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

6869

I N S E N A T E

March 30, 2012

Introduced by Sen. GALLIVAN -- 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 exemption from taxation of qualifying residential real property for active duty service members

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

Section 1. The real property tax law is amended by adding a new section 458-c to read as follows:

S 458-C. EXEMPTION FOR ACTIVE DUTY SERVICE MEMBERS. 1. THE FOLLOWING TERMS WHENEVER USED OR REFERRED TO IN THIS SECTION SHALL HAVE THE FOLLOWING MEANINGS:

(A) "ACTIVE DUTY SERVICE MEMBER" MEANS A PERSON WHO IS SERVING IN FULL-TIME ACTIVE DUTY IN THE UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD, FOR OTHER THAN TRAINING PURPOSES.

(B) "QUALIFIED OWNER" MEANS AN ACTIVE DUTY SERVICE MEMBER, THE SPOUSE OF AN ACTIVE DUTY SERVICE MEMBER OR THE UNREMARRIED SURVIVING SPOUSE OF AN ACTIVE DUTY SERVICE MEMBER. WHERE PROPERTY IS OWNED BY MORE THAN ONE QUALIFIED OWNER, THE EXEMPTION TO WHICH EACH IS ENTITLED MAY BE COMBINED. WHERE AN ACTIVE DUTY SERVICE MEMBER IS ALSO THE UNREMARRIED SURVIVING SPOUSE OF AN ACTIVE DUTY SERVICE MEMBER, SUCH PERSON MAY ALSO RECEIVE ANY EXEMPTION TO WHICH THE DECEASED SPOUSE WAS ENTITLED.

(C) "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 ACTIVE DUTY SERVICE MEMBER OR UNREMARRIED SURVIVING SPOUSE OF THE ACTIVE DUTY SERVICE MEMBER, UNLESS THE ACTIVE DUTY SERVICE MEMBER OR UNREMARRIED SURVIVING SPOUSE IS ABSENT FROM THE PROPERTY DUE TO MEDICAL REASONS OR INSTITUTIONALIZATION. IN THE EVENT THE ACTIVE DUTY SERVICE MEMBER DIES

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

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AND THERE IS NO UNREMARRIED SURVIVING SPOUSE, "QUALIFYING RESIDENTIAL REAL PROPERTY" SHALL MEAN THE PRIMARY RESIDENCE OWNED BY THE 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 AN ACTIVE DUTY SERVICE MEMBER 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.

(D) "LATEST STATE EQUALIZATION RATE" MEANS THE LATEST FINAL STATE EQUALIZATION RATE OR SPECIAL EQUALIZATION RATE ESTABLISHED BY THE COMMISSIONER PURSUANT TO ARTICLE TWELVE OF THIS CHAPTER. THE COMMISSIONER SHALL ESTABLISH A SPECIAL EQUALIZATION RATE IF HE OR SHE FINDS THAT THERE HAS BEEN A MATERIAL CHANGE IN THE LEVEL OF ASSESSMENT SINCE THE ESTABLISHMENT OF THE LATEST STATE EQUALIZATION RATE, BUT IN NO EVENT SHALL SUCH SPECIAL EQUALIZATION RATE EXCEED ONE HUNDRED. IN THE EVENT THAT THE STATE EQUALIZATION RATE EXCEEDS ONE HUNDRED, THEN THE STATE EQUALIZATION RATE SHALL BE ONE HUNDRED FOR THE PURPOSES OF THIS SECTION. WHERE A SPECIAL EQUALIZATION RATE IS ESTABLISHED FOR PURPOSES OF THIS SECTION, THE ASSESSOR IS DIRECTED AND AUTHORIZED TO RECOMPUTE THE ACTIVE DUTY SERVICE MEMBER EXEMPTION ON THE ASSESSMENT ROLL BY APPLYING SUCH SPECIAL EQUALIZATION RATE INSTEAD OF THE LATEST STATE EQUALIZATION RATE APPLIED IN THE PREVIOUS YEAR AND TO MAKE THE APPROPRIATE CORRECTIONS ON THE ASSESSMENT ROLL, NOTWITHSTANDING THE FACT THAT SUCH ASSESSOR MAY RECEIVE THE SPECIAL EQUALIZATION RATE AFTER THE COMPLETION, VERIFICATION AND FILING OF SUCH FINAL ASSESSMENT ROLL. IN THE EVENT THAT THE ASSESSOR DOES NOT HAVE CUSTODY OF THE ROLL WHEN SUCH RECOMPUTATION IS ACCOMPLISHED, THE ASSESSOR SHALL CERTIFY SUCH RECOMPUTATION TO THE LOCAL OFFICERS HAVING CUSTODY AND CONTROL OF SUCH ROLL, AND SUCH LOCAL OFFICERS ARE HEREBY DIRECTED AND AUTHORIZED TO ENTER THE RECOMPUTED ACTIVE DUTY SERVICE MEMBER EXEMPTION CERTIFIED BY THE ASSESSOR ON SUCH ROLL.

(E) "LATEST CLASS RATIO" MEANS THE LATEST FINAL CLASS RATIO ESTABLISHED BY THE COMMISSIONER PURSUANT TO TITLE ONE OF ARTICLE TWELVE OF THIS CHAPTER FOR USE IN A SPECIAL ASSESSING UNIT AS DEFINED IN SECTION EIGHTEEN HUNDRED ONE OF THIS CHAPTER.

2. (A) EACH COUNTY, CITY, TOWN OR VILLAGE MAY ADOPT A LOCAL LAW TO PROVIDE THAT QUALIFYING RESIDENTIAL REAL PROPERTY SHALL BE EXEMPT FROM TAXATION TO THE EXTENT OF FIFTEEN PERCENT OF THE ASSESSED VALUE OF SUCH PROPERTY; PROVIDED, HOWEVER, THAT SUCH EXEMPTION SHALL NOT EXCEED TWELVE THOUSAND DOLLARS OR THE PRODUCT OF TWELVE 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.

(B) IN ADDITION TO THE EXEMPTION PROVIDED BY PARAGRAPH (A) OF THIS SUBDIVISION, EACH COUNTY, CITY, TOWN OR VILLAGE MAY ADOPT A LOCAL LAW TO ALLOW AN ACTIVE DUTY SERVICE MEMBER WHO SERVED OR IS SERVING 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, AN EXEMPTION FROM TAXATION OF QUALIFYING RESIDENTIAL REAL PROPERTY 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) LIMITATIONS. (I) THE EXEMPTION FROM TAXATION PROVIDED BY THIS SUBDIVISION SHALL BE APPLICABLE TO COUNTY, CITY, TOWN, AND VILLAGE TAXATION, BUT SHALL NOT BE APPLICABLE TO TAXES LEVIED FOR SCHOOL PURPOSES.

(II) EACH COUNTY, CITY, TOWN OR VILLAGE MAY ADOPT A LOCAL LAW TO REDUCE THE MAXIMUM EXEMPTION ALLOWABLE IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION TO NINE THOUSAND DOLLARS AND SIX THOUSAND DOLLARS, RESPECTIVELY, OR SIX THOUSAND DOLLARS AND FOUR THOUSAND DOLLARS, RESPECTIVELY. EACH COUNTY, CITY, TOWN, OR VILLAGE IS ALSO AUTHORIZED TO ADOPT A LOCAL LAW TO INCREASE THE MAXIMUM EXEMPTION ALLOWABLE IN PARAGRAPHS (A) AND (B) IN THIS SUBDIVISION TO FIFTEEN THOUSAND DOLLARS AND TEN THOUSAND DOLLARS, RESPECTIVELY; EIGHTEEN THOUSAND DOLLARS AND TWELVE THOUSAND DOLLARS, RESPECTIVELY; TWENTY-ONE THOUSAND DOLLARS AND FOURTEEN THOUSAND DOLLARS, RESPECTIVELY; TWENTY-FOUR THOUSAND DOLLARS AND SIXTEEN THOUSAND DOLLARS, RESPECTIVELY; TWENTY-SEVEN THOUSAND DOLLARS AND EIGHTEEN THOUSAND DOLLARS, RESPECTIVELY; THIRTY THOUSAND DOLLARS AND TWENTY THOUSAND DOLLARS, RESPECTIVELY; THIRTY-THREE THOUSAND DOLLARS AND TWENTY-TWO THOUSAND DOLLARS, RESPECTIVELY; OR THIRTY-SIX THOUSAND DOLLARS AND TWENTY-FOUR THOUSAND DOLLARS, RESPECTIVELY. IN ADDITION, A COUNTY, CITY, TOWN OR VILLAGE WHICH IS A "HIGH APPRECIATION MUNICIPALITY" AS DEFINED IN THIS SUBPARAGRAPH IS AUTHORIZED TO ADOPT A LOCAL LAW TO INCREASE THE MAXIMUM EXEMPTION ALLOWABLE IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION TO THIRTY-NINE THOUSAND DOLLARS AND TWENTY-SIX THOUSAND DOLLARS, RESPECTIVELY; FORTY-TWO THOUSAND DOLLARS AND TWENTY-EIGHT THOUSAND DOLLARS, RESPECTIVELY; FORTY-FIVE THOUSAND DOLLARS AND THIRTY THOUSAND DOLLARS, RESPECTIVELY; FORTY-EIGHT THOUSAND DOLLARS AND THIRTY-TWO THOUSAND DOLLARS RESPECTIVELY; FIFTY-ONE THOUSAND DOLLARS AND THIRTY-FOUR THOUSAND DOLLARS, RESPECTIVELY; OR FIFTY-FOUR THOUSAND DOLLARS AND THIRTY-SIX THOUSAND DOLLARS, RESPECTIVELY. FOR PURPOSES OF THIS SUBPARAGRAPH, A "HIGH-APPRECIATION MUNICIPALITY" MEANS: (A) A SPECIAL ASSESSING UNIT THAT IS A CITY, (B) A COUNTY FOR WHICH THE COMMISSIONER HAS ESTABLISHED A SALES PRICE DIFFERENTIAL FACTOR FOR PURPOSES OF THE STAR EXEMPTION AUTHORIZED BY SECTION FOUR HUNDRED TWENTY-FIVE OF THIS TITLE IN THREE CONSECUTIVE YEARS, AND (C) A CITY, TOWN OR VILLAGE WHICH IS WHOLLY OR PARTLY LOCATED WITHIN SUCH A COUNTY.

(III) A LOCAL LAW ADOPTED PURSUANT TO THIS SECTION MAY BE REPEALED BY THE GOVERNING BODY OF THE APPLICABLE COUNTY, CITY, TOWN, OR VILLAGE.

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 ONE TAX YEAR. APPLICANTS SHALL BE REQUIRED TO REFILE ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE IF CHANGES HAVE OCCURRED WHICH AFFECT QUALIFICATION FOR OR 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.

4. A COUNTY, CITY, TOWN OR VILLAGE THAT ADOPTS A LOCAL LAW TO PROVIDE FOR THE EXEMPTIONS ALLOWABLE IN PARAGRAPHS (A) AND (B) IN SUBDIVISION TWO OF THIS SECTION SHALL TAKE ALL REASONABLE EFFORTS TO ENSURE THAT ALL QUALIFYING RESIDENTIAL REAL PROPERTY IS ELIGIBLE FOR EXEMPTION FROM TAXATION.

5. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION OR ANY OTHER PROVISION OF LAW, IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE, APPLICATIONS FOR THE EXEMPTION AUTHORIZED PURSUANT TO THIS SECTION SHALL BE CONSIDERED TIMELY FILED IF THEY ARE FILED ON OR BEFORE THE FIFTEENTH DAY OF MARCH OF THE APPROPRIATE YEAR.

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

7. (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.

(B) PROVIDED THAT ALL OTHER ELIGIBILITY CRITERIA OF THIS SECTION ARE MET, THAT PROPORTION OF THE ASSESSMENT OF SUCH REAL PROPERTY OWNED BY A COOPERATIVE APARTMENT CORPORATION DETERMINED BY THE RELATIONSHIP OF SUCH REAL PROPERTY VESTED IN SUCH TENANT-STOCKHOLDER TO SUCH REAL PROPERTY OWNED BY SUCH COOPERATIVE APARTMENT CORPORATION IN WHICH SUCH TENANT-STOCKHOLDER RESIDES SHALL BE SUBJECT TO EXEMPTION FROM TAXATION PURSUANT TO THIS SECTION AND ANY EXEMPTION SO GRANTED SHALL BE CREDITED BY THE APPROPRIATE TAXING AUTHORITY AGAINST THE ASSESSED VALUATION OF SUCH REAL PROPERTY; THE REDUCTION IN REAL PROPERTY TAXES REALIZED THEREBY SHALL BE CREDITED BY THE COOPERATIVE APARTMENT CORPORATION AGAINST THE AMOUNT OF SUCH TAXES OTHERWISE PAYABLE BY OR CHARGEABLE TO SUCH TENANT-STOCKHOLDER.

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

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

8. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION ONE 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 AN ACTIVE DUTY SERVICE MEMBER, THE SPOUSE OF THE ACTIVE DUTY SERVICE MEMBER 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 ACTIVE DUTY SERVICE MEMBER, THE SPOUSE OF THE ACTIVE DUTY SERVICE MEMBER 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 ACTIVE DUTY SERVICE MEMBER, THE SPOUSE OF THE ACTIVE DUTY SERVICE MEMBER 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 ACTIVE DUTY SERVICE MEMBER, THE SPOUSE OF

THE ACTIVE DUTY SERVICE MEMBER OR UNREMARRIED SURVIVING SPOUSE WISHES TO RECEIVE THE EXEMPTION IN FUTURE FISCAL YEARS.

S 2. This act shall take effect on the first of January next succeeding the date on 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 date.