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

3066

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. BENJAMIN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to supplemental mortgages; and to repeal certain provisions of such law relating thereto

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 Paragraph (a) of subdivision 2 of section 255 of the tax law is REPEALED and a new paragraph (a) is added to read as follows:

(A)(I) IF, AT THE TIME OF RECORDING SUCH INSTRUMENT OR ADDITIONAL MORTGAGE, ANY EXEMPTION IS CLAIMED FOR A MORTGAGE WHICH (1) COVERS LAND IMPROVED AT THE TIME THE MORTGAGE IS SUBMITTED FOR RECORDING BY A ONE, TWO OR THREE-FAMILY HOUSE OR AN INDIVIDUAL RESIDENTIAL CONDOMINIUM UNIT OR COOPERATIVE APARTMENT; (2) IS EXECUTED IN CONNECTION WITH A REFINANCE OF EXISTING INDEBTEDNESS ON WHICH MORTGAGE RECORDING TAX HAS BEEN PAID; (3) THE FULL AMOUNT OF PRINCIPAL AND INTEREST DUE ON THE EXISTING MORTGAGE HAS BEEN PAID AND A CERTIFICATE OF DISCHARGE OF MORTGAGE WILL BE REQUIRED UNDER SECTION TWO HUNDRED SEVENTY-FIVE OF THE REAL PROPERTY LAW; AND (4) THE PERSON(S) OR ENTITY WHO EXECUTED THE EXISTING MORTGAGE, OR PERSON(S) OR ENTITY WHO HAS SUCCEEDED TO THE TITLE TO THE PROPERTY BY OPERATION OF LAW, OR PERSON(S) OR ENTITY WHO HAS SUCCEEDED TO THE TITLE TO THE PROPERTY BY A CORRECTION TO THE ORIGINAL RECORDATION, IS EXECUTING THE NEW MORTGAGE, THERE SHALL BE FILED WITH THE RECORDING OFFICER AND PRESERVED IN HIS OFFICE A STATEMENT UNDER OATH OF (1) THE RELATIONSHIP BETWEEN THE PERSON(S) OR ENTITY WHO EXECUTED THE EXISTING MORTGAGE AND THE PERSON(S) OR ENTITY WHO IS EXECUTING THE NEW MORTGAGE; (2) THE AMOUNT OF OUTSTANDING MORTGAGE DEBT ON THE DATE THE NEW MORTGAGE WAS FULLY EXECUTED; (3) THE FULL AMOUNT OF MORTGAGE DEBT SECURED BY THE NEW MORTGAGE; (4) WHETHER THE NEW MORTGAGE DEBT IS OF A GREATER AMOUNT THAN THE OUTSTANDING MORTGAGE DEBT ON THE EXISTING MORTGAGE; (5) THE AMOUNT OF ANY SUCH DIFFERENCE; AND (6) THE AMOUNT OF MORTGAGE RECORDING TAX DUE PAYABLE ON THAT DIFFERENCE. SUBMITTED TOGETHER WITH THE STATEMENT UNDER

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

LBD05787-01-9

OATH, AND ANY ADDITIONAL MORTGAGE TAX PAYABLE, SHALL BE PROOF OF THE OUTSTANDING MORTGAGE DEBT ON THE DATE ON WHICH THE NEW MORTGAGE WAS FULLY EXECUTED IN THE FORM OF AN OFFICIAL PAYOFF STATEMENT ISSUED BY THE MORTGAGE HOLDER OR SERVICER, OR A SIGNED STATEMENT OF A REPRESENTATIVE OF THE MORTGAGE HOLDER WITH KNOWLEDGE AND AUTHORITY, OR OTHER SUCH SUFFICIENT PROOF WHICH THE RECORDING OFFICER DEEMS SUFFICIENT;

(II) IF, AT THE TIME OF RECORDING SUCH INSTRUMENT OR ADDITIONAL MORTGAGE, ANY OTHER EXEMPTION IS CLAIMED UNDER THIS SECTION, THERE SHALL BE FILED WITH THE RECORDING OFFICER AND PRESERVED IN HIS OFFICE A STATEMENT UNDER OATH OF THE FACTS ON WHICH SUCH CLAIM FOR EXEMPTION IS BASED. THE DETERMINATION OF THE RECORDING OFFICER UPON THE QUESTION OF EXEMPTION SHALL BE REVIEWABLE BY THE TAX COMMISSION.

S 2. This act shall take effect immediately.