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

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I N A S S E M B L Y

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Introduced by M. of A. McKEVITT, ERRIGO, BALL, McDONOUGH, WALKER, ALFANO, BARRA -- Multi-Sponsored by -- M. of A. CROUCH -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to exemption from taxation for physically handicapped persons

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

Section 1. The real property tax law is amended by adding a new section 467-g to read as follows:

S 467-G. EXEMPTIONS; PHYSICALLY HANDICAPPED PERSONS. 1. REAL PROPERTY OWNED BY ONE OR MORE PERSONS ONE OF WHOM IS PHYSICALLY HANDICAPPED, SHALL BE EXEMPT FROM TAXATION BY ANY MUNICIPAL CORPORATION IN WHICH LOCATED TO THE EXTENT OF FIFTY PER CENTUM OF THE ASSESSED VALUATION THEREOF, PROVIDED THE GOVERNING BOARD OF SUCH MUNICIPALITY, AFTER PUBLIC HEARING, ADOPTS A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THEREFOR. FOR PURPOSES OF THIS SECTION "PHYSICALLY HANDICAPPED PERSON" IS ONE WHO, BY REASON OF PHYSICAL DEFECT OR INFIRMITY, WHETHER CONGENITAL OR RESULTING FROM AN ACCIDENT, INJURY OR DISEASE, IS OR MAY BE EXPECTED TO BE TOTALLY OR PARTIALLY INCAPACITATED FOR REMUNERATIVE OCCUPATION. THE ASSESSING AUTHORITY SHALL DETERMINE WHETHER AN APPLICANT HEREUNDER IS PHYSICALLY HANDICAPPED. HOWEVER, ELIGIBILITY FOR, AND RECEIPT OF, DISABILITY BENEFITS UNDER THE SOCIAL SECURITY ACT SHALL BE PRESUMPTIVE EVIDENCE OF SUCH DISABILITY.

2. EXEMPTION FROM TAXATION FOR SCHOOL PURPOSES SHALL NOT BE GRANTED IN THE CASE OF REAL PROPERTY WHERE A CHILD RESIDES IF SUCH CHILD ATTENDS A PUBLIC SCHOOL OF ELEMENTARY OR SECONDARY EDUCATION.

3. NO EXEMPTION SHALL BE GRANTED:

(A) IF THE INCOME OF THE OWNER OR THE COMBINED INCOME OF THE OWNERS OF THE PROPERTY FOR THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE DATE OF MAKING APPLICATION FOR EXEMPTION EXCEEDS THE SUM OF THREE THOUSAND DOLLARS, OR SUCH OTHER SUM AS MAY BE PROVIDED BY THE LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED PURSUANT TO THIS SECTION. INCOME TAX YEAR SHALL MEAN THE TWELVE MONTH PERIOD FOR WHICH THE OWNER OR OWNERS FILED A FEDERAL PERSONAL INCOME TAX RETURN, OR IF NO SUCH RETURN IS FILED, THE

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

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CALENDAR YEAR. SUCH INCOME SHALL INCLUDE INTEREST, DIVIDENDS, NET RENTAL INCOME, SALARY OR EARNINGS, AND NET INCOME FROM SELF-EMPLOYMENT, BUT SHALL NOT INCLUDE GIFTS OR INHERITANCES;

(B) UNLESS THE TITLE OF THE PROPERTY SHALL HAVE BEEN VESTED IN THE OWNER OR ALL OF THE OWNERS OF THE PROPERTY FOR AT LEAST TWENTY-FOUR CONSECUTIVE MONTHS PRIOR TO THE DATE OF MAKING APPLICATION FOR EXEMPTION, PROVIDED, HOWEVER, THAT IN THE EVENT OF THE DEATH OF EITHER A HUSBAND OR WIFE IN WHOSE NAME TITLE OF THE PROPERTY SHALL HAVE BEEN VESTED AT THE TIME OF DEATH AND THEN BECOMES VESTED SOLELY IN THE SURVIVOR BY VIRTUE OF DEVISE BY OR DESCENT FROM THE DECEASED HUSBAND OR WIFE, THE TIME OF OWNERSHIP OF THE PROPERTY BY THE DECEASED HUSBAND OR WIFE SHALL BE DEEMED ALSO A TIME OF OWNERSHIP BY THE SURVIVOR AND SUCH OWNERSHIP SHALL BE DEEMED CONTINUOUS FOR THE PURPOSES OF COMPUTING SUCH PERIOD OF TWENTY-FOUR CONSECUTIVE MONTHS PROVIDED FURTHER, THAT IN THE EVENT OF A TRANSFER BY EITHER A HUSBAND OR WIFE TO THE OTHER SPOUSE OF ALL OR PART OF THE TITLE TO THE PROPERTY THE TIME OF OWNERSHIP OF THE PROPERTY BY THE TRANSFEROR SPOUSE SHALL BE DEEMED ALSO A TIME OF OWNERSHIP BY THE TRANSFEREE SPOUSE AND SUCH OWNERSHIP SHALL BE DEEMED CONTINUOUS FOR THE PURPOSES OF COMPUTING SUCH PERIOD OF TWENTY-FOUR CONSECUTIVE MONTHS AND PROVIDED FURTHER THAT WHERE PROPERTY OF THE OWNER OR OWNERS HAS BEEN ACQUIRED TO REPLACE PROPERTY FORMERLY OWNED BY SUCH OWNER OR OWNERS AND TAKEN BY EMINENT DOMAIN OR OTHER INVOLUNTARY PROCEEDING, EXCEPT A TAX SALE, AND FURTHER PROVIDED THAT WHERE A RESIDENCE IS SOLD AND REPLACED WITH ANOTHER WITHIN ONE YEAR AND IS IN THE SAME ASSESSMENT UNIT, THE PERIOD OF OWNERSHIP OF THE FORMER PROPERTY SHALL BE COMBINED WITH THE PERIOD OF OWNERSHIP OF THE PROPERTY FOR WHICH APPLICATION IS MADE FOR EXEMPTION AND SUCH PERIODS OF OWNERSHIP SHALL BE DEEMED TO BE CONSECUTIVE FOR PURPOSES OF THIS SECTION;

(C) UNLESS THE PROPERTY IS USED EXCLUSIVELY AS A ONE OR TWO FAMILY RESIDENCE;

(D) UNLESS THE REAL PROPERTY IS THE LEGAL RESIDENCE OF AND IS OCCUPIED IN WHOLE OR IN PART BY THE OWNER OR BY ALL OF THE OWNERS OF THE PROPERTY.

4. APPLICATION FOR SUCH EXEMPTION MUST BE MADE BY THE OWNER, OR ALL OF THE OWNERS OF THE PROPERTY, ON FORMS PRESCRIBED BY THE STATE BOARD TO BE FURNISHED BY THE APPROPRIATE ASSESSING AUTHORITY AND SHALL FURNISH THE INFORMATION AND BE EXECUTED IN THE MANNER REQUIRED OR PRESCRIBED IN SUCH FORMS, AND SHALL BE FILED IN SUCH ASSESSOR'S OFFICE ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE.

5. AT LEAST SIXTY DAYS PRIOR TO THE APPROPRIATE TAXABLE STATUS DATE, THE ASSESSING AUTHORITY SHALL MAIL TO EACH PERSON WHO WAS GRANTED EXEMPTION PURSUANT TO THIS SECTION ON THE LATEST COMPLETED ASSESSMENT ROLL AN APPLICATION FORM AND A NOTICE THAT SUCH APPLICATION MUST BE FILED ON OR BEFORE TAXABLE STATUS DATE AND BE APPROVED IN ORDER FOR THE EXEMPTION TO BE GRANTED. FAILURE TO MAIL ANY SUCH APPLICATION FORM AND NOTICE OR THE FAILURE OF SUCH PERSON TO RECEIVE THE SAME SHALL NOT PREVENT THE LEVY, COLLECTION AND ENFORCEMENT OF THE PAYMENT OF THE TAXES ON PROPERTY OWNED BY SUCH PERSON.

6. ANY CONVICTION OF HAVING MADE ANY WILFUL FALSE STATEMENT IN THE APPLICATION FOR SUCH EXEMPTION, SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS AND SHALL DISQUALIFY THE APPLICANT OR APPLICANTS FROM FURTHER EXEMPTION FOR A PERIOD OF FIVE YEARS.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.