

4387

2011-2012 Regular Sessions

I N S E N A T E

April 4, 2011

Introduced by Sen. ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the real property tax law, in relation to the alternative veterans property tax exemption

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

1 Section 1. Subdivision 1 of section 458-a of the real property tax  
2 law is amended by adding a new paragraph (h) to read as follows:

3 (H) "ACTIVE MEMBER OF THE MILITARY" SHALL MEAN ANY PERSON WHO CURRENT-  
4 LY SERVES IN THE ACTIVE MILITARY, NAVAL OR AIR SERVICE AS DOCUMENTED BY  
5 THE ANNUAL FILING OF SUCH MEMBER'S STATEMENT OF SERVICE OR A COPY OF  
6 SUCH MEMBER'S ACTIVE DUTY ORDERS WITH THE LOCAL TAX ASSESSOR.

7 S 2. Paragraphs (c) and (d) of subdivision 1, paragraphs (b) and (c)  
8 of subdivision 2, subdivision 3, paragraph (a) of subdivision 6 and  
9 subdivision 8 of section 458-a of the real property tax law, paragraph  
10 (c) of subdivision 1 and paragraph (c) of subdivision 2 as amended by  
11 chapter 100 of the laws of 1988, paragraph (d) of subdivision 1 as  
12 amended by chapter 899 of the laws of 1985, paragraph (b) of subdivision  
13 2 as amended by chapter 473 of the laws of 2004, subdivision 3 as  
14 amended by chapter 646 of the laws of 2004, subdivision 3 as further  
15 amended by section 1 of part W of chapter 56 of the laws of 2010, para-  
16 graph (a) of subdivision 6 as added by chapter 171 of the laws of 1997  
17 and subdivision 8 as amended by chapter 503 of the laws of 2008, are  
18 amended to read as follows:

19 (c) "Qualified owner" means a veteran, AN ACTIVE MEMBER OF THE MILI-  
20 TARY, the spouse of a veteran, THE SPOUSE OF AN ACTIVE MEMBER OF THE  
21 MILITARY or the unremarried surviving spouse of a veteran. Where proper-  
22 ty is owned by more than one qualified owner, the exemption to which  
23 each is entitled may be combined. Where a veteran OR AN ACTIVE MEMBER OF  
24 THE MILITARY is also the unremarried surviving spouse of a veteran, such

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

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1 person may also receive any exemption to which the deceased spouse was  
2 entitled.

3 (d) "Qualifying residential real property" means property owned by a  
4 qualified owner which is used exclusively for residential purposes;  
5 provided however, that in the event any portion of such property is not  
6 so used exclusively for residential purposes but is used for other  
7 purposes, such portion shall be subject to taxation and the remaining  
8 portion only shall be entitled to the exemption provided by this  
9 section. Such property must be the primary residence of the veteran,  
10 ACTIVE MEMBER OF THE MILITARY or unremarried surviving spouse of the  
11 veteran, unless the veteran, ACTIVE MEMBER OF THE MILITARY or unremar-  
12 ried surviving spouse is absent from the property due to medical reasons  
13 or institutionalization. In the event the veteran OR ACTIVE MEMBER OF  
14 THE MILITARY dies and there is no unremarried surviving spouse, "quali-  
15 fying residential real property" shall mean the primary residence owned  
16 by a qualified owner prior to death, provided that the title to the  
17 property becomes vested in the dependent father or mother or dependent  
18 child or children under twenty-one years of age of a veteran by virtue  
19 of devise by or descent from the deceased qualified owner, provided that  
20 the property is the primary residence of one or all of the devisees.

21 (b) In addition to the exemption provided by paragraph (a) of this  
22 subdivision, where (I) the veteran served in a combat theatre or combat  
23 zone of operations, as documented by the award of a United States  
24 campaign ribbon or service medal, or the armed forces expeditionary  
25 medal, navy expeditionary medal, marine corps expeditionary medal, or  
26 global war on terrorism expeditionary medal, OR (II) AN ACTIVE MEMBER OF  
27 THE MILITARY CURRENTLY SERVES IN A COMBAT THEATRE OR COMBAT ZONE OF  
28 OPERATIONS, AS DOCUMENTED BY THE ANNUAL FILING OF SUCH MEMBER'S STATE-  
29 MENT OF SERVICE OR A COPY OF SUCH MEMBER'S ACTIVE DUTY ORDERS WITH THE  
30 LOCAL TAX ASSESSOR, qualifying residential real property also shall be  
31 exempt from taxation to the extent of ten percent of the assessed value  
32 of such property; provided, however, that such exemption shall not  
33 exceed eight thousand dollars or the product of eight thousand dollars  
34 multiplied by the latest state equalization rate for the assessing unit,  
35 or in the case of a special assessing unit, the class ratio, whichever  
36 is less.

37 (c) In addition to the exemptions provided by paragraphs (a) and (b)  
38 of this subdivision, where the veteran OR ACTIVE MEMBER OF THE MILITARY  
39 received a compensation rating from the United States veteran's adminis-  
40 tration or from the United States department of defense because of a  
41 service connected disability, qualifying residential real property shall  
42 be exempt from taxation to the extent of the product of the assessed  
43 value of such property multiplied by fifty percent of the veteran's OR  
44 ACTIVE MEMBER OF THE MILITARY'S disability rating; provided, however,  
45 that such exemption shall not exceed forty thousand dollars or the prod-  
46 uct of forty thousand dollars multiplied by the latest state equaliza-  
47 tion rate for the assessing unit, or in the case of a special assessing  
48 unit, the latest class ratio, whichever is less. For purposes of this  
49 paragraph, where a person who served in the active military, naval or  
50 air service during a period of war died in service of a service  
51 connected disability, such person shall be deemed to have been assigned  
52 a compensation rating of one hundred percent.

53 3. Application for exemption must be made by the owner, or all of the  
54 owners, of the property on a form prescribed by the commissioner. The  
55 owner or owners shall file the completed form in the assessor's office  
56 on or before the appropriate taxable status date. The exemption shall

1 continue in full force and effect for all appropriate subsequent tax  
2 years and the owner or owners of the property shall not be required to  
3 refile each year, PROVIDED, HOWEVER, THAT ACTIVE MEMBERS OF THE MILITARY  
4 SHALL BE REQUIRED TO REFILE SUCH MEMBER'S STATEMENT OF SERVICE OR A COPY  
5 OF SUCH MEMBER'S ACTIVE DUTY ORDERS ANNUALLY. Applicants shall be  
6 required to refile on or before the appropriate taxable status date if  
7 the percentage of disability percentage increases or decreases or may  
8 refile if other changes have occurred which affect qualification for an  
9 increased or decreased amount of exemption. Any applicant convicted of  
10 making any willful false statement in the application for such exemption  
11 shall be subject to the penalties prescribed in the penal law.

12 (a) For the purposes of this section, title to that portion of real  
13 property owned by a cooperative apartment corporation in which a  
14 tenant-stockholder of such corporation resides and which is represented  
15 by his OR HER share or shares of stock in such corporation as determined  
16 by its or their proportional relationship to the total outstanding stock  
17 of the corporation, including that owned by the corporation, shall be  
18 deemed to be vested in such tenant-stockholder.

19 8. Notwithstanding the provisions of paragraph (c) of subdivision one  
20 of this section and subdivision three of this section, the governing  
21 body of any municipality may, after public hearing, adopt a local law,  
22 ordinance or resolution providing that where a veteran, AN ACTIVE MEMBER  
23 OF THE MILITARY, the spouse of the veteran, THE SPOUSE OF AN ACTIVE  
24 MEMBER OF THE MILITARY or unremarried surviving spouse already receiving  
25 an exemption pursuant to this section sells the property receiving the  
26 exemption and purchases property within the same city, town or village,  
27 the assessor shall transfer and prorate, for the remainder of the fiscal  
28 year, the exemption received. The prorated exemption shall be based upon  
29 the date the veteran, ACTIVE MEMBER OF THE MILITARY, the spouse of the  
30 veteran, THE SPOUSE OF THE ACTIVE MEMBER OF THE MILITARY or unremarried  
31 surviving spouse obtains title to the new property and shall be calcu-  
32 lated by multiplying the tax rate or rates for each municipal corpo-  
33 ration which levied taxes, or for which taxes were levied, on the appro-  
34 priate tax roll used for the fiscal year or years during which the  
35 transfer occurred times the previously granted exempt amount times the  
36 fraction of each fiscal year or years remaining subsequent to the trans-  
37 fer of title. Nothing in this section shall be construed to remove the  
38 requirement that any such veteran, ACTIVE MEMBER OF THE MILITARY, the  
39 spouse of the veteran, SPOUSE OF THE ACTIVE MEMBER OF THE MILITARY or  
40 unremarried surviving spouse transferring an exemption pursuant to this  
41 subdivision shall reapply for the exemption authorized pursuant to this  
42 section on or before the following taxable status date, in the event  
43 such veteran, ACTIVE MEMBER OF THE MILITARY, the spouse of the veteran,  
44 SPOUSE OF THE ACTIVE MEMBER OF THE MILITARY or unremarried surviving  
45 spouse wishes to receive the exemption in future fiscal years.

46 S 3. This act shall take effect on the first of January next succeed-  
47 ing the date upon which it shall have become a law and shall apply to  
48 assessment rolls prepared on the basis of taxable status dates occurring  
49 on or after such effective date.