

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

1085--A

2009-2010 Regular Sessions

I N S E N A T E

January 26, 2009

Introduced by Sens. OPPENHEIMER, DIAZ, PARKER, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to exempting certain construction, reconstruction, alteration or improvement of multiple dwelling buildings within certain cities from taxation and other assessments

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

1 Section 1. The real property tax law is amended by adding a new
2 section 421-l to read as follows:
3 S 421-L. EXEMPTION OF CERTAIN CONSTRUCTION OR IMPROVEMENTS IN CERTAIN
4 CITIES. 1. NEW CONSTRUCTION OF A MULTIPLE DWELLING BUILDING, RECON-
5 STRUCTION, ALTERATION, OR IMPROVEMENT OF A PREEXISTING MULTIPLE DWELLING
6 BUILDING OR STRUCTURE WHICH IS TO BE OCCUPIED OR IS OCCUPIED AS A RESI-
7 DENCE OR HOME AND CONSISTS OF NO LESS THAN FOUR UNITS, WHETHER SUCH
8 DWELLING IS RENTED OR OWNED AS A COOPERATIVE OR CONDOMINIUM, AND IS
9 LOCATED IN ANY CITY HAVING A POPULATION OF MORE THAN FIFTY-THREE THOU-
10 SAND SEVENTY BUT LESS THAN FIFTY-THREE THOUSAND ONE HUNDRED AS DETER-
11 MINED BY THE TWO THOUSAND FEDERAL DECENNIAL CENSUS SHALL BE EXEMPT FROM
12 TAXATION OTHER THAN ASSESSMENTS FOR LOCAL IMPROVEMENTS, TO THE EXTENT
13 PROVIDED IN THIS SECTION. AFTER A PUBLIC HEARING, THE GOVERNING BOARD OF
14 SUCH CITY MAY ADOPT A LOCAL LAW TO GRANT THE EXEMPTION AUTHORIZED PURSU-
15 ANT TO THIS SECTION. A COPY OF SUCH LOCAL LAW SHALL BE FILED WITH THE
16 STATE BOARD AND THE ASSESSOR OF SUCH CITY WHO PREPARES THE ASSESSMENT
17 ROLL ON WHICH THE TAXES OF SUCH CITY ARE LEVIED.
18 2. (A) EXCEPT AS OTHERWISE PROVIDED HEREIN, SUCH BUILDINGS WITHIN SUCH
19 CITY SHALL BE EXEMPT DURING THE PERIOD OF CONSTRUCTION OR FOR A PERIOD
20 OF THREE YEARS IMMEDIATELY FOLLOWING THE COMMENCEMENT OF CONSTRUCTION,

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

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1 WHICHEVER OCCURS EARLIER, AND THEN FOR A PERIOD OF ELEVEN YEARS THERE-
2 AFTER, TO THE EXTENT OF ONE HUNDRED PERCENT OF THE INCREASE IN ASSESSED
3 VALUE ATTRIBUTABLE TO SUCH CONSTRUCTION, RECONSTRUCTION, ALTERATION OR
4 IMPROVEMENT, AND FOR AN ADDITIONAL PERIOD OF FOUR YEARS AS PROVIDED
5 BELOW AND, SUBJECT, IN EACH CASE, TO THE FOLLOWING:

6 (I) FOLLOWING SUCH ELEVEN YEAR PERIOD, THE EXTENT OF SUCH EXEMPTION
7 SHALL BE DECREASED BY TWENTY PERCENT OF THE "EXEMPTION BASE" EACH YEAR
8 DURING SUCH ADDITIONAL FOUR YEAR PERIOD. THE "EXEMPTION BASE" SHALL BE
9 THE INCREASE IN ASSESSED VALUE AS DETERMINED IN THE INITIAL YEAR OF THE
10 TERM OF THE EXEMPTION, EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
11 PARAGRAPH.

12 (II) IN ANY YEAR IN WHICH A CHANGE IN LEVEL OF ASSESSMENT OF FIFTEEN
13 PERCENT OR MORE IS CERTIFIED FOR A FINAL ASSESSMENT ROLL PURSUANT TO THE
14 RULES OF THE STATE BOARD, THE EXEMPTION BASE SHALL BE MULTIPLIED BY A
15 FRACTION, THE NUMERATOR OF WHICH SHALL BE THE TOTAL ASSESSED VALUE OF
16 THE PARCEL ON SUCH FINAL ASSESSMENT ROLL (AFTER ACCOUNTING FOR ANY PHYS-
17 ICAL OR QUANTITY CHANGES TO THE PARCEL SINCE THE IMMEDIATELY PRECEDING
18 ASSESSMENT ROLL), AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL
19 ASSESSED VALUE OF THE PARCEL ON THE IMMEDIATELY PRECEDING FINAL ASSESS-
20 MENT ROLL. THE RESULT SHALL BE THE NEW EXEMPTION BASE. THE EXEMPTION
21 SHALL THEREUPON BE RECOMPUTED TO TAKE INTO ACCOUNT THE NEW EXEMPTION
22 BASE, NOTWITHSTANDING THE FACT THAT THE ASSESSOR RECEIVES CERTIFICATION
23 OF THE CHANGE IN LEVEL OF ASSESSMENT AFTER THE COMPLETION, VERIFICATION
24 AND FILING OF THE FINAL ASSESSMENT ROLL. IN THE EVENT THE ASSESSOR DOES
25 NOT HAVE CUSTODY OF THE ROLL WHEN SUCH CERTIFICATION IS RECEIVED, THE
26 ASSESSOR SHALL CERTIFY THE RECOMPUTED EXEMPTION TO THE LOCAL OFFICERS
27 HAVING CUSTODY AND CONTROL OF THE ROLL, AND SUCH LOCAL OFFICERS ARE
28 HEREBY DIRECTED AND AUTHORIZED TO ENTER THE RECOMPUTED EXEMPTION CERTI-
29 FIED BY THE ASSESSOR ON THE ROLL. THE ASSESSOR SHALL GIVE WRITTEN NOTICE
30 OF SUCH RECOMPUTED EXEMPTION TO THE PROPERTY OWNER, WHO MAY, IF HE OR
31 SHE BELIEVES THAT THE EXEMPTION WAS RECOMPUTED INCORRECTLY, APPLY FOR A
32 CORRECTION IN THE MANNER PROVIDED BY TITLE THREE OF ARTICLE FIVE OF THIS
33 CHAPTER FOR THE CORRECTION OF CLERICAL ERRORS.

34 (B) NO SUCH EXEMPTION SHALL BE GRANTED FOR CONSTRUCTION, RECON-
35 STRUCTION, ALTERATIONS OR IMPROVEMENTS UNLESS:

36 (I) SUCH CONSTRUCTION, RECONSTRUCTION, ALTERATION OR IMPROVEMENT WAS
37 COMMENCED SUBSEQUENT TO THE EFFECTIVE DATE OF THE LOCAL LAW ADOPTED
38 PURSUANT TO SUBDIVISION ONE OF THIS SECTION BY SUCH CITY; AND

39 (II) THE VALUE OF THE CONSTRUCTION, RECONSTRUCTION, ALTERATION OR
40 IMPROVEMENT EXCEEDS, ON AVERAGE, FIFTEEN THOUSAND DOLLARS PER DWELLING
41 UNIT; AND

42 (III) THE CONSTRUCTION, RECONSTRUCTION, ALTERATION OR IMPROVEMENT IS
43 FINANCED IN WHOLE OR IN PART BY THE CITY, OR, WITH THE APPROVAL OF THE
44 GOVERNING BODY OF THE CITY, BY THE LOCAL URBAN RENEWAL AGENCY, THE LOCAL
45 HOUSING AUTHORITY OR ANOTHER PUBLIC BENEFIT CORPORATION; AND

46 (IV) EITHER THE CITY, THE LOCAL URBAN RENEWAL AGENCY, THE LOCAL HOUS-
47 ING AUTHORITY OR ANOTHER PUBLIC BENEFIT CORPORATION HAS IMPOSED A
48 REQUIREMENT OR HAS CERTIFIED THAT TWENTY PERCENT OF THE UNITS BE AFFORD-
49 ABLE TO FAMILIES OF LOW AND MODERATE INCOME, FOR SUCH PERIOD AND UNDER
50 SUCH CONDITIONS AS MAY BE ESTABLISHED FROM TIME TO TIME BY THE CITY
51 PURSUANT TO A LOCAL LAW.

52 (C) FOR PURPOSES OF THIS SECTION THE TERMS CONSTRUCTION, RECON-
53 STRUCTION, ALTERATION AND IMPROVEMENT SHALL NOT INCLUDE ORDINARY MAINTE-
54 NANCE AND REPAIRS.

55 3. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER
56 OF SUCH BUILDING ON A FORM PRESCRIBED BY THE STATE BOARD. THE APPLICA-

1 TION SHALL BE FILED WITH THE ASSESSOR OF SUCH CITY ON OR BEFORE THE
2 APPROPRIATE TAXABLE STATUS DATE OF SUCH CITY.

3 4. IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSU-
4 ANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH
5 BUILDING SHALL THEREAFTER BE EXEMPT FROM TAXATION AS PROVIDED IN THIS
6 SECTION COMMENCING WITH THE ASSESSMENT ROLL PREPARED ON THE BASIS OF THE
7 TAXABLE STATUS DATE REFERRED TO IN SUBDIVISION THREE OF THIS SECTION.
8 THE ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION
9 SHALL BE ENTERED BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE
10 PROPERTY, WITH THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

11 5. IN THE EVENT THAT A BUILDING GRANTED AN EXEMPTION PURSUANT TO THIS
12 SECTION CEASES TO BE USED PRIMARILY FOR RESIDENTIAL PURPOSES OR ANY
13 CONDITION TO THE EXEMPTION ESTABLISHED BY A LOCAL LAW IS NO LONGER
14 SATISFIED, THE EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL CEASE.

15 6. IN ADDITION TO THE ABOVE PAYMENTS, DURING ANY PERIOD IN WHICH A
16 FULL OR PARTIAL EXEMPTION ESTABLISHED ABOVE IS STILL IN EFFECT, THE
17 OWNER SHALL PAY IN EACH TAX YEAR IN WHICH SUCH FULL OR PARTIAL EXEMPTION
18 IS IN EFFECT, REAL PROPERTY TAXES AND ASSESSMENTS AS FOLLOWS:

19 (A) REAL PROPERTY TAXES ON THE ASSESSED VALUATION OF SUCH LAND AND ANY
20 IMPROVEMENTS THEREON IN EFFECT DURING THE TAX YEAR PRECEDING THE
21 COMMENCEMENT OF SUCH CONSTRUCTION WITHOUT REGARD TO ANY EXEMPTION OR
22 ABATEMENT FROM REAL PROPERTY TAXATION IN EFFECT PRIOR TO SUCH
23 CONSTRUCTION WHICH REAL PROPERTY TAXES SHALL BE CALCULATED ON THE TAX
24 RATE IN EFFECT AT THE TIME SUCH TAXES ARE DUE; AND

25 (B) ALL ASSESSMENTS FOR LOCAL IMPROVEMENTS.

26 7. (A) THE ENACTMENT OF A LOCAL LAW IN SUCH CITY MAY:

27 (I) REDUCE THE PERCENT OR PERIOD OF EXEMPTION OTHERWISE ALLOWED PURSU-
28 ANT TO THIS SECTION;

29 (II) LIMIT ELIGIBILITY FOR THE EXEMPTION TO THOSE FORMS OF
30 CONSTRUCTION, RECONSTRUCTION, ALTERATIONS OR IMPROVEMENTS AS ARE
31 PRESCRIBED IN SUCH LAW OR RESOLUTION;

32 (III) PROVIDE THAT THE EXEMPTION SHALL BE APPLICABLE ONLY TO THOSE
33 IMPROVEMENTS WHICH WOULD OTHERWISE RESULT IN AN INCREASE IN THE ASSESSED
34 VALUATION OF THE REAL PROPERTY BUT WHICH CONSIST OF AN ADDITION, REMOD-
35 ELING OR MODERNIZATION TO AN EXISTING OWNER OCCUPIED MULTIPLE RESIDENCE
36 STRUCTURE TO PREVENT PHYSICAL DETERIORATION OF THE STRUCTURE OR TO
37 COMPLY WITH APPLICABLE BUILDING, SANITARY, HEALTH AND/OR FIRE CODES; AND

38 (IV) PROVIDE TERMS AND CONDITIONS UNDER WHICH THE CITY, OR, IF AUTHOR-
39 IZED BY A LOCAL LAW, A LOCAL URBAN RENEWAL AGENCY, MAY REQUIRE THE
40 RECAPTURE OF THE BENEFITS CONFERRED HEREUNDER IN WHOLE OR IN PART,
41 INCLUDING REQUIREMENTS TO MAINTAIN ALL OR A PORTION OF THE BUILDING AS
42 AFFORDABLE UNITS FOR FAMILIES OF LOW OR MODERATE INCOME FOR A PERIOD
43 WHICH MAY EXCEED THE PERIOD FOR WHICH AN EXEMPTION IS GRANTED.

44 (B) NO SUCH LOCAL LAW SHALL REDUCE OR REPEAL AN EXEMPTION GRANTED
45 PURSUANT TO THIS SECTION UNTIL THE EXPIRATION OF THE PERIOD FOR WHICH
46 SUCH EXEMPTION WAS GRANTED.

47 8. (A) AS USED IN THIS SUBDIVISION, THE FOLLOWING TERMS SHALL HAVE THE
48 FOLLOWING MEANINGS:

49 (I) "BUILDING SERVICE EMPLOYEE" MEANS ANY PERSON WHO IS REGULARLY
50 EMPLOYED AT A BUILDING WHO PERFORMS WORK IN CONNECTION WITH THE CARE OR
51 MAINTENANCE OF SUCH BUILDING. "BUILDING SERVICE EMPLOYEE" INCLUDES, BUT
52 IS NOT LIMITED TO WATCHMAN, GUARD, DOORMAN, BUILDING CLEANER, PORTER,
53 HANDYMAN, JANITOR, GARDENER, GROUNDSKEEPER, ELEVATOR OPERATOR AND START-
54 ER, AND WINDOW CLEANER.

1 (II) "PREVAILING WAGE" MEANS THE WAGE DETERMINED BY THE FISCAL OFFICER
2 TO BE PREVAILING FOR THE VARIOUS CLASSES OF BUILDING SERVICE EMPLOYEES
3 IN THE LOCALITY PURSUANT TO SECTION TWO HUNDRED THIRTY OF THE LABOR LAW.
4 (B) NO EXEMPTION UNDER THIS SECTION SHALL BE GRANTED FOR ANY
5 CONSTRUCTION, RECONSTRUCTION, ALTERATIONS, OR IMPROVEMENTS UNLESS THE
6 APPLICANT AGREES THAT ALL BUILDING SERVICE EMPLOYEES EMPLOYED AT THE
7 BUILDING, WHETHER EMPLOYED DIRECTLY BY THE APPLICANT OR ITS SUCCESSORS,
8 OR THROUGH A PROPERTY MANAGEMENT COMPANY OR A CONTRACTOR, SHALL RECEIVE
9 THE APPLICABLE PREVAILING WAGE FOR THE DURATION OF THE BUILDING'S TAX
10 EXEMPTION.
11 9. NO ADDITIONAL EXEMPTIONS SHALL APPLY.
12 S 2. This act shall take effect immediately.