO HAVE NOT ELECTED TO PARTICIPATE IN THE STAR INCOME VERIFICATION PROGRAM; (C) APPLICATIONS THAT WOULD ALLOW AN ENHANCED EXEMPTION TO RESUME AFTER HAVING BEEN DISCONTINUED; (D) APPLICATIONS SUBMITTED BY A PERSON OR PERSONS WHO HAVE PREVIOUSLY QUALIFIED FOR THE ENHANCED EXEMPTION BUT NOT IN THE ASSESSING UNIT IN QUESTION; AND (E) APPLICATIONS WITH RESPECT TO WHICH THE DEPARTMENT OF TAXATION AND FINANCE HAS ADVISED THE ASSESSOR THROUGH THE STATE BOARD THAT IT IS UNABLE TO DETERMINE WHETHER A PARTICIPANT OR PARTICIPANTS IN THE STAR INCOME VERIFICATION PROGRAM SATISFY THE INCOME ELIGIBILITY REQUIREMENTS.

(C) ABSENCE FROM RESIDENCE. AN EXEMPTION MAY BE GRANTED PURSUANT TO THIS SUBDIVISION NOTWITHSTANDING THE FACT THAT AN OWNER IS ABSENT FROM THE RESIDENCE WHILE RECEIVING HEALTH-RELATED CARE AS AN INPATIENT OF A RESIDENTIAL HEALTH CARE FACILITY, AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THE PUBLIC HEALTH LAW, PROVIDED THAT DURING SUCH CONFINEMENT SUCH PROPERTY IS NOT OCCUPIED BY ANYONE OTHER THAN THE SPOUSE OR CO-OWNER OF SUCH OWNER.

S 3. Subparagraph (ii) of paragraph (a) of subdivision 13 of section 425 of the real property tax law, as added by section 1 of part B of chapter 389 of the laws of 1997, is amended and a new subparagraph (iii) is added to read as follows:

(ii) in the case of an application for the enhanced exemption for property owned by senior citizens, the applicant or applicants misrepresented their age or income so as to appear eligible for such exemption, when they were not[.]; OR

(III) IN THE CASE OF AN APPLICATION FOR THE ENHANCED EXEMPTION FOR PROPERTY OWNED BY A PERMANENT TOTAL DISABLED VOLUNTEER FIREFIGHTER, THE APPLICANT OR APPLICANTS MISREPRESENTED THE FACT THAT HE OR SHE IS SUCH A PERMANENT OR TOTAL DISABLED VOLUNTEER FIREFIGHTER, WHEN HE OR SHE IS NOT.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to taxable years which begin on or after such date; provided, however, that effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.