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

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2011-2012 Regular Sessions

I N A S S E M B L Y

February 8, 2011

Introduced by M. of A. KOLB, COOK, FINCH, THIELE, GIGLIO -- Multi-Sponsored by -- M. of A. BARCLAY, CONTE, CORWIN, HAWLEY, JORDAN, P. LOPEZ, McDONOUGH, McKEVITT, MOLINARO, RAIA, SALADINO, TOWNS, WEISENBERG -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law and the tax law, in relation to establishing the working families property tax relief act

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

Section 1. This act shall be known and may be cited as the "working families property tax relief act."

S 2. The real property tax law is amended by adding a new section 459-d to read as follows:

S 459-D. WORKING FAMILIES PROPERTY TAX RELIEF. 1. REAL PROPERTY OWNED BY ONE OR MORE PERSONS SHALL BE SUBJECT TO A REAL PROPERTY TAX CAP PROVIDED THE GOVERNING BOARD OF ANY MUNICIPAL CORPORATION IN WHICH THE REAL PROPERTY IS LOCATED, AFTER A PUBLIC HEARING, ADOPTS A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THAT REAL PROPERTY TAXES FOR SUCH PROPERTY BE CAPPED AT SIX PERCENT OF THE HOUSEHOLD INCOME.

2. PROPERTY SHALL BE ELIGIBLE FOR A TAX CAP IF:

(A) THE COMBINED INCOME OF THE HOUSEHOLD OF THE PROPERTY FOR THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE DATE OF APPLICATION FOR THE CAP DOES NOT EXCEED THE SUM OF ONE HUNDRED THOUSAND DOLLARS. INCOME SHALL MEAN THE AGGREGATE ADJUSTED GROSS INCOME OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS FILED, OR AS WOULD HAVE BEEN FILED, ON THEIR FEDERAL PERSONAL INCOME TAX RETURN;

(B) THE REAL PROPERTY IS THE LEGAL RESIDENCE OF AND IS OCCUPIED IN WHOLE OR IN PART BY THE OWNER OR ALL OWNERS OF THE PROPERTY;

(C) THE REAL PROPERTY IS USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES, PROVIDED, HOWEVER, THAT IN THE EVENT ANY PORTION OF SUCH PROPERTY IS NOT SO USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES BUT IS USED FOR OTHER

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

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PURPOSES, SUCH PORTION SHALL BE SUBJECT TO TAXATION AND THE REMAINING PORTION ONLY SHALL BE ENTITLED TO A CAP PROVIDED IN THIS SECTION.

3. EACH GOVERNING BOARD OF ANY MUNICIPAL CORPORATION THAT SHALL HAVE ADOPTED A TAX CAP PURSUANT TO THIS SECTION SHALL NOTIFY, OR CAUSE TO BE NOTIFIED, EACH PERSON OWNING RESIDENTIAL REAL PROPERTY IN SUCH MUNICIPAL CORPORATION OF THE PROVISIONS OF THIS SECTION. THE PROVISIONS OF THIS SUBDIVISION MAY BE MET BY A NOTICE OR LEGEND SENT ON OR WITH EACH TAX BILL TO SUCH PERSONS READING "YOU MAY BE ELIGIBLE FOR THE WORKING FAMILIES PROPERTY TAX CAP." FAILURE TO NOTIFY, OR CAUSE TO BE NOTIFIED ANY PERSON WHO IS IN FACT, ELIGIBLE TO RECEIVE THE SAME SHALL NOT PREVENT THE LEVY, COLLECTION AND ENFORCEMENT OF THE PAYMENT OF THE TAXES ON PROPERTY OWNED BY SUCH PERSON.

4. APPLICATION FOR SUCH CAP MUST BE MADE BY THE OWNER, OR ALL OF THE OWNERS OF THE PROPERTY, ON FORMS PRESCRIBED BY THE COMMISSIONER TO BE FURNISHED BY THE APPROPRIATE ASSESSING AUTHORITY AND SHALL FURNISH THE INFORMATION AND BE EXECUTED IN THE MANNER REQUIRED OR PRESCRIBED IN SUCH FORMS, AND SHALL BE FILED IN SUCH ASSESSOR'S OFFICE ON OR BEFORE THE DATE OF THE APPROPRIATE TAXABLE STATUS DATE.

5. THE STATE SHALL HOLD HARMLESS ANY MUNICIPAL CORPORATION OR SPECIAL DISTRICT FOR THE LOSS OF REVENUE RESULTING FROM THE TAX CAP PROVIDED FOR BY THIS SECTION.

6. AT LEAST SIXTY DAYS PRIOR TO THE APPROPRIATE TAXABLE STATUS DATE, THE ASSESSING AUTHORITY SHALL MAIL TO EACH PERSON WHO WAS GRANTED A CAP PURSUANT TO THIS SECTION ON THE LATEST COMPLETED ASSESSMENT ROLL AN APPLICATION FORM AND A NOTICE THAT SUCH APPLICATION MUST BE FILED ON OR BEFORE THE TAXABLE STATUS DATE AND BE APPROVED IN ORDER FOR THE CAP TO BE GRANTED. THE ASSESSING AUTHORITY SHALL, WITHIN THREE DAYS OF THE COMPLETION AND FILING OF THE TENTATIVE ASSESSMENT ROLL, NOTIFY BY MAIL ANY APPLICANT WHO HAS INCLUDED WITH HIS APPLICATION AT LEAST ONE SELF-ADDRESSED, PREPAID ENVELOPE, OF THE APPROVAL OR DENIAL OF THE APPLICATION; PROVIDED, HOWEVER, THAT THE ASSESSING AUTHORITY SHALL, UPON THE RECEIPT AND FILING OF THE APPLICATION, SEND BY MAIL NOTIFICATION OF RECEIPT TO ANY APPLICANT WHO HAS INCLUDED TWO OF SUCH ENVELOPES WITH THE APPLICATION. WHERE AN APPLICANT IS ENTITLED TO A NOTICE OF DENIAL PURSUANT TO THIS SUBDIVISION, SUCH NOTICE SHALL BE ON A FORM PRESCRIBED BY THE COMMISSIONER AND SHALL STATE THE REASONS FOR SUCH DENIAL AND SHALL FURTHER STATE THAT THE APPLICANT MAY HAVE SUCH DETERMINATION REVIEWED IN THE MANNER PROVIDED BY LAW.

S 3. Section 601 of the tax law is amended by adding a new subsection (c-1) to read as follows:

(C-1) CAPITAL GAIN FROM THE SALE OF CERTAIN OWNER OCCUPIED RESIDENTIAL REAL PROPERTY. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A), (B) OR (C) OF THIS SECTION, THERE IS HEREBY IMPOSED, FOR EACH TAXABLE YEAR, A TAX AT THE RATE OF FIVE AND FOUR-TENTHS PERCENT, ON THAT PORTION OF THE NEW YORK TAXABLE INCOME OF ANY RESIDENT INDIVIDUAL WHICH ARE CAPITAL GAINS IN EXCESS OF FIFTY THOUSAND DOLLARS DERIVED FROM THE SALE OF RESIDENTIAL REAL PROPERTY OWNED AND OCCUPIED BY SUCH INDIVIDUAL FOR LESS THAN THREE YEARS. SUCH CAPITAL GAINS ON THE SALE OF REAL PROPERTY SHALL BE CALCULATED IN THE SAME MANNER AS PROVIDED THEREFOR IN THE FEDERAL INTERNAL REVENUE CODE.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after the first of January of the year in which it shall have become a law.