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

2479

2009-2010 Regular Sessions

I N S E N A T E

February 20, 2009

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to exempting pre-owned real property purchased by first-time homebuyers from real property taxation

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 457-a to read as follows:

S 457-A. EXEMPTION FOR FIRST-TIME HOMEBUYERS OF PRE-OWNED HOMES. 1. PRIMARY RESIDENTIAL PROPERTY PURCHASED BY ONE OR MORE PERSONS, EACH OF WHOM IS A FIRST-TIME HOMEBUYER AND HAS NOT BEEN MARRIED TO A HOMEOWNER IN THE THREE YEARS PRIOR TO APPLYING FOR THIS FIRST-TIME HOMEOWNERS EXEMPTION, SHALL BE EXEMPT FROM TAXATION LEVIED BY OR ON BEHALF OF ANY COUNTY, CITY, TOWN, VILLAGE OR SCHOOL DISTRICT IN WHICH SUCH PRE-OWNED RESIDENTIAL PROPERTY IS LOCATED, PROVIDED THE LEGISLATIVE BODY OR GOVERNING BOARD OF SUCH COUNTY, CITY, TOWN OR VILLAGE, AFTER PUBLIC HEARING, ADOPTS A LOCAL LAW, OR A SCHOOL DISTRICT, OTHER THAN A SCHOOL DISTRICT TO WHICH ARTICLE FIFTY-TWO OF THE EDUCATION LAW APPLIES, ADOPTS A RESOLUTION PROVIDING THEREFOR. THE LENGTH AND PERCENTAGE OF ANY EXEMPTION SHALL BE SET FORTH IN A TABLE CONTAINED IN SUCH LOCAL LAW OR RESOLUTION. IN NO EVENT SHALL THE LENGTH EXCEED FIVE YEARS NOR BE LESS THAN ONE YEAR. THE PERCENTAGE EXEMPTION MAY BE COMPUTED IN A MANNER SIMILAR TO THE FOLLOWING TABLE; HOWEVER, NOTHING IN THIS SECTION SHALL PROHIBIT TAXING AUTHORITIES FROM ADOPTING A LOCAL LAW OR RESOLUTION WHICH ESTABLISHES PERCENTAGE INCREMENTS LESS THAN FIFTY PER CENTUM:

YEAR OF EXEMPTION	PERCENTAGE ASSESSED VALUATION EXEMPT FROM TAX
1	50
2	40
3	30

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

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4	20
5	10
6 OR MORE	0

A COPY OF SUCH LOCAL LAWS OR RESOLUTIONS SHALL BE FILED WITH THE STATE BOARD AND THE ASSESSOR OF SUCH COUNTY, CITY, TOWN, OR VILLAGE WHO PREPARES THE ASSESSMENT ROLL ON WHICH THE TAXES OF SUCH COUNTY, CITY, TOWN, VILLAGE OR SCHOOL DISTRICT ARE LEVIED.

2. (A) ANY PRE-OWNED PRIMARY RESIDENTIAL REAL PROPERTY WITHIN THE PURCHASE PRICE LIMITS DEFINED BY THE STATE OF NEW YORK MORTGAGE AGENCY LOW INTEREST RATE MORTGAGE PROGRAM IN THE NON-TARGET, ONE FAMILY CATEGORIES FOR THE COUNTY WHERE SUCH PROPERTY IS LOCATED AND IN EFFECT ON THE CONTRACT DATE FOR THE PURCHASE AND SALE OF SUCH PROPERTY, SHALL BE ELIGIBLE FOR THE EXEMPTION ALLOWED PURSUANT TO THIS SECTION.

(B) A FIRST-TIME HOMEBUYER SHALL NOT QUALIFY FOR THE EXEMPTION AUTHORIZED PURSUANT TO THIS SECTION IF THE HOUSEHOLD INCOME EXCEEDS INCOME LIMITS DEFINED BY THE STATE OF NEW YORK MORTGAGE AGENCY LOW INTEREST RATE MORTGAGE PROGRAM IN THE NON-TARGET, ONE AND TWO PERSON HOUSEHOLD CATEGORY FOR THE COUNTY WHERE SUCH PROPERTY IS LOCATED AND IN EFFECT ON THE CONTRACT DATE FOR THE PURCHASE AND SALE OF SUCH PROPERTY.

(I) THE TERM "HOUSEHOLD INCOME" AS USED IN THIS PARAGRAPH SHALL MEAN THE TOTAL COMBINED INCOME OF ALL THE OWNERS, AND OF ANY OWNERS' SPOUSES RESIDING ON THE PREMISES, FOR THE INCOME TAX YEAR PRECEDING THE DATE OF MAKING APPLICATION FOR THE EXEMPTION.

(II) THE TERM "INCOME" AS USED IN THIS PARAGRAPH SHALL MEAN THE "ADJUSTED GROSS INCOME" FOR FEDERAL INCOME TAX PURPOSES AS REPORTED ON THE APPLICANT'S LATEST AVAILABLE FEDERAL OR STATE INCOME TAX RETURN 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 WITHIN THE ONE YEAR PERIOD PRECEDING TAXABLE STATUS DATE, "INCOME" SHALL MEAN THE ADJUSTED GROSS INCOME THAT WOULD HAVE BEEN SO REPORTED IF SUCH A RETURN HAD BEEN FILED. FOR PURPOSES OF THIS SUBDIVISION, "LATEST AVAILABLE RETURN" SHALL MEAN THE FEDERAL OR STATE INCOME TAX RETURN FOR THE YEAR IMMEDIATELY PRECEDING THE DATE OF MAKING APPLICATION, PROVIDED HOWEVER, THAT IF THE TAX RETURN FOR SUCH TAX YEAR HAS NOT BEEN FILED, THEN THE INCOME TAX RETURN FOR THE TAX YEAR TWO YEARS PRECEDING THE DATE OF MAKING APPLICATION SHALL BE CONSIDERED THE LATEST AVAILABLE.

3. PRE-OWNED PRIMARY RESIDENTIAL PROPERTY PURCHASED BY FIRST-TIME HOMEBUYERS AT A SALES PRICE GREATER THAN THE MAXIMUM ELIGIBLE SALES PRICE SHALL QUALIFY FOR THE EXEMPTION ALLOWED PURSUANT TO THIS SECTION FOR THAT PORTION OF THE SALES PRICE OF SUCH PRE-OWNED PRIMARY RESIDENTIAL PROPERTY EQUAL TO THE MAXIMUM ELIGIBLE SALES PRICE, PROVIDED, HOWEVER, THAT ANY PRE-OWNED PRIMARY RESIDENTIAL PROPERTY PURCHASED AT A SALES PRICE GREATER THAN FIFTEEN PERCENT ABOVE THE MAXIMUM ELIGIBLE SALES PRICE SHALL NOT BE ALLOWED ANY EXEMPTION.

4. THE LEGISLATIVE BODY OR GOVERNING BOARD OF A COUNTY, CITY, TOWN OR VILLAGE MAY ADOPT A LOCAL LAW, OR A SCHOOL DISTRICT, OTHER THAN A SCHOOL DISTRICT TO WHICH ARTICLE FIFTY-TWO OF THE EDUCATION LAW APPLIES MAY ADOPT A RESOLUTION TO PROVIDE FOR AN INCREASE NOT TO EXCEED TWENTY-FIVE PER CENTUM ON THE PURCHASE PRICE LIMIT USED FOR ELIGIBILITY FOR THE EXEMPTION PROVIDED FOR IN THIS SECTION.

5. (A) NO PORTION OF A SINGLE FAMILY PRE-OWNED PRIMARY RESIDENTIAL PROPERTY SHALL BE LEASED DURING THE PERIOD OF TIME WHEN THE FIRST-TIME HOMEOWNER EXEMPTION SHALL APPLY TO THE RESIDENCE. IF ANY PORTION OF THE SINGLE FAMILY PRE-OWNED PRIMARY RESIDENTIAL PROPERTY IS FOUND TO BE THE

SUBJECT OF A LEASE AGREEMENT THE ASSESSOR SHALL DISCONTINUE ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION.

(B) IN THE EVENT THAT A PRIMARY RESIDENTIAL PROPERTY GRANTED AN EXEMPTION PURSUANT TO THIS SECTION CEASES TO BE USED PRIMARILY FOR RESIDENTIAL PURPOSES OR TITLE THERETO IS TRANSFERRED TO OTHER THAN THE HEIRS OR DISTRIBUTEES OF THE OWNER, THE EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL BE DISCONTINUED.

(C) UPON DETERMINING THAT AN EXEMPTION GRANTED PURSUANT TO THIS SECTION SHOULD BE DISCONTINUED, THE ASSESSOR SHALL MAIL A NOTICE SO STATING TO THE OWNER OR OWNERS THEREOF AT THE TIME AND IN THE MANNER PROVIDED BY SECTION FIVE HUNDRED TEN OF THIS CHAPTER. SUCH OWNER OR OWNERS SHALL BE ENTITLED TO SEEK ADMINISTRATIVE AND JUDICIAL REVIEW OF SUCH ACTION IN THE MANNER PROVIDED BY LAW, PROVIDED THAT THE BURDEN SHALL BE ON SUCH OWNER OR OWNERS TO ESTABLISH ELIGIBILITY FOR THE EXEMPTION.

6. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OF SUCH BUILDING ON A FORM PRESCRIBED BY THE STATE BOARD. THE APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE CITY, TOWN, VILLAGE OR COUNTY HAVING THE POWER TO ASSESS PROPERTY FOR TAXATION ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE OF SUCH CITY, TOWN, VILLAGE AND COUNTY.

7. IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH PRIMARY RESIDENTIAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD VALOREM LEVIES AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESSMENT ROLL PREPARED ON THE BASIS OF THE TAXABLE STATUS DATE REFERRED TO IN SUBDIVISION SIX OF THIS SECTION. THE ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL BE ENTERED BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE PROPERTY, WITH THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

8. FOR PURPOSES OF THIS SECTION:

(A) "FIRST-TIME HOMEBUYER" MEANS A PERSON WHO HAS NOT OWNED A PRIMARY RESIDENTIAL PROPERTY AND IS NOT MARRIED TO A PERSON WHO HAS OWNED A RESIDENTIAL PROPERTY DURING THE THREE-YEAR PERIOD PRIOR TO HIS OR HER PURCHASE OF THE PRIMARY RESIDENTIAL PROPERTY, AND WHO DOES NOT OWN A VACATION OR INVESTMENT HOME.

(B) "PRIMARY RESIDENTIAL PROPERTY" MEANS ANY ONE OR TWO FAMILY HOUSE, TOWNHOUSE OR CONDOMINIUM LOCATED IN THIS STATE WHICH IS OWNER OCCUPIED BY SUCH HOMEBUYER.

(C) "PRE-OWNED" MEANS ANY REAL PROPERTY WHICH, PRIOR TO THE CONTRACT DATE FOR THE PURCHASE AND SALE OF SUCH PROPERTY, HAS BEEN OCCUPIED FOR NO LESS THAN ONE YEAR.

S 2. This act shall take effect immediately.