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

3753

2013-2014 Regular Sessions

I N A S S E M B L Y

January 29, 2013

Introduced by M. of A. CAHILL -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the mortgage recording tax imposed in Dutchess county 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 DUTCHESS. 1. DUTCHESS COUNTY, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN SUCH COUNTY A TAX OF FIFTY 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 BY A MORTGAGE ON REAL PROPERTY SITUATED WITHIN SUCH COUNTY AND WHICH IS RECORDED ON OR AFTER THE DATE UPON WHICH SUCH TAX TAKES EFFECT.

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 PROVISIONS 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 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

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

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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 DUTCHESS COUNTY", UNLESS A DIFFERENT MEANING IS CLEARLY REQUIRED.

3. WHERE THE REAL PROPERTY COVERED BY THE MORTGAGE SUBJECT TO THE TAX IMPOSED PURSUANT TO THE 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 OPENING 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. (A) PURSUANT TO THE PROVISIONS OF THIS ARTICLE DUTCHESS COUNTY SHALL GRANT AN EXEMPTION FROM SUCH TAX WHERE THE MORTGAGOR IS A FIRST-TIME HOME BUYER AND THE RESIDENCE BEING MORTGAGED IS INTENDED TO BE SUCH MORTGAGOR'S PRINCIPAL PLACE OF RESIDENCE.

(B) THE COMMISSIONER SHALL PROMULGATE NECESSARY AND ADVISABLE RULES AND REGULATIONS TO ESTABLISH GROUNDS FOR QUALIFICATION, PROOF AND PROCEDURE NECESSARY FOR A MORTGAGOR TO OBTAIN SUCH AN EXEMPTION.

6. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, THE BALANCE OF ALL MONEYS PAID TO THE RECORDING OFFICER OF THE COUNTY OF DUTCHESS 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 DUTCHESS COUNTY TREASURER AND, AFTER THE DEDUCTION BY THE DUTCHESS COUNTY 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 DUTCHESS FOR EXPENDITURE ON 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.

7. 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.

8. CERTIFIED COPIES OF ANY LOCAL LAW DESCRIBED IN THIS SECTION SHALL ALSO BE FILED WITH THE COUNTY CLERK OF THE COUNTY OF DUTCHESS, THE

SECRETARY OF STATE AND THE STATE COMPTROLLER WITHIN FIVE DAYS AFTER THE DATE IT IS DULY ENACTED.

S 2. This act shall take effect immediately and shall expire and be deemed repealed December 1, 2017.