

1774

2011-2012 Regular Sessions

I N   S E N A T E

January 12, 2011

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Introduced by Sen. PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to the credit for serving certain mortgages

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

1     Section 1. Subsection (a) of section 1456 of the tax law, as added by  
2 chapter 167 of the laws of 1972, is amended to read as follows:  
3     (a) Credit for servicing certain mortgages. Every bank, as defined in  
4 section two thousand four hundred two of the public authorities law,  
5 which shall have entered into a contract with the state of New York  
6 mortgage agency to service mortgages acquired by such agency pursuant to  
7 the state of New York mortgage agency act OR MORTGAGES ACQUIRED BY A  
8 BANK IN CONNECTION WITH ANY PROGRAM OF THE AGENCY, FOR SALE TO OR TRANS-  
9 FER IN EXCHANGE FOR A MORTGAGE BACKED SECURITY TO BE ISSUED BY THE  
10 FEDERAL NATIONAL MORTGAGE ASSOCIATION, shall have credited to it annual-  
11 ly to apply upon or in lieu of the payment of any tax to which it may be  
12 subject under this article an amount equal to two and ninety-three one  
13 hundredths percentum of the total principal and interest collected by  
14 the bank during its taxable year on each such mortgage secured by a lien  
15 on real estate improved by a one-family to four-family residential  
16 structure and an amount equal to the interest collected by the bank  
17 during its taxable year on each such mortgage secured by a lien on real  
18 property improved by a structure occupied as the residence of five or  
19 more families living independently of each other, multiplied by a frac-  
20 tion the denominator of which shall be the interest rate payable on the  
21 mortgage (computed to five decimal places) and the numerator of which  
22 shall be .00125 in the case of such a mortgage acquired by such agency  
23 for less than one million dollars, and .00100 in the case of such a  
24 mortgage acquired by such agency for one million dollars or more;

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

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1 provided, however, that there shall in no case be credited to any such  
2 bank an amount in excess of the amount due from such bank for taxes  
3 payable to the state under this article for the taxable year for which  
4 such credit is given. In computing such tax credit for the servicing of  
5 mortgages on one-family to four-family residential structures, the bank  
6 shall be entitled to no credit for the collection of curtailments or  
7 payments in discharge of any such mortgage. For the purposes of this  
8 section, (a) a "curtailment" shall mean amounts paid by mortgagors (1)  
9 in excess of the monthly constant due during the month of collection and  
10 (2) in reduction of the unpaid principal balance of the mortgage; in the  
11 absence of clear evidence to the contrary, amounts paid in excess of the  
12 monthly constant due during the month of collection shall be deemed to  
13 be in reduction of the unpaid principal balance of the mortgage; and (b)  
14 "monthly constant" shall mean the amount of principal and interest which  
15 is due and payable according to the mortgage documents on each periodic  
16 payment date.  
17 S 2. This act shall take effect immediately.