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

4387

2011-2012 Regular Sessions

I N S E N A T E

April 4, 2011

Introduced by Sen. ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the real property tax law, in relation to the alternative veterans property tax exemption

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

Section 1. Subdivision 1 of section 458-a of the real property tax law is amended by adding a new paragraph (h) to read as follows:

(H) "ACTIVE MEMBER OF THE MILITARY" SHALL MEAN ANY PERSON WHO CURRENTLY SERVES IN THE ACTIVE MILITARY, NAVAL OR AIR SERVICE AS DOCUMENTED BY THE ANNUAL FILING OF SUCH MEMBER'S STATEMENT OF SERVICE OR A COPY OF SUCH MEMBER'S ACTIVE DUTY ORDERS WITH THE LOCAL TAX ASSESSOR.

S 2. Paragraphs (c) and (d) of subdivision 1, paragraphs (b) and (c) of subdivision 2, subdivision 3, paragraph (a) of subdivision 6 and subdivision 8 of section 458-a of the real property tax law, paragraph (c) of subdivision 1 and paragraph (c) of subdivision 2 as amended by chapter 100 of the laws of 1988, paragraph (d) of subdivision 1 as amended by chapter 899 of the laws of 1985, paragraph (b) of subdivision 2 as amended by chapter 473 of the laws of 2004, subdivision 3 as amended by chapter 646 of the laws of 2004, subdivision 3 as further amended by section 1 of part W of chapter 56 of the laws of 2010, paragraph (a) of subdivision 6 as added by chapter 171 of the laws of 1997 and subdivision 8 as amended by chapter 503 of the laws of 2008, are amended to read as follows:

(c) "Qualified owner" means a veteran, AN ACTIVE MEMBER OF THE MILITARY, the spouse of a veteran, THE SPOUSE OF AN ACTIVE MEMBER OF THE MILITARY or the unremarried surviving spouse of a veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran OR AN ACTIVE MEMBER OF THE MILITARY is also the unremarried surviving spouse of a veteran, such

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

LBD09799-01-1

person may also receive any exemption to which the deceased spouse was entitled.

(d) "Qualifying residential real property" means property owned by a qualified owner which 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 purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section. Such property must be the primary residence of the veteran, ACTIVE MEMBER OF THE MILITARY or unremarried surviving spouse of the veteran, unless the veteran, ACTIVE MEMBER OF THE MILITARY or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization. In the event the veteran OR ACTIVE MEMBER OF THE MILITARY dies and there is no unremarried surviving spouse, "qualifying residential real property" shall mean the primary residence owned by a qualified owner prior to death, provided that the title to the property becomes vested in the dependent father or mother or dependent child or children under twenty-one years of age of a veteran by virtue of devise by or descent from the deceased qualified owner, provided that the property is the primary residence of one or all of the devisees.

(b) In addition to the exemption provided by paragraph (a) of this subdivision, where (I) the veteran served in a combat theatre or combat zone of operations, as documented by the award of a United States campaign ribbon or service medal, or the armed forces expeditionary medal, navy expeditionary medal, marine corps expeditionary medal, or global war on terrorism expeditionary medal, OR (II) AN ACTIVE MEMBER OF THE MILITARY CURRENTLY SERVES IN A COMBAT THEATRE OR COMBAT ZONE OF OPERATIONS, AS DOCUMENTED BY THE ANNUAL FILING OF SUCH MEMBER'S STATEMENT OF SERVICE OR A COPY OF SUCH MEMBER'S ACTIVE DUTY ORDERS WITH THE LOCAL TAX ASSESSOR, qualifying residential real property also shall be exempt from taxation to the extent of ten percent of the assessed value of such property; provided, however, that such exemption shall not exceed eight thousand dollars or the product of eight thousand dollars multiplied by the latest state equalization rate for the assessing unit, or in the case of a special assessing unit, the class ratio, whichever is less.

(c) In addition to the exemptions provided by paragraphs (a) and (b) of this subdivision, where the veteran OR ACTIVE MEMBER OF THE MILITARY received a compensation rating from the United States veteran's administration or from the United States department of defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by fifty percent of the veteran's OR ACTIVE MEMBER OF THE MILITARY'S disability rating; provided, however, that such exemption shall not exceed forty thousand dollars or the product of forty thousand dollars multiplied by the latest state equalization rate for the assessing unit, or in the case of a special assessing unit, the latest class ratio, whichever is less. For purposes of this paragraph, where a person who served in the active military, naval or air service during a period of war died in service of a service connected disability, such person shall be deemed to have been assigned a compensation rating of one hundred percent.

3. Application for exemption must be made by the owner, or all of the owners, of the property on a form prescribed by the commissioner. The owner or owners shall file the completed form in the assessor's office on or before the appropriate taxable status date. The exemption shall

continue in full force and effect for all appropriate subsequent tax years and the owner or owners of the property shall not be required to refile each year, PROVIDED, HOWEVER, THAT ACTIVE MEMBERS OF THE MILITARY SHALL BE REQUIRED TO REFILE SUCH MEMBER'S STATEMENT OF SERVICE OR A COPY OF SUCH MEMBER'S ACTIVE DUTY ORDERS ANNUALLY. Applicants shall be required to refile on or before the appropriate taxable status date if the percentage of disability percentage increases or decreases or may refile if other changes have occurred which affect qualification for an increased or decreased amount of exemption. Any applicant convicted of making any willful false statement in the application for such exemption shall be subject to the penalties prescribed in the penal law.

(a) For the purposes of this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides and which is represented by his OR HER share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

8. Notwithstanding the provisions of paragraph (c) of subdivision one of this section and subdivision three of this section, the governing body of any municipality may, after public hearing, adopt a local law, ordinance or resolution providing that where a veteran, AN ACTIVE MEMBER OF THE MILITARY, the spouse of the veteran, THE SPOUSE OF AN ACTIVE MEMBER OF THE MILITARY or unremarried surviving spouse already receiving an exemption pursuant to this section sells the property receiving the exemption and purchases property within the same city, town or village, the assessor shall transfer and prorate, for the remainder of the fiscal year, the exemption received. The prorated exemption shall be based upon the date the veteran, ACTIVE MEMBER OF THE MILITARY, the spouse of the veteran, THE SPOUSE OF THE ACTIVE MEMBER OF THE MILITARY or unremarried surviving spouse obtains title to the new property and shall be calculated by multiplying the tax rate or rates for each municipal corporation which levied taxes, or for which taxes were levied, on the appropriate tax roll used for the fiscal year or years during which the transfer occurred times the previously granted exempt amount times the fraction of each fiscal year or years remaining subsequent to the transfer of title. Nothing in this section shall be construed to remove the requirement that any such veteran, ACTIVE MEMBER OF THE MILITARY, the spouse of the veteran, SPOUSE OF THE ACTIVE MEMBER OF THE MILITARY or unremarried surviving spouse transferring an exemption pursuant to this subdivision shall reapply for the exemption authorized pursuant to this section on or before the following taxable status date, in the event such veteran, ACTIVE MEMBER OF THE MILITARY, the spouse of the veteran, SPOUSE OF THE ACTIVE MEMBER OF THE MILITARY or unremarried surviving spouse wishes to receive the exemption in future fiscal years.

S 3. This act shall take effect on the first of January next succeeding the date upon which it shall have become a law and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such effective date.