

7180

2011-2012 Regular Sessions

I N A S S E M B L Y

April 15, 2011

Introduced by M. of A. J. MILLER, BURLING, CALHOUN, REILICH, SAYWARD --
Multi-Sponsored by -- M. of A. CROUCH, McDONOUGH -- read once and
referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, the tax law and the real
property law, in relation to funding for school districts

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

1 Section 1. Legislative findings and intent. The legislature hereby
2 finds that the real property tax on residential properties is often an
3 archaic and inequitable form of taxation which requires lower income
4 taxpayers to pay a higher percentage of their income on property taxes.
5 The current property tax system often creates a disincentive for local
6 residents to become homeowners and hinders the ability to sell or trans-
7 fer property.
8 The legislature finds that a tax on personal income instead of the tax
9 on residential property would be a fairer and more progressive way to
10 raise the revenue needed to fund local school districts. However, the
11 legislature further finds that it is necessary to maintain the current
12 system of taxation for real property that is non-residential.
13 S 2. The real property tax law is amended by adding a new section 1301
14 to read as follows:
15 S 1301. APPLICABILITY OF ARTICLE. THE PROVISIONS OF THIS ARTICLE,
16 INCLUDING ALL PROVISIONS RELATING TO THE ASSESSMENT OF PROPERTIES AND
17 THE TAXATION OF SUCH PROPERTIES SHALL APPLY TO NON-RESIDENTIAL PROPERTY
18 AND ALL RENTAL PROPERTY WHETHER OR NOT SUCH RENTAL PROPERTY IS ALSO THE
19 RESIDENCE OF THE LANDLORD ONLY FOLLOWING IMPLEMENTATION OF SECTION SIX
20 HUNDRED ONE-A OF THE TAX LAW.
21 S 3. Section 1308 of the real property tax law is amended to read as
22 follows:
23 S 1308. Property subject to levy. [Except as provided in section thir-
24 teen hundred ten of this chapter, school] SCHOOL district taxes shall be

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

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1 levied by the school authorities upon all NON-RESIDENTIAL real property
2 AND ALL RENTAL PROPERTY WHETHER OR NOT SUCH RENTAL PROPERTY IS ALSO THE
3 RESIDENCE OF THE LANDLORD within the boundaries of the district which is
4 not by law exempt from such taxation. Such taxes shall be levied against
5 each parcel of such real property. In all cases the levy shall be deemed
6 as against the real property itself. The name of the owner, last known
7 owner or reputed owner shall be regarded as an aid to identify such
8 parcel. A mistake in any such name shall not affect the validity of the
9 levy against the parcel.

10 S 4. The tax law is amended by adding a new section 601-a to read as
11 follows:

12 S 601-A. ADDITIONAL PERSONAL INCOME TAX FOR EDUCATION. (A) IN ADDITION
13 TO THE TAXES ON INCOME IMPOSED BY THIS CHAPTER, THERE SHALL BE IMPOSED A
14 TAX FOR THE FUNDING OF EDUCATION IN THE LOCAL SCHOOL DISTRICTS OF THE
15 STATE.

16 (B) IN ESTABLISHING THE INITIAL RATES OF TAXATION FOR THE ADDITIONAL
17 PERSONAL INCOME TAX AUTHORIZED BY THIS SECTION, THE DEPARTMENT SHALL
18 DETERMINE THE TOTAL AMOUNT FOR EDUCATION THAT WAS LEVIED THROUGH THE
19 RESIDENTIAL PROPERTY TAX IN EFFECT PURSUANT TO ARTICLE THIRTEEN OF THE
20 REAL PROPERTY TAX LAW IN THE YEAR PRECEDING IMPLEMENTATION OF THE ADDI-
21 TIONAL PERSONAL INCOME TAX FOR EDUCATION AUTHORIZED BY THIS SECTION.
22 SUCH RATES OF TAXATION SHALL RESULT IN AN AMOUNT OF FUNDING THAT IS
23 EQUAL TO OR MORE THAN THE FUNDING PREVIOUSLY PROVIDED TO LOCAL SCHOOL
24 DISTRICTS UNDER THE SYSTEM OF RESIDENTIAL PROPERTY TAXATION, AS WELL AS
25 THE NECESSARY AMOUNT OF FUNDING TO FULFILL THE BUDGET OF EVERY LOCAL
26 SCHOOL DISTRICT.

27 (C) THE BASE AMOUNT OF TOTAL TAXPAYER INCOME THAT MAY BE SUBJECT TO
28 THE ADDITIONAL PERSONAL INCOME TAX AUTHORIZED BY THIS SECTION SHALL BE
29 THIRTY THOUSAND DOLLARS. IN NO EVENT SHALL A TAXPAYER WITH A TOTAL
30 INCOME OF LESS THAN THIRTY THOUSAND DOLLARS BE SUBJECT TO THE ADDITIONAL
31 TAX AUTHORIZED BY THIS SECTION.

32 (D) THE COMMISSIONER SHALL ESTABLISH A SEPARATE ACCOUNT OR ACCOUNTS TO
33 RECEIVE THE ADDITIONAL TAX IMPOSED BY SUBSECTION (A) OF THIS SECTION AND
34 SHALL PAY INTO SUCH ACCOUNT OR ACCOUNTS THE TOTAL OF ALL SUCH TAXES WHEN
35 RECEIVED AND RETAIN THE SAME SUBJECT TO DISBURSEMENT BY THE STATE.

36 S 5. The real property law is amended by adding a new section 235-h to
37 read as follows:

38 S 235-H. NOTICE TO TENANT OF RENT AMOUNT ATTRIBUTABLE TO TAXATION ON
39 PROPERTY. IT SHALL BE THE DUTY OF THE LANDLORD TO PROVIDE WRITTEN
40 NOTIFICATION TO EACH TENANT OF THE PRO-RATA AMOUNT OF RENT FOR EACH UNIT
41 WHICH IS ATTRIBUTABLE TO THE AMOUNT OF TAXATION OF SUCH PROPERTY IN
42 ACCORDANCE WITH THE ASSESSMENT AND TAXATION OF SUCH RENTAL PROPERTY
43 PURSUANT TO ARTICLE THIRTEEN OF THE REAL PROPERTY TAX LAW FOR THE
44 PURPOSES OF ENABLING SUCH TENANT TO DETERMINE THE AMOUNT OF TAX CREDIT
45 AUTHORIZED PURSUANT TO SUBSECTION (TT) OF SECTION SIX HUNDRED SIX OF THE
46 TAX LAW.

47 S 6. Section 606 of the tax law is amended by adding a new subsection
48 (tt) to read as follows:

49 (TT) CREDIT FOR RENT AMOUNT ATTRIBUTABLE TO PROPERTY TAXATION. A
50 TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTI-
51 CLE EQUAL TO THE AMOUNT OF SUCH TAXPAYER'S RENT ATTRIBUTABLE TO THE
52 TAXATION ON SUCH RENTAL PROPERTY AS DETERMINED BY THE WRITTEN NOTIFICA-
53 TION PROVIDED TO SUCH TENANT BY HIS OR HER LANDLORD PURSUANT TO SECTION
54 TWO HUNDRED THIRTY-FIVE-H OF THE REAL PROPERTY LAW.

55 S 7. Construction with other laws. The provisions of this act shall be
56 controlling, notwithstanding the provisions of any other law, code, rule

1 or regulation to the contrary. However, no existing right or remedy of
2 any character shall be lost, impaired or affected by reason of this act,
3 nor shall the validity of any action taken by any public official under
4 the law in force immediately prior to the time this act shall take
5 effect be affected by the enactment of this act. Collection of all
6 outstanding tax liens shall be pursuant to the provisions of the real
7 property tax law.

8 S 8. Severability. If any clause, sentence, paragraph, section or part
9 of this act shall be adjudged by any court of competent jurisdiction to
10 be invalid, such judgment shall not affect, impair or invalidate the
11 remainder thereof, but shall be confined in its operation to the clause,
12 sentence, paragraph, section or part thereof directly involved in the
13 controversy in which such judgment shall have been rendered.

14 S 9. This act shall take effect on the first of January next succeed-
15 ing the date upon which it shall have become a law.