

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

2299--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 18, 2011

Introduced by M. of A. CUSICK, COLTON -- read once and referred to the Committee on Veterans' Affairs -- recommitted to the Committee on Veterans' Affairs in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to establishing an exemption for permanently totally disabled veterans

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 458-c to read as follows:
3 S 458-C. EXEMPTION FOR PERMANENTLY TOTALLY DISABLED VETERANS. 1. AS
4 USED IN THIS SECTION:
5 (A) "VETERAN" MEANS A PERSON WHO SERVED IN THE ACTIVE MILITARY, NAVAL
6 OR AIR SERVICE DURING A PERIOD OF WAR, OR WHO WAS A RECIPIENT OF THE
7 ARMED FORCES EXPEDITIONARY MEDAL, NAVY EXPEDITIONARY MEDAL, MARINE CORPS
8 EXPEDITIONARY MEDAL, OR GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL, AND
9 WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER HONORABLE CONDITIONS.
10 (B) "PERIOD OF WAR" MEANS THE SPANISH-AMERICAN WAR; THE MEXICAN BORDER
11 PERIOD; WORLD WAR I; WORLD WAR II; THE HOSTILITIES, KNOWN AS THE KOREAN
12 WAR, WHICH COMMENCED JUNE TWENTY-SEVENTH, NINETEEN HUNDRED FIFTY AND
13 TERMINATED ON JANUARY THIRTY-FIRST, NINETEEN HUNDRED FIFTY-FIVE; THE
14 HOSTILITIES, KNOWN AS THE VIETNAM WAR, WHICH COMMENCED FEBRUARY TWENTY-
15 EIGHTH, NINETEEN HUNDRED SIXTY-ONE AND TERMINATED ON MAY SEVENTH, NINE-
16 TEEN HUNDRED SEVENTY-FIVE; AND THE HOSTILITIES, KNOWN AS THE PERSIAN
17 GULF CONFLICT, WHICH COMMENCED AUGUST SECOND, NINETEEN HUNDRED NINETY.
18 (C) "SERVICE CONNECTED" MEANS, WITH RESPECT TO DISABILITY OR DEATH,
19 THAT SUCH DISABILITY WAS INCURRED OR AGGRAVATED, OR THAT DEATH RESULTED
20 FROM DISABILITY INCURRED OR AGGRAVATED, IN LINE OF DUTY IN THE ACTIVE
21 MILITARY, NAVAL OR AIR SERVICE.

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

LBD03988-02-2

1 (D) "PERMANENTLY TOTALLY DISABLED" AND "PERMANENT TOTAL DISABILITY"
2 MEANS THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE MILITARY
3 SERVICE FROM WHICH THE VETERAN WAS DISCHARGED HAS RATED THE DISABILITY
4 AT ONE HUNDRED PERCENT OR HAS RATED THE DISABILITY COMPENSATION AT ONE
5 HUNDRED PERCENT BY REASON OF BEING UNABLE TO SECURE OR FOLLOW A SUBSTAN-
6 Tially GAINFUL EMPLOYMENT. THE PERMANENT LOSS OR LOSS OF USE OF BOTH
7 HANDS, OR OF BOTH FEET, OR OF ONE HAND AND ONE FOOT, OR OF THE SIGHT OF
8 BOTH EYES, OR BECOMING PERMANENTLY HELPLESS OR BEDRIDDEN ARE CONSIDERED
9 PERMANENT TOTAL DISABILITIES. BEING BLIND IN BOTH EYES MEANS HAVING A
10 VISUAL ACUITY OF 5/200 OR LESS, OR CONCENTRIC CONTRACTION OF THE VISUAL
11 FIELD TO FIVE DEGREES OR LESS. LOSING THE USE OF A HAND OR FOOT MEANS
12 THAT THE HAND OR FOOT HAS BEEN AMPUTATED OR ITS USE HAS BEEN LOST BY
13 REASON OF ANKYLOSIS, PROGRESSIVE MUSCULAR DYSTROPHIES, OR PARALYSIS.

14 (E) "QUALIFIED OWNER" MEANS A VETERAN WITH A SERVICE-CONNECTED PERMA-
15 NENT TOTAL DISABILITY FOR WHOM A LETTER FROM THE UNITED STATES GOVERN-
16 MENT OR UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR ITS PREDECESSOR
17 HAS BEEN ISSUED CERTIFYING THAT THE VETERAN HAS A PERMANENT TOTAL DISA-
18 BILITY.

19 (F) "QUALIFIED RESIDENTIAL REAL PROPERTY" MEANS PROPERTY OWNED BY A
20 QUALIFIED OWNER WHICH IS USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES;
21 PROVIDED, HOWEVER, THAT IN THE EVENT THAT ANY PORTION OF SUCH PROPERTY
22 IS NOT USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES, BUT IS USED FOR OTHER
23 PURPOSES, SUCH PORTION SHALL BE SUBJECT TO TAXATION AND THE REMAINING
24 PORTION ONLY SHALL BE ENTITLED TO THE EXEMPTION PROVIDED BY THIS
25 SECTION. SUCH PROPERTY MUST BE THE PRIMARY RESIDENCE OF THE PERMANENTLY
26 TOTALLY DISABLED VETERAN UNLESS SUCH VETERAN IS ABSENT FROM THE PROPERTY
27 DUE TO MEDICAL REASONS OR INSTITUTIONALIZATION.

28 2.(A) THE GOVERNING BODY OF ANY CITY, TOWN OR VILLAGE IS HEREBY
29 AUTHORIZED AND EMPOWERED TO ADOPT, AFTER PUBLIC HEARING, IN ACCORDANCE
30 WITH THE PROVISIONS OF THIS SECTION, A LOCAL LAW, ORDINANCE OR RESOL-
31 UTION PROVIDING THAT QUALIFIED RESIDENTIAL REAL PROPERTY OWNED BY A
32 PERMANENTLY TOTALLY DISABLED VETERAN SHALL BE EXEMPT FROM TAXATION.

33 (B)(I) THE EXEMPTION FROM TAXATION PROVIDED BY THIS SUBDIVISION SHALL
34 BE APPLICABLE TO COUNTY, CITY, TOWN AND VILLAGE TAXATION, BUT SHALL NOT
35 BE APPLICABLE TO TAXES LEVIED FOR SCHOOL PURPOSES.

36 (II) IF A PERMANENTLY TOTALLY DISABLED VETERAN RECEIVES AN EXEMPTION
37 UNDER SECTION FOUR HUNDRED FIFTY-EIGHT, FOUR HUNDRED FIFTY-EIGHT-A OR
38 FOUR HUNDRED FIFTY-EIGHT-B OF THIS TITLE, THE PERMANENTLY TOTALLY DISA-
39 BLED VETERAN SHALL NOT BE ELIGIBLE TO RECEIVE THE EXEMPTION UNDER THIS
40 SECTION.

41 3. APPLICATION FOR SUCH EXEMPTION SHALL BE MADE ANNUALLY BY THE OWNER,
42 OR ALL OF THE OWNERS, OF THE PROPERTY ON FORMS PRESCRIBED BY THE OFFICE
43 OF REAL PROPERTY TAX SERVICES AND SHALL BE FILED IN THE ASSESSOR'S
44 OFFICE ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE; PROVIDED,
45 HOWEVER, PROOF OF A PERMANENT TOTAL DISABILITY, PURSUANT TO PARAGRAPH
46 (D) OF SUBDIVISION ONE OF THIS SECTION NEED BE SUBMITTED ONLY IN THE
47 YEAR EXEMPTION PURSUANT TO THIS SECTION IS FIRST SOUGHT OR THE DISABILI-
48 TY IS FIRST DETERMINED TO BE PERMANENT.

49 4. ANY APPLICANT CONVICTED OF MAKING ANY WILLFUL FALSE STATEMENT IN
50 THE APPLICATION FOR SUCH EXEMPTION SHALL BE SUBJECT TO THE PENALTIES
51 PRESCRIBED IN THE PENAL LAW.

52 5. A LOCAL LAW ADOPTED PURSUANT TO THIS SECTION MAY BE REPEALED BY THE
53 GOVERNING BODY OF THE APPLICABLE COUNTY, CITY, TOWN, OR VILLAGE. SUCH
54 REPEAL SHALL OCCUR AT LEAST NINETY DAYS PRIOR TO THE TAXABLE STATUS DATE
55 OF SUCH COUNTY, CITY, TOWN, OR VILLAGE.

1 6. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, THE
2 PROVISIONS OF THIS SECTION SHALL APPLY TO ANY REAL PROPERTY HELD IN
3 TRUST SOLELY FOR THE BENEFIT OF A PERSON OR PERSONS WHO WOULD OTHERWISE
4 BE ELIGIBLE FOR A REAL PROPERTY TAX EXEMPTION, PURSUANT TO THIS SECTION,
5 WERE SUCH PERSON OR PERSONS THE OWNER OR OWNERS OF SUCH REAL PROPERTY.

6 7. (A) FOR THE PURPOSE OF THIS SECTION, TITLE TO THE PORTION OF REAL
7 PROPERTY OWNED BY A COOPERATIVE APARTMENT CORPORATION IN WHICH A
8 TENANT-STOCKHOLDER OF SUCH CORPORATION RESIDES AND WHICH IS REPRESENTED
9 BY HIS OR HER SHARE OR SHARES OF STOCK IN SUCH CORPORATION AS DETERMINED
10 BY ITS OR THEIR PROPORTIONAL RELATIONSHIP TO THE TOTAL OUTSTANDING STOCK
11 OF THE CORPORATION, INCLUDING THAT OWNED BY THE CORPORATION SHALL BE
12 DEEMED TO BE VESTED IN SUCH TENANT-STOCKHOLDER.

13 (B) PROVIDED THAT ALL OTHER ELIGIBILITY CRITERIA OF THIS SECTION HAS
14 BEEN MET, THAT PROPORTION OF THE ASSESSMENT OF SUCH REAL PROPERTY OWNED
15 BY A COOPERATIVE APARTMENT CORPORATION DETERMINED BY THE RELATIONSHIP OF
16 SUCH REAL PROPERTY VESTED IN SUCH TENANT-STOCKHOLDER TO SUCH REAL PROP-
17 erty OWNED BY SUCH COOPERATIVE APARTMENT CORPORATION IN WHICH SUCH
18 TENANT-STOCKHOLDER RESIDES SHALL BE SUBJECT TO EXEMPTION FROM TAXATION
19 PURSUANT TO THIS SECTION AND ANY EXEMPTION SO GRANTED SHALL BE CREDITED
20 BY THE APPROPRIATE TAXING AUTHORITY AGAINST THE ASSESSED VALUATION OF
21 SUCH REAL PROPERTY; THE REDUCTION IN REAL PROPERTY TAXES REALIZED THERE-
22 BY SHALL BE CREDITED BY THE COOPERATIVE APARTMENT CORPORATION AGAINST
23 THE AMOUNT OF SUCH TAXES OTHERWISE PAYABLE BY OR CHARGEABLE TO SUCH
24 TENANT-STOCKHOLDER.

25 (C) NOTWITHSTANDING PARAGRAPH (B) OF THIS SUBDIVISION, A TENANT-STOCK-
26 HOLDER WHO RESIDES IN A DWELLING THAT IS SUBJECT TO THE PROVISIONS OF
27 ARTICLE TWO, FOUR, FIVE OR ELEVEN OF THE PRIVATE HOUSING FINANCE LAW
28 SHALL NOT BE ELIGIBLE FOR AN EXEMPTION PURSUANT TO THIS SECTION.

29 (D) NOTWITHSTANDING PARAGRAPH (B) OF THIS SUBDIVISION, REAL PROPERTY
30 OWNED BY A COOPERATIVE CORPORATION MAY BE EXEMPT FROM TAXATION PURSUANT
31 TO THIS SECTION BY A MUNICIPALITY IN WHICH SUCH PROPERTY IS LOCATED ONLY
32 IF THE GOVERNING BODY OF SUCH MUNICIPALITY, AFTER A PUBLIC HEARING,
33 ADOPTS A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THEREFORE.

34 S 2. This act shall take effect on the first of January next succeed-
35 ing the date on which it shall have become a law and shall apply to
36 assessment rolls prepared on the basis of taxable status dates occurring
37 on or after such date.