

863--B

Cal. No. 77

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. YOUNG, GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the real property tax law, in relation to establishing a residential-commercial exemption program in certain counties; and providing for the repeal of such provisions upon the expiration thereof

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 485-n to read as follows:
3 S 485-N. RESIDENTIAL-COMMERCIAL EXEMPTION PROGRAM. 1. DEFINITIONS. AS
4 USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEAN-
5 INGS:
6 (A) "APPLICANT" MEANS ANY PERSON OBLIGATED TO PAY REAL PROPERTY TAXES
7 ON REAL PROPERTY FOR WHICH AN EXEMPTION FROM TAXES UNDER THIS SECTION IS
8 SOUGHT.
9 (B) "BENEFIT AREA" MEANS THE AREA WITHIN A MUNICIPALITY, DESIGNATED BY
10 LOCAL LAW, TO WHICH AN EXEMPTION, ESTABLISHED PURSUANT TO THIS SECTION,
11 APPLIES.
12 (C) "COMMERCIAL CONSTRUCTION WORK" MEANS THE MODERNIZATION, REHABILI-
13 TATION, EXPANSION OR OTHER IMPROVEMENT OF COMMERCIAL USE PROPERTY OR THE
14 PORTION OF MIXED-USE PROPERTY TO BE USED FOR COMMERCIAL PURPOSES.
15 (D) "COMMERCIAL PURPOSE OR USE" MEANS THE BUYING, SELLING OR OTHERWISE
16 PROVIDING OF GOODS OR SERVICES, INCLUDING HOTEL SERVICES, OR OTHER

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

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1 LAWFUL BUSINESS OR COMMERCIAL ACTIVITIES PERMITTED UPON MIXED-USE PROP-
2 ERTY.

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

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

10 (G) "MUNICIPALITY" MEANS ANY TOWN, CITY, VILLAGE OR OTHER TAXING ENTI-
11 TY LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN SIXTY-FIVE
12 THOUSAND THREE HUNDRED NINETY AND NOT MORE THAN SIXTY-FIVE THOUSAND FOUR
13 HUNDRED AS DETERMINED BY THE FEDERAL DECENNIAL CENSUS FOR THE YEAR TWO
14 THOUSAND TEN.

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

19 2. (A) A MUNICIPALITY, OTHER THAN A COUNTY OR SCHOOL DISTRICT AS
20 PROVIDED IN THIS SECTION, MAY, BY LOCAL LAW, PROVIDE FOR THE EXEMPTION
21 OF REAL PROPERTY IN A DESIGNATED BENEFIT AREA FROM TAXATION AS PROVIDED
22 IN THIS SECTION. SUBSEQUENT TO THE ADOPTION OF SUCH A LOCAL LAW, THE
23 COUNTY IN WHICH SUCH MUNICIPALITY IS LOCATED MAY, BY LOCAL LAW, AND ANY
24 SCHOOL DISTRICT, ALL OR PART OF WHICH IS LOCATED IN SUCH MUNICIPALITY,
25 MAY, BY RESOLUTION, EXEMPT SUCH PROPERTY FROM ITS TAXATION IN THE SAME
26 MANNER AND TO THE SAME EXTENT AS SUCH MUNICIPALITY HAS DONE.

27 (B) SUCH LOCAL LAW SHALL PROVIDE FOR THE APPOINTMENT OF A
28 COMMERCIAL/MIXED USE INCENTIVE BOARD WHICH SHALL BE RESPONSIBLE FOR
29 DESIGNATING THE BENEFIT AREA TO BE EXEMPT FROM TAXATION AS PROVIDED IN
30 THIS SECTION. THE MEMBERSHIP AND COMPOSITION OF SUCH BOARD SHALL BE SET
31 FORTH IN LOCAL LAW. SUCH BOARD SHALL PRESENT A PLAN TO THE LOCAL GOVERN-
32 ING BODY CONCERNING THE VARIOUS TYPES OF COMMERCIAL AND/OR MIXED-USE
33 PROPERTIES WHICH MAY BE GRANTED AN EXEMPTION PURSUANT TO THIS SECTION.
34 IN ADDITION SUCH PLAN SHALL IDENTIFY DESIGNATED BENEFIT AREAS, WITHIN
35 WHICH SUCH EXEMPTION MAY BE OFFERED. IN DEVELOPING SUCH PLAN THE
36 COMMERCIAL/MIXED USE INCENTIVE BOARD SHALL CONSIDER THE PLANNING OBJEC-
37 TIVES OF THE MUNICIPALITY AND THE NECESSITY OF THE EXEMPTION TO THE
38 ATTRACTION OF COMMERCIAL AND MIXED USE DEVELOPMENT AS IDENTIFIED BY THE
39 MUNICIPALITY AND THE ECONOMIC BENEFIT TO THE AREA OF PROVIDING
40 EXEMPTIONS TO COMMERCIAL AND MIXED-USE PROPERTIES. IN INSTANCES WHERE A
41 MUNICIPALITY HAS PREVIOUSLY DESIGNED A BUSINESS DISTRICT ENCOMPASSING A
42 DEFINED AREA WHICH WAS SUBJECT TO PUBLIC INPUT AND WAS APPROVED BY AND
43 RECEIVED FUNDING FOR ECONOMIC DEVELOPMENT PURPOSES FROM A STATE AGENCY,
44 THE MUNICIPALITY MAY UTILIZE THE DEFINED BOUNDARIES OF SUCH PREVIOUSLY
45 DEFINED AREA, OR A COMBINATION OF SUCH BOUNDARIES SUBJECT TO REVIEW BY
46 THE COMMERCIAL/MIXED-USE INCENTIVE BOARD.

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

52 4. (A) (I) FOR A PERIOD OF TWELVE YEARS FOLLOWING THE APPROVAL OF AN
53 APPLICATION, THE INCREASE IN ASSESSED VALUE OF SUCH PROPERTY ATTRIBUT-
54 ABLE TO SUCH CONVERSION, CREATION, MODERNIZATION, REHABILITATION, EXPAN-
55 SION OR OTHER IMPROVEMENT SHALL BE EXEMPT AS PROVIDED IN SUBPARAGRAPH
56 (II) OF THIS PARAGRAPH. SUCH EXEMPTION SHALL BE COMPUTED WITH RESPECT TO

1 THE "EXEMPTION BASE". THE EXEMPTION BASE SHALL BE DETERMINED FOR EACH
2 YEAR IN WHICH THERE IS AN INCREASE IN ASSESSED VALUE SO ATTRIBUTABLE
3 FROM THAT OF THE PREVIOUS YEAR'S ASSESSED VALUE.

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

6	YEAR OF EXEMPTION	PERCENTAGE OF EXEMPTION
7	1 THROUGH 8	100% OF EXEMPTION BASE
8	9	80% OF EXEMPTION BASE
9	10	60% OF EXEMPTION BASE
10	11	40% OF EXEMPTION BASE
11	12	20% OF EXEMPTION BASE

12 (B) NO SUCH EXEMPTION SHALL BE GRANTED UNLESS:

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

16 (II) THE COST OF SUCH CONVERSION EXCEEDS THE SUM OF TEN THOUSAND
17 DOLLARS OR SUCH GREATER AMOUNT AS MAY BE SPECIFIED BY LOCAL LAW.

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

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

32 5. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER
33 OF REAL PROPERTY ON A FORM PRESCRIBED BY THE COMMISSIONER. SUCH APPLICA-
34 TION SHALL BE FILED WITH THE ASSESSOR OF THE MUNICIPALITY OR COUNTY
35 HAVING THE POWER TO ASSESS PROPERTY FOR TAXATION ON OR BEFORE THE APPRO-
36 PRIATE TAXABLE STATUS DATE OF SUCH MUNICIPALITY OR COUNTY.

37 6. IF THE ASSESSOR IS SATISFIED THAT THE APPLICANT IS ENTITLED TO AN
38 EXEMPTION PURSUANT TO THIS SECTION, HE OR SHE SHALL APPROVE THE APPLICA-
39 TION AND SUCH REAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND
40 SPECIAL AD VALOREM LEVIES AS PROVIDED IN THIS SECTION COMMENCING WITH
41 THE ASSESSMENT ROLL PREPARED AFTER THE TAXABLE STATUS DATE REFERRED TO
42 IN SUBDIVISION FIVE OF THIS SECTION. THE ASSESSED VALUE OF ANY
43 EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL BE ENTERED BY THE
44 ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE PROPERTY, WITH THE
45 AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

46 S 2. This act shall take effect immediately, and shall expire and be
47 deemed repealed twelve years after such date.