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

5186

2011-2012 Regular Sessions

I N  S E N A T E

May 3, 2011

Introduced by Sen. YOUNG -- 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 establishing a residential-commercial exemption program in certain counties

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 485-n to read as follows:

S 485-N. RESIDENTIAL-COMMERCIAL EXEMPTION PROGRAM. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "APPLICANT" MEANS ANY PERSON OBLIGATED TO PAY REAL PROPERTY TAXES ON REAL PROPERTY FOR WHICH AN EXEMPTION FROM TAXES UNDER THIS SECTION IS SOUGHT.

(B) "BENEFIT AREA" MEANS THE AREA WITHIN A MUNICIPALITY, DESIGNATED BY LOCAL LAW, TO WHICH AN EXEMPTION, ESTABLISHED PURSUANT TO THIS SECTION, APPLIES.

(C) "COMMERCIAL CONSTRUCTION WORK" MEANS THE MODERNIZATION, REHABILITATION, EXPANSION OR OTHER IMPROVEMENT OF THE COMMERCIAL USE PROPERTY OR OF THE PORTION OF MIXED-USE PROPERTY TO BE USED FOR COMMERCIAL PURPOSES.

(D) "COMMERCIAL PURPOSE OR USE" MEANS THE BUYING, SELLING OR OTHERWISE PROVIDING OF GOODS OR SERVICES, INCLUDING HOTEL SERVICES, OR OTHER LAWFUL BUSINESS OR COMMERCIAL ACTIVITIES PERMITTED UPON MIXED-USE PROPERTY.

(E) "COMMERCIAL USE PROPERTY" MEANS REAL PROPERTY ON WHICH WILL EXIST, AFTER COMPLETION OF COMMERCIAL CONSTRUCTION WORK, A BUILDING USED FOR COMMERCIAL PURPOSES OR USE.

(F) "MIXED-USE PROPERTY" MEANS REAL PROPERTY ON WHICH WILL EXIST, AFTER COMPLETION OF RESIDENTIAL CONSTRUCTION WORK OR A COMBINATION OF RESIDENTIAL CONSTRUCTION WORK AND COMMERCIAL CONSTRUCTION WORK, A BUILDING OR STRUCTURE USED FOR BOTH RESIDENTIAL AND COMMERCIAL PURPOSES.

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

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(G) "MUNICIPALITY" MEANS ANY TOWN, CITY, VILLAGE OR OTHER TAXING ENTITY LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN SIXTY-FOUR THOUSAND THREE HUNDRED AND NOT MORE THAN SIXTY-FOUR THOUSAND FOUR HUNDRED AS DETERMINED BY THE FEDERAL DECENNIAL CENSUS FOR THE YEAR TWO THOUSAND.

(H) "RESIDENTIAL CONSTRUCTION WORK" MEANS THE CREATION, MODERNIZATION, REHABILITATION, EXPANSION OR OTHER IMPROVEMENT OF DWELLING UNITS, OTHER THAN DWELLING UNITS IN A HOTEL, IN THE PORTION OF MIXED-USE PROPERTY TO BE USED FOR RESIDENTIAL PURPOSES.

2. (A) A MUNICIPALITY MAY, BY LOCAL LAW, ESTABLISH A BOARD TO BE KNOWN AS THE RESIDENTIAL INCENTIVE BOARD THAT SHALL PROVIDE FOR THE EXEMPTION OF REAL PROPERTY IN A DESIGNATED BENEFIT AREA FROM TAXATION AS PROVIDED IN THIS SECTION. THE MEMBERSHIP AND COMPOSITION OF SUCH BOARD SHALL BE SET FORTH IN THE LOCAL LAW.

(B) THE RESIDENTIAL INCENTIVE BOARD SHALL PRESENT A PLAN TO THE LOCAL GOVERNING BOARD OR COUNCIL CONCERNING THE VARIOUS TYPES OF RESIDENTIAL REAL PROPERTY WHICH MAY BE GRANTED ELIGIBILITY FOR AN EXEMPTION PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION. THE EXEMPTION SHALL BE COMPUTED AS PROVIDED IN THIS SECTION. IN ADDITION, SUCH PLAN SHALL IDENTIFY DESIGNATED BENEFIT AREAS, WITHIN WHICH SUCH EXEMPTIONS SHALL BE OFFERED. IN DEVELOPING THE PLAN REQUIRED BY THIS PARAGRAPH, THE RESIDENTIAL INCENTIVE BOARD SHALL CONSIDER THE PLANNING OBJECTIVES OF THE SCHOOL DISTRICT WHICH SERVES SUCH MUNICIPALITY, AND THE NECESSITY OF THE EXEMPTION TO THE ATTRACTION OR RETENTION OF HOME OWNERS AND THE ECONOMIC BENEFIT TO THE AREA OF PROVIDING EXEMPTIONS TO HOME OWNERS.

(C) IN ADDITION, THE RESIDENTIAL INCENTIVE BOARD MAY MAKE RECOMMENDATIONS TO THE LOCAL GOVERNING BOARD OR COUNCIL WITH RESPECT TO ACTIONS IT DEEMS DESIRABLE TO IMPROVE THE ECONOMIC CLIMATE THEREIN.

(D) IF A LOCAL GOVERNING BOARD OR COUNCIL ESTABLISHES A RESIDENTIAL INCENTIVE BOARD PURSUANT TO THIS SECTION, SUCH LOCAL GOVERNING BOARD OR COUNCIL MAY, BY LOCAL LAW, RESTRICT REAL PROPERTY ELIGIBLE TO RECEIVE THE EXEMPTION TO REAL PROPERTY CONSTRUCTED FOR THOSE PURPOSES IDENTIFIED IN THE PLAN PRESENTED BY THE RESIDENTIAL INCENTIVE BOARD. SUCH LOCAL LAW SHALL RESTRICT THE AVAILABILITY OF SUCH EXEMPTION TO THE SPECIFIC GEOGRAPHIC AREAS IDENTIFIED IN THE PLAN PRESENTED BY THE RESIDENTIAL INCENTIVE BOARD. UPON THE ADOPTION OF SUCH A LOCAL LAW, THE COUNTY IN WHICH SUCH MUNICIPALITY IS LOCATED MAY, BY LOCAL LAW, AND ANY SCHOOL DISTRICT, ALL OR PART OF WHICH IS LOCATED IN SUCH MUNICIPALITY, MAY, BY RESOLUTION, EXEMPT SUCH PROPERTY FROM ITS TAXATION IN THE SAME MANNER AND TO THE SAME EXTENT AS SUCH MUNICIPALITY HAS DONE.

(F) A MUNICIPALITY OR SCHOOL DISTRICT SHALL SET UP A RESIDENTIAL INCENTIVE BOARD, EXCEPT WHERE THEY HAVE PREVIOUSLY IDENTIFIED A "DOWNTOWN REVITALIZATION DISTRICT" BOUNDARY FOR ECONOMIC DEVELOPMENT PURPOSES BY PASSING A RESOLUTION OR ADOPTION OF LOCAL LAW IF WITHIN THE LAST TEN YEARS. UPON THE ADOPTION OF A LOCAL LAW OR RESOLUTION ESTABLISHING A DESIGNATED BENEFIT AREA AND AUTHORIZING THE REAL PROPERTY TAX EXEMPTION PROVIDED FOR IN THIS SECTION, THE MUNICIPALITY SHALL REAFFIRM ANY "DOWNTOWN REVITALIZATION DISTRICT" PREVIOUSLY ESTABLISHED BY SUCH MUNICIPALITY AS THE DESIGNATED BENEFIT AREA FOR THE PURPOSES OF THE REAL PROPERTY TAX EXEMPTION SET FORTH IN THIS SECTION.

3. UPON THE ADOPTION OF SUCH A LOCAL LAW THE COMMERCIAL USE PROPERTY OR MIXED-USE PROPERTY THAT WAS CONVERTED, CREATED, MODERNIZED, REHABILITATED, EXPANDED OR OTHERWISE IMPROVED OR THE COMMERCIAL USE PROPERTY THAT WAS CONVERTED, CREATED, MODERNIZED, REHABILITATED, EXPANDED OR OTHERWISE IMPROVED, SHALL BE EXEMPT FROM TAXATION AND SPECIAL AD VALOREM LEVIES AS PROVIDED FOR IN SUBDIVISION FOUR OF THIS SECTION.

4. (A) (I) FOR A PERIOD OF TWELVE YEARS FOLLOWING THE APPROVAL OF AN APPLICATION, THE INCREASE IN ASSESSED VALUE OF SUCH PROPERTY ATTRIBUTABLE TO SUCH CONVERSION, CREATION, MODERNIZATION, REHABILITATION, EXPANSION OR OTHER IMPROVEMENT SHALL BE EXEMPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH. SUCH EXEMPTION SHALL BE COMPUTED WITH RESPECT TO THE "EXEMPTION BASE". THE EXEMPTION BASE SHALL BE DETERMINED FOR EACH YEAR IN WHICH THERE IS AN INCREASE IN ASSESSED VALUE SO ATTRIBUTABLE FROM THAT OF THE PREVIOUS YEAR'S ASSESSED VALUE.

(II) THE FOLLOWING SHALL DETERMINE THE COMPUTATION OF THE TAX EXEMPTION:

| YEAR OF EXEMPTION | PERCENTAGE OF EXEMPTION |
|---|---|
| 1 THROUGH 8 | 100% OF EXEMPTION BASE |
| 9 | 80% OF EXEMPTION BASE |
| 10 | 60% OF EXEMPTION BASE |
| 11 | 40% OF EXEMPTION BASE |
| 12 | 20% OF EXEMPTION BASE |

(B) NO SUCH EXEMPTION SHALL BE GRANTED UNLESS:

(I) SUCH CONVERSION, CREATION, MODERNIZATION, REHABILITATION, EXPANSION OR OTHER IMPROVEMENT WAS COMMENCED SUBSEQUENT TO THE DATE ON WHICH THE MUNICIPALITY'S LOCAL LAW TOOK EFFECT; AND

(II) THE COST OF SUCH CONVERSION, CREATION, MODERNIZATION, REHABILITATION, EXPANSION OR OTHER IMPROVEMENT EXCEEDS THE SUM OF TEN THOUSAND DOLLARS OR SUCH GREATER AMOUNT AS MAY BE SPECIFIED BY LOCAL LAW.

(C) FOR PURPOSES OF THIS SECTION THE TERM "CONVERSION, CREATION, MODERNIZATION, REHABILITATION, EXPANSION OR OTHER IMPROVEMENT" SHALL NOT INCLUDE ORDINARY MAINTENANCE AND REPAIRS.

(D) NO SUCH EXEMPTION SHALL BE GRANTED CONCURRENT WITH OR SUBSEQUENT TO ANY OTHER REAL PROPERTY TAX EXEMPTION GRANTED TO THE SAME IMPROVEMENTS TO REAL PROPERTY, EXCEPT, WHERE DURING THE PERIOD OF SUCH PREVIOUS EXEMPTION, PAYMENTS IN LIEU OF TAXES OR OTHER PAYMENTS WERE MADE TO THE MUNICIPALITY IN AN AMOUNT THAT WOULD HAVE BEEN EQUAL TO OR GREATER THAN THE AMOUNT OF REAL PROPERTY TAXES THAT WOULD HAVE BEEN PAID ON SUCH IMPROVEMENTS HAD SUCH PROPERTY BEEN GRANTED AN EXEMPTION PURSUANT TO THIS SECTION. IN SUCH CASE, AN EXEMPTION SHALL BE GRANTED FOR A NUMBER OF YEARS EQUAL TO THE TWELVE YEAR EXEMPTION GRANTED PURSUANT TO THIS SECTION LESS THE NUMBER OF YEARS THE PROPERTY WOULD HAVE BEEN PREVIOUSLY EXEMPT FROM REAL PROPERTY TAXES.

5. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OF REAL PROPERTY ON A FORM PRESCRIBED BY THE STATE BOARD. SUCH APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE MUNICIPALITY OR COUNTY HAVING THE POWER TO ASSESS PROPERTY FOR TAXATION ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE OF SUCH MUNICIPALITY OR COUNTY. NO APPLICATION SHALL BE APPROVED BY ANY MUNICIPALITY OR COUNTY THAT WAS SUBMITTED MORE THAN TWELVE YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

6. IF THE ASSESSOR IS SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO THIS SECTION, HE OR SHE SHALL APPROVE THE APPLICATION AND SUCH REAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD VALOREM LEVIES AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESSMENT ROLL PREPARED AFTER THE TAXABLE STATUS DATE REFERRED TO IN SUBDIVISION FIVE 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.

S 2. This act shall take effect immediately.