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

5422

2011-2012 Regular Sessions

I N S E N A T E

May 19, 2011

Introduced by Sens. YOUNG, GALLIVAN -- 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 authorizing the county of Livingston to impose an additional mortgage recording tax and authorizing such county to expend such mortgage recording tax on necessary county services; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The tax law is amended by adding a new section 253-y to read as follows:

S 253-Y. RECORDING TAX IMPOSED BY THE COUNTY OF LIVINGSTON. 1. LIVINGSTON COUNTY, ACTING THOROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN SUCH COUNTY A TAX OF TWENTY-FIVE CENTS FOR EACH ONE HUNDRED DOLLARS AND EACH REMAINING MAJOR FRACTION THEREOF OF PRINCIPAL DEBT OR OBLIGATION WHICH IS OR UNDER ANY CONTINGENCY MAY BE SECURED AT THE DATE OF EXECUTION THEREOF, OR AT ANY TIME THEREAFTER, BY A MORTGAGE ON REAL PROPERTY SITUATED WITHIN SUCH COUNTY AND RECORDED ON OR AFTER THE DATE UPON WHICH SUCH TAX TAKES EFFECT AND A TAX OF TWENTY-FIVE CENTS ON SUCH MORTGAGE IF THE PRINCIPAL DEBT OR OBLIGATION WHICH IS OR BY ANY CONTINGENCY MAY BE SECURED BY SUCH MORTGAGE IS LESS THAN ONE HUNDRED DOLLARS.

2. THE TAXES IMPOSED UNDER THE AUTHORITY OF THIS SECTION SHALL BE ADMINISTERED AND COLLECTED IN THE SAME MANNER AS THE TAXES IMPOSED UNDER SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-THREE AND PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-FIVE OF THIS ARTICLE. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL THE PROVISION OF THIS ARTICLE RELATING TO OR APPLICABLE TO THE ADMINISTRATION AND COLLECTION OF THE TAXES IMPOSED BY SUCH SUBDIVISIONS SHALL APPLY TO THE TAXES IMPOSED UNDER THE AUTHORITY OF THIS SECTION WITH SUCH MODIFICATIONS AS

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

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MAY BE NECESSARY TO ADAPT SUCH LANGUAGE TO THE TAX SO AUTHORIZED. SUCH PROVISIONS SHALL APPLY WITH THE SAME FORCE AND EFFECT AS IF THOSE PROVISIONS HAD BEEN SET FORTH IN FULL IN THIS SECTION EXCEPT TO THE EXTENT THAT ANY PROVISION IS EITHER INCONSISTENT WITH A PROVISION OF THIS SECTION OR NOT RELEVANT TO THE TAX AUTHORIZED BY THIS SECTION. FOR PURPOSES OF THIS SECTION, ANY REFERENCE IN THIS ARTICLE TO THE TAX OR TAXES IMPOSED BY THIS ARTICLE SHALL BE DEEMED TO REFER TO A TAX IMPOSED PURSUANT TO THIS SECTION, AND ANY REFERENCE TO THE PHRASE "WITHIN THIS STATE" SHALL BE READ AS "WITHIN LIVINGSTON COUNTY", UNLESS A DIFFERENT MEANING IS CLEARLY REQUIRED.

3. WHERE THE REAL PROPERTY COVERED BY THE MORTGAGE SUBJECT TO THE TAX IMPOSED PURSUANT TO THAT AUTHORITY OF THIS SECTION IS SITUATED IN THIS STATE BUT WITHIN AND WITHOUT THE COUNTY IMPOSING SUCH TAX, THE AMOUNT OF SUCH TAX DUE AND PAYABLE TO SUCH COUNTY SHALL BE DETERMINED IN A MANNER SIMILAR TO THAT PRESCRIBED IN THE FIRST UNDESIGNATED PARAGRAPH OF SECTION TWO HUNDRED SIXTY OF THIS ARTICLE WHICH CONCERNS REAL PROPERTY SITUATED IN TWO OR MORE COUNTIES. WHERE SUCH PROPERTY IS SITUATED BOTH WITHIN SUCH COUNTY AND WITHOUT THE STATE, THE AMOUNT DUE AND PAYABLE TO SUCH COUNTY SHALL BE DETERMINED IN THE MANNER PRESCRIBED IN THE SECOND UNDESIGNATED PARAGRAPH OF SUCH SECTION TWO HUNDRED SIXTY WHICH CONCERNS PROPERTY SITUATED WITHIN AND WITHOUT THE STATE. WHERE REAL PROPERTY IS SITUATED WITHIN AND WITHOUT THE COUNTY IMPOSING SUCH TAX, THE RECORDING OFFICER OF THE JURISDICTION IN WHICH THE MORTGAGE IS FIRST RECORDED SHALL BE REQUIRED TO COLLECT THE TAXES IMPOSED PURSUANT TO THIS SECTION.

4. A TAX IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE IN ADDITION TO THE TAXES IMPOSED BY SECTION TWO HUNDRED FIFTY-THREE OF THIS ARTICLE.

5. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, THE BALANCE OF ALL MONEYS PAID TO THE RECORDING OFFICER OF THE COUNTY OF LIVINGSTON DURING EACH MONTH UPON ACCOUNT OF THE TAX IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION, AFTER DEDUCTING THE NECESSARY EXPENSES OF HIS OR HER OFFICE AS PROVIDED IN SECTION TWO HUNDRED SIXTY-TWO OF THIS ARTICLE, EXCEPT TAXES PAID UPON MORTGAGES WHICH UNDER THE PROVISIONS OF THIS SECTION OR SECTION TWO HUNDRED SIXTY OF THIS ARTICLE ARE FIRST TO BE APPORTIONED BY THE COMMISSIONER, SHALL BE PAID OVER BY SUCH OFFICER ON OR BEFORE THE TENTH DAY OF EACH SUCCEEDING MONTH TO THE TREASURER OF LIVINGSTON COUNTY AND, AFTER THE DEDUCTION BY SUCH TREASURER OF THE NECESSARY EXPENSES OF HIS OR HER OFFICE PROVIDED IN SECTION TWO HUNDRED SIXTY-TWO OF THIS ARTICLE SHALL BE DEPOSITED IN THE GENERAL FUND OF THE COUNTY OF LIVINGSTON FOR EXPENDITURE BY SUCH COUNTY FOR ANY COUNTY PURPOSE. NOTWITHSTANDING THE PROVISIONS OF THE PRECEDING SENTENCE, THE TAX SO IMPOSED AND PAID UPON MORTGAGES COVERING REAL PROPERTY SITUATED IN TWO OR MORE COUNTIES, WHICH UNDER THE PROVISIONS OF THIS SECTION OR SECTION TWO HUNDRED SIXTY OF THIS ARTICLE ARE FIRST TO BE APPORTIONED BY THE COMMISSIONER, SHALL BE PAID OVER BY THE RECORDING OFFICER RECEIVING THE SAME AS PROVIDED BY THE DETERMINATION OF THE COMMISSIONER.

6. ANY LOCAL LAW IMPOSING A TAX PURSUANT TO THE AUTHORITY OF THIS SECTION OR REPEALING OR SUSPENDING SUCH A TAX SHALL TAKE EFFECT ONLY ON THE FIRST DAY OF A CALENDAR MONTH. SUCH A LOCAL LAW SHALL NOT BE EFFECTIVE UNLESS A CERTIFIED COPY THEREOF IS MAILED BY REGISTERED OR CERTIFIED MAIL TO THE COMMISSIONER AT THE COMMISSIONER'S OFFICE IN ALBANY AT LEAST THIRTY DAYS PRIOR TO THE DATE THE LOCAL LAW SHALL TAKE EFFECT.

7. CERTIFIED COPIES OF ANY LOCAL LAW DESCRIBED IN THIS SECTION SHALL ALSO BE FILED WITH THE COUNTY CLERK OF THE COUNTY OF LIVINGSTON, THE SECRETARY OF STATE AND THE STATE COMPTROLLER WITHIN FIVE DAYS AFTER THE DATE IT IS DULY ENACTED.

S 2. Paragraphs (p) and (q) of subdivision 1 of section 261 of the tax law, as amended by chapter 365 of the laws of 2005, are amended and a new paragraph (r) is added to read as follows:

(p) with respect to the remaining counties of the state except Cattaraugus county which have not suspended the imposition of such additional tax pursuant to subdivision two of section two hundred fifty-three of this article, to the comptroller to be paid by him or her into the general fund in the state treasury to the credit of the state purposes account; provided that money paid to the comptroller with respect to any such remaining county in which on the date of such payment any mass transportation, airport or aviation, municipal historic site, municipal park, community mental health and retardation facility, or sewage treatment capital project is being carried out by a municipality with state aid, or for which state aid will be paid, pursuant to the provisions of title one of chapter seven hundred seventeen of the laws of nineteen hundred sixty-seven, section 17.05 of the parks, recreation and historic preservation law, section 41.18 of the mental hygiene law, or section 17-1903 of the environmental conservation law, shall be applied by him or her to increase the amount of aid for which the state is obligated in respect to such project on such date, provided that any such increase in state aid may not, together with any federal funds paid or to be paid on account of the cost of such project, exceed the total cost thereof, and where more than one such capital project is being carried out on such date within such county, the application of such monies by the comptroller shall be pro-rated among such municipalities on the basis of the respective amounts of state aid which are so obligated on such date; [and] (q) with respect to the county of Cattaraugus, to the comptroller to be paid by him or her into the general fund in the state treasury to the credit of the state purposes account for the construction of a county office building and a county department of public works office building, or debt service thereon being carried out by the county of Cattaraugus up to but not exceeding the total cost for such county office building and county department of public works building, or debt service thereon less the amount of any state aid or federal funds paid or to be paid on account of such project or debt service thereon; AND (R) WITH RESPECT TO THE COUNTY OF LIVINGSTON, TO THE COUNTY TREASURER OF SUCH COUNTY FOR DEPOSIT INTO THE GENERAL FUND OF THE COUNTY OF LIVINGSTON TO PAY COSTS AND EXPENSES INCURRED BY SUCH COUNTY TO PROVIDE NECESSARY SERVICES.

S 3. This act shall take effect on January 1, 2012 and shall expire and be deemed repealed December 31, 2013.