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

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I N A S S E M B L Y

April 11, 2014

Introduced by M. of A. KATZ -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to property tax assessments for senior citizens

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 307-b to read as follows:

S 307-B. SENIOR CITIZEN PROPERTY TAX ASSESSMENT. 1. GENERAL. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PROPERTY TAX ASSESSMENTS FOR REAL PROPERTY OWNED BY ONE OR MORE PERSONS, EACH OF WHOM IS SIXTY-FIVE YEARS OF AGE OR OVER, OR REAL PROPERTY OWNED BY HUSBAND AND WIFE, ONE OF WHOM IS SIXTY-FIVE YEARS OF AGE OR OVER, MAY BE BASED ON THE COMBINED INCOME OF THE OWNERS OF THE PROPERTY AND OF ANY OWNERS' SPOUSE RESIDING ON THE PREMISES FOR THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE DATE OF THE PROPERTY TAX ASSESSMENT.

2. PROPERTY TAX CALCULATION. ALL REAL PROPERTY ENTITLED TO AN ASSESSMENT BASED ON THIS SECTION SHALL BE TAXED, AT THE OWNERS' DISCRETION, BASED ON EITHER THE APPLICABLE TAX RATE FOR THE YEAR OR THREE PERCENT MULTIPLIED BY THE COMBINED INCOME OF THE OWNERS OF THE PROPERTY AND OF ANY OWNERS' SPOUSE RESIDING ON THE PREMISES.

3. INCOME. THE TERM "INCOME" AS USED HEREIN SHALL MEAN THE "ADJUSTED GROSS INCOME" FOR FEDERAL INCOME TAX PURPOSES AS REPORTED ON THE INDIVIDUAL'S FEDERAL OR STATE INCOME TAX RETURN, SUBJECT TO ANY SUBSEQUENT AMENDMENTS OR REVISIONS, REDUCED BY DISTRIBUTIONS, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME, RECEIVED FROM AN INDIVIDUAL RETIREMENT ACCOUNT AND AN INDIVIDUAL RETIREMENT ANNUITY; PROVIDED THAT IF NO SUCH RETURN WAS FILED FOR THE APPLICABLE INCOME TAX YEAR, "INCOME" SHALL MEAN THE ADJUSTED GROSS INCOME THAT WOULD HAVE BEEN SO REPORTED IF SUCH A RETURN HAD BEEN FILED.

4. PROPERTY ELIGIBILITY REQUIREMENTS. TO QUALIFY FOR A SENIOR CITIZEN PROPERTY TAX ASSESSMENT PURSUANT TO THIS SECTION, THE PROPERTY MUST BE A ONE, TWO OR THREE FAMILY RESIDENCE, A FARM DWELLING OR RESIDENTIAL PROPERTY HELD IN CONDOMINIUM OR COOPERATIVE FORM OF OWNERSHIP AND MUST SERVE

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

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AS THE PRIMARY RESIDENCE OF ONE OR MORE OF THE OWNERS THEREOF WHO ARE SIXTY-FIVE YEARS OF AGE OR OVER.

5. PRIVACY. ANY INFORMATION OR DOCUMENTATION SUBMITTED BY THE OWNER IN CONNECTION WITH APPLICATIONS FOR OR RENEWAL OF THE ASSESSMENT AUTHORIZED UNDER THIS SECTION TO VERIFY INCOME, SHALL BE DEEMED CONFIDENTIAL, AND THE ASSESSOR, ANY MUNICIPAL OFFICER OR MUNICIPAL EMPLOYEES ARE PROHIBITED FROM DISCLOSING ANY SUCH INFORMATION, EXCEPT FOR ANY DISCLOSURE NECESSARY IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES. ANY UNAUTHORIZED DISCLOSURE OF SUCH INFORMATION SHALL BE DEEMED A VIOLATION OF SECTION EIGHT HUNDRED FIVE-A OF THE GENERAL MUNICIPAL LAW.

6. SPECIAL CIRCUMSTANCES. (A) A HUSBAND AND WIFE MAY RECEIVE AN ASSESSMENT PURSUANT TO THIS SECTION ON NO MORE THAN ONE RESIDENCE, UNLESS LIVING APART DUE TO LEGAL SEPARATION.

(B) WHEN A PARCEL INCLUDES TWO OR MORE PHYSICALLY SEPARATE RESIDENCES, AN ASSESSMENT MAY BE GRANTED PURSUANT TO THIS SECTION TO EACH RESIDENCE WHICH (A) SERVES AS THE PRIMARY RESIDENCE OF AT LEAST ONE OF THE OWNERS OF THE PARCEL, AND (B) WOULD BE ELIGIBLE FOR AN ASSESSMENT PURSUANT TO THIS SECTION IF IT WERE SEPARATELY ASSESSED AND OWNED EXCLUSIVELY BY THE OWNER OR OWNERS WHO RESIDE THEREIN, PROVIDED THAT ONLY ONE SUCH ASSESSMENT MAY BE APPLIED TO THE LAND INCLUDED WITHIN THE PARCEL.

(C) WHEN AN APPLICANT'S PRIMARY RESIDENCE IS LOCATED IN TWO OR MORE MUNICIPAL CORPORATIONS, EACH PORTION OF THE RESIDENCE SHALL BE ELIGIBLE FOR THE ASSESSMENT PROVIDED BY THIS SECTION IF THE ELIGIBILITY REQUIREMENTS ARE OTHERWISE SATISFIED. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY WHEN THE LAND ASSOCIATED WITH A RESIDENTIAL STRUCTURE IS LOCATED IN MORE THAN ONE MUNICIPAL CORPORATION, BUT THE RESIDENTIAL STRUCTURE ITSELF IS LOCATED ENTIRELY WITHIN ONE OF THOSE MUNICIPAL CORPORATIONS.

7. APPLICATION PROCEDURE. (A) ALL OWNERS OF THE PROPERTY WHO PRIMARILY RESIDE THEREON MUST JOINTLY FILE AN APPLICATION FOR A SENIOR CITIZEN PROPERTY TAX ASSESSMENT WITH THE ASSESSOR ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE. SUCH APPLICATION MAY BE FILED BY MAIL IF IT IS ENCLOSED IN A POSTPAID ENVELOPE PROPERLY ADDRESSED TO THE APPROPRIATE ASSESSOR, DEPOSITED IN A POST OFFICE OR OFFICIAL DEPOSITORY UNDER THE EXCLUSIVE CARE OF THE UNITED STATES POSTAL SERVICE, AND POSTMARKED BY THE UNITED STATES POSTAL SERVICE ON OR BEFORE THE APPLICABLE TAXABLE STATUS DATE. EACH SUCH APPLICATION SHALL BE MADE ON A FORM PRESCRIBED BY THE COMMISSIONER, WHICH SHALL REQUIRE THE APPLICANT OR APPLICANTS TO AGREE TO NOTIFY THE ASSESSOR IF THEIR PRIMARY RESIDENCE CHANGES WHILE THEIR PROPERTY IS RECEIVING THE ASSESSMENT. THE ASSESSOR MAY REQUEST THAT PROOF OF RESIDENCY BE SUBMITTED WITH THE APPLICATION. IF THE APPLICANT REQUESTS A RECEIPT FROM THE ASSESSOR AS PROOF OF SUBMISSION OF THE APPLICATION, THE ASSESSOR SHALL PROVIDE SUCH RECEIPT.

(B) IF THE ASSESSOR IS SATISFIED THAT THE APPLICANT OR APPLICANTS ARE ENTITLED TO AN ASSESSMENT PURSUANT TO THIS SECTION, HE OR SHE SHALL APPROVE THE APPLICATION AND SUCH REAL PROPERTY SHALL THEREAFTER BE ASSESSED BASED ON THE OWNERS' AND ANY OF THE OWNERS' SPOUSES RESIDING ON THE PREMISES INCOME AS PROVIDED HEREIN. IF THE ASSESSOR DETERMINES THAT THE APPLICANT OR APPLICANTS ARE NOT ENTITLED TO AN ASSESSMENT PURSUANT TO THIS SECTION, HE OR SHE SHALL, NOT LATER THAN TEN DAYS PRIOR TO THE DATE FOR HEARING COMPLAINTS IN RELATION TO ASSESSMENTS, MAIL TO EACH APPLICANT NOT ENTITLED TO THE ASSESSMENT A NOTICE OF DENIAL OF THAT APPLICATION FOR THE ASSESSMENT HEREIN FOR THAT YEAR. THE NOTICE OF DENIAL SHALL SPECIFY EACH REASON FOR SUCH DENIAL AND SHALL BE SENT ON A FORM PRESCRIBED BY THE COMMISSIONER. FAILURE TO MAIL ANY SUCH NOTICE OF DENIAL OR THE FAILURE OF ANY PERSON TO RECEIVE SUCH NOTICE SHALL NOT

PREVENT THE LEVY, COLLECTION AND ENFORCEMENT OF THE TAXES ON PROPERTY OWNED BY SUCH PERSON.

8. PROOF OF RESIDENCY. (A) FROM TIME TO TIME, THE ASSESSOR MAY REQUEST PROOF OF RESIDENCY FROM THE OWNER OR OWNERS OF ANY PROPERTY WHICH RECEIVES AN ASSESSMENT PURSUANT TO THIS SECTION. IN ADDITION, THE ASSESSOR SHALL REQUEST PROOF OF RESIDENCY FROM ANY SUCH OWNER OR OWNERS WHEN REQUESTED TO DO SO BY THE COMMISSIONER.

(B) A REQUEST FOR PROOF OF RESIDENCY SHALL BE MAILED AT LEAST SIXTY DAYS PRIOR TO THE ENSUING TAXABLE STATUS DATE. THE OWNER OR OWNERS SHALL SUBMIT PROOF OF THEIR RESIDENCY TO THE ASSESSOR ON OR BEFORE THE ENSUING TAXABLE STATUS DATE.

(C) THE BURDEN SHALL BE ON THE OWNER OF OWNERS TO ESTABLISH THAT THE PROPERTY IS THEIR PRIMARY RESIDENCE. IF THEY SUBMIT PROOF OF RESIDENCY ON OR BEFORE THE ENSUING TAXABLE STATUS DATE, AND THE SUBMISSION DEMONSTRATES TO THE ASSESSOR'S SATISFACTION THAT THE PROPERTY IS THE PRIMARY RESIDENCE OF ONE OR MORE OF THE OWNERS THEREOF, AND IF THE REQUIREMENTS OF THIS SECTION ARE OTHERWISE SATISFIED, THE ASSESSMENT SHALL CONTINUE IN EFFECT ON THE ENSUING TENTATIVE ASSESSMENT ROLL. OTHERWISE, THE ASSESSOR SHALL DISCONTINUE THE ASSESSMENT ON THE NEXT ENSUING TENTATIVE ASSESSMENT ROLL AS PROVIDED HEREIN, AND, WHERE APPROPRIATE, SHALL PROCEED AS FURTHER PROVIDED HEREIN.

9. DISCONTINUANCE OF ASSESSMENT. (A) THE ASSESSOR SHALL DISCONTINUE ANY ASSESSMENT GRANTED PURSUANT TO THIS SECTION IF IT APPEARS THAT: (I) THE PROPERTY MAY NOT BE THE PRIMARY RESIDENCE OF THE OWNER OR OWNERS WHO APPLIED FOR THE ASSESSMENT, (II) TITLE TO THE PROPERTY HAS BEEN TRANSFERRED TO A NEW OWNER OR OWNERS, OR (III) THE PROPERTY OTHERWISE MAY NO LONGER BE ELIGIBLE FOR THE ASSESSMENT.

(B) UPON DETERMINING THAT AN ASSESSMENT GRANTED PURSUANT TO THIS SECTION SHOULD BE DISCONTINUED, THE ASSESSOR SHALL MAIL A NOTICE SO STATING TO THE OWNER OR OWNERS THEREOF AT THE TIME AND IN THE MANNER PROVIDED BY SECTION FIVE HUNDRED TEN OF THIS CHAPTER. SUCH OWNER OR OWNERS SHALL BE ENTITLED TO SEEK ADMINISTRATIVE AND JUDICIAL REVIEW OF SUCH ACTION IN THE MANNER PROVIDED BY LAW, PROVIDED, THAT THE BURDEN SHALL BE ON SUCH OWNER OR OWNERS TO ESTABLISH ELIGIBILITY FOR THE ASSESSMENT.

10. REGISTRATION PROGRAM. THE COMMISSIONER SHALL ESTABLISH AND IMPLEMENT A PROGRAM UNDER WHICH ALL OWNERS OF PROPERTIES INITIALLY APPLYING FOR AND THOSE RECEIVING AN ASSESSMENT BASED ON THIS SECTION SHALL BE REQUIRED TO BE REGISTERED WITH THE COMMISSIONER IN THE MANNER, AT SUCH INTERVALS, AND BY DATE OR DATES PRESCRIBED BY THE COMMISSIONER.

S 2. This act shall take effect on the first of February 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.