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

4544--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 6, 2013

Introduced by M. of A. CUSICK, COLTON, ENGLEBRIGHT, SKOUFIS, SIMANOWITZ -- read once and referred to the Committee on Veterans' Affairs -- recommitted to the Committee on Veterans' Affairs in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to establishing an exemption for permanently totally disabled veterans

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 PERMANENTLY TOTALLY DISABLED VETERANS. 1. AS USED IN THIS SECTION:

(A) "VETERAN" MEANS A PERSON WHO SERVED IN THE ACTIVE MILITARY, NAVAL OR AIR SERVICE DURING A PERIOD OF WAR, OR WHO WAS A RECIPIENT OF THE ARMED FORCES EXPEDITIONARY MEDAL, NAVY EXPEDITIONARY MEDAL, MARINE CORPS EXPEDITIONARY MEDAL, OR GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL, AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER HONORABLE CONDITIONS.

(B) "PERIOD OF WAR" MEANS THE SPANISH-AMERICAN WAR; THE MEXICAN BORDER PERIOD; WORLD WAR I; WORLD WAR II; THE HOSTILITIES, KNOWN AS THE KOREAN WAR, WHICH COMMENCED JUNE TWENTY-SEVENTH, NINETEEN HUNDRED FIFTY AND TERMINATED ON JANUARY THIRTY-FIRST, NINETEEN HUNDRED FIFTY-FIVE; THE HOSTILITIES, KNOWN AS THE VIETNAM WAR, WHICH COMMENCED FEBRUARY TWENTY-EIGHTH, NINETEEN HUNDRED SIXTY-ONE AND TERMINATED ON MAY SEVENTH, NINETEEN HUNDRED SEVENTY-FIVE; AND THE HOSTILITIES, KNOWN AS THE PERSIAN GULF CONFLICT, WHICH COMMENCED AUGUST SECOND, NINETEEN HUNDRED NINETY.

(C) "SERVICE CONNECTED" MEANS, WITH RESPECT TO DISABILITY OR DEATH, THAT SUCH DISABILITY WAS INCURRED OR AGGRAVATED, OR THAT DEATH RESULTED FROM DISABILITY INCURRED OR AGGRAVATED, IN LINE OF DUTY IN THE ACTIVE MILITARY, NAVAL OR AIR SERVICE.

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

LBD08116-02-4

(D) "PERMANENTLY TOTALLY DISABLED" AND "PERMANENT TOTAL DISABILITY" MEANS THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE MILITARY SERVICE FROM WHICH THE VETERAN WAS DISCHARGED HAS RATED THE DISABILITY AT ONE HUNDRED PERCENT OR HAS RATED THE DISABILITY COMPENSATION AT ONE HUNDRED PERCENT BY REASON OF BEING UNABLE TO SECURE OR FOLLOW A SUBSTANTIALLY GAINFUL EMPLOYMENT. THE PERMANENT LOSS OR LOSS OF USE OF BOTH HANDS, OR OF BOTH FEET, OR OF ONE HAND AND ONE FOOT, OR OF THE SIGHT OF BOTH EYES, OR BECOMING PERMANENTLY HELPLESS OR BEDRIDDEN ARE CONSIDERED PERMANENT TOTAL DISABILITIES. BEING BLIND IN BOTH EYES MEANS HAVING A VISUAL ACUITY OF 5/200 OR LESS, OR CONCENTRIC CONTRACTION OF THE VISUAL FIELD TO FIVE DEGREES OR LESS. LOSING THE USE OF A HAND OR FOOT MEANS THAT THE HAND OR FOOT HAS BEEN AMPUTATED OR ITS USE HAS BEEN LOST BY REASON OF ANKYLOSIS, PROGRESSIVE MUSCULAR DYSTROPHIES, OR PARALYSIS.

(E) "QUALIFIED OWNER" MEANS A VETERAN WITH A SERVICE-CONNECTED PERMANENT TOTAL DISABILITY FOR WHOM A LETTER FROM THE UNITED STATES GOVERNMENT OR UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR ITS PREDECESSOR HAS BEEN ISSUED CERTIFYING THAT THE VETERAN HAS A PERMANENT TOTAL DISABILITY. SUCH OWNER SHALL HAVE AN INCOME LEVEL AT OR BELOW TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL.

(F) "QUALIFIED RESIDENTIAL REAL PROPERTY" MEANS PROPERTY OWNED BY A QUALIFIED OWNER WHICH IS USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES; PROVIDED, HOWEVER, THAT IN THE EVENT THAT ANY PORTION OF SUCH PROPERTY IS NOT 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 PERMANENTLY TOTALLY DISABLED VETERAN UNLESS SUCH VETERAN IS ABSENT FROM THE PROPERTY DUE TO MEDICAL REASONS OR INSTITUTIONALIZATION.

2. (A) THE GOVERNING BODY OF ANY CITY, TOWN OR VILLAGE IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT, AFTER PUBLIC HEARING, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THAT QUALIFIED RESIDENTIAL REAL PROPERTY OWNED BY A PERMANENTLY TOTALLY DISABLED VETERAN SHALL BE EXEMPT FROM TAXATION.

(B)(I) THE EXEMPTION FROM TAXATION PROVIDED BY THIS SUBDIVISION SHALL BE APPLICABLE TO COUNTY, CITY, TOWN, VILLAGE AND SCHOOL PURPOSES TAXATION.

(II) IF A PERMANENTLY TOTALLY DISABLED VETERAN RECEIVES AN EXEMPTION UNDER SECTION FOUR HUNDRED FIFTY-EIGHT, FOUR HUNDRED FIFTY-EIGHT-A OR FOUR HUNDRED FIFTY-EIGHT-B OF THIS TITLE, THE PERMANENTLY TOTALLY DISABLED VETERAN SHALL NOT BE ELIGIBLE TO RECEIVE THE EXEMPTION UNDER THIS SECTION.

3. APPLICATION FOR SUCH EXEMPTION SHALL BE MADE ANNUALLY BY THE OWNER, OR ALL OF THE OWNERS, OF THE PROPERTY ON FORMS PRESCRIBED BY THE DEPARTMENT AND SHALL BE FILED IN THE ASSESSOR'S OFFICE ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE; PROVIDED, HOWEVER, PROOF OF A PERMANENT TOTAL DISABILITY, PURSUANT TO PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION NEED BE SUBMITTED ONLY IN THE YEAR EXEMPTION PURSUANT TO THIS SECTION IS FIRST SOUGHT OR THE DISABILITY IS FIRST DETERMINED TO BE PERMANENT.

4. 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.

5. A LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED PURSUANT TO THIS SECTION MAY BE REPEALED BY THE GOVERNING BODY OF THE APPLICABLE COUNTY, CITY, TOWN, OR VILLAGE. SUCH REPEAL SHALL OCCUR AT LEAST NINETY DAYS

PRIOR TO THE TAXABLE STATUS DATE OF SUCH COUNTY, CITY, TOWN, VILLAGE OR SCHOOL DISTRICT.

6. NOTWITHSTANDING ANY OTHER PROVISIONS 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 PURPOSE OF THIS SECTION, TITLE TO THE 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 HAS BEEN 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 RESIDES IN A DWELLING THAT IS SUBJECT TO THE PROVISIONS OF 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 CORPORATION 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 A PUBLIC HEARING, ADOPTS A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THEREFOR.

S 2. This act shall take effect on the second 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.