

6563--A

Cal. No. 593

I N S E N A T E

February 6, 2014

Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the real property tax law, in relation to exempting certain residential real property owned by a totally disabled veteran from real property taxes

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

1 Section 1. The real property tax law is amended by adding a new
2 section 458-c to read as follows:
3 S 458-C. EXEMPTION FOR PERMANENTLY TOTALLY DISABLED VETERANS. 1. THE
4 FOLLOWING TERMS WHENEVER USED OR REFERRED TO IN THIS SECTION SHALL HAVE
5 THE FOLLOWING MEANINGS UNLESS A DIFFERENT MEANING CLEARLY APPEARS IN THE
6 CONTEXT:
7 (A) "VETERAN" MEANS A PERSON WHO SERVED ON ACTIVE DUTY IN THE ARMED
8 FORCES OF THE UNITED STATES, AND WAS DISCHARGED OR RELEASED THEREFROM
9 UNDER HONORABLE CONDITIONS.
10 (B) "SERVICE CONNECTED" MEANS, WITH RESPECT TO DISABILITY, THAT SUCH
11 DISABILITY WAS INCURRED OR AGGRAVATED IN THE LINE OF DUTY WHILE ON
12 ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES.
13 (C) "PERMANENTLY TOTALLY DISABLED" MEANS THAT THE UNITED STATES
14 DEPARTMENT OF VETERANS AFFAIRS OR THE BRANCH OF THE ARMED SERVICES FROM
15 WHICH A VETERAN WAS DISCHARGED OR RELEASED HAS RATED THE VETERAN'S
16 SERVICE CONNECTED DISABILITY AT ONE HUNDRED PERCENT OR HAS RATED THE
17 DISABILITY COMPENSATION PAYABLE TO A VETERAN AT ONE HUNDRED PERCENT BY
18 REASON OF BEING ABLE TO SECURE OR FOLLOW A SUBSTANTIALLY GAINFUL EMPLOY-
19 MENT. THE PERMANENT LOSS OR LOSS OF USE OF BOTH HANDS, OF BOTH FEET, OF
20 ONE HAND AND ONE FOOT, OF THE SIGHT OF BOTH EYES, OR BECOMING PERMANENT-
21 LY HELPLESS OR BEDRIDDEN ARE CONSIDERED PERMANENT TOTAL DISABILITIES.
22 BEING BLIND IN BOTH EYES MEANS HAVING A VISUAL ACUITY OF 5/200 OR LESS,
23 OR CONCENTRIC CONTRACTION OF THE VISUAL FIELD TO FIVE DEGREES OR LESS.

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

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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.

(D) "QUALIFIED OWNER" MEANS A VETERAN WHO IS PERMANENTLY TOTALLY DISABLED WITH A SERVICE CONNECTED DISABILITY, AS CERTIFIED BY THE GOVERNMENT OF THE UNITED STATES OR THE UNREMARIED SURVIVING SPOUSE OF SUCH A VETERAN.

(E) "QUALIFIED 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 QUALIFIED OWNER OR UNREMARIED SURVIVING SPOUSE OF THE QUALIFIED OWNER, UNLESS THE QUALIFIED OWNER OR UNREMARIED SURVIVING SPOUSE IS ABSENT FROM THE PROPERTY DUE TO MEDICAL REASONS OR INSTITUTIONALIZATION. IN THE EVENT THE QUALIFIED OWNER DIES AND THERE IS NO UNREMARIED SURVIVING SPOUSE, "QUALIFIED RESIDENTIAL REAL PROPERTY" SHALL MEAN THE PRIMARY RESIDENCE OWNED BY A 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 A QUALIFIED OWNER 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.

2. (A) QUALIFIED RESIDENTIAL REAL PROPERTY SHALL BE EXEMPT FROM TAXATION.

(B) THE EXEMPTION FROM TAXATION PROVIDED BY THIS SUBDIVISION SHALL BE APPLICABLE TO COUNTY, CITY, TOWN, VILLAGE AND SCHOOL DISTRICT TAXATION IF THE GOVERNING BODY OF THE SCHOOL DISTRICT IN WHICH THE PROPERTY IS LOCATED, AFTER PUBLIC HEARINGS, ADOPTS A RESOLUTION PROVIDING SUCH EXEMPTION, THE PROCEDURE FOR SUCH HEARING AND RESOLUTION SHALL BE CONDUCTED SEPARATELY FROM THE PROCEDURE FOR ANY HEARING AND LOCAL LAW OR RESOLUTION CONDUCTED PURSUANT TO SUBDIVISION FOUR AND PARAGRAPH (D) OF SUBDIVISION SIX OF THIS SECTION.

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 ALL APPROPRIATE SUBSEQUENT TAX YEARS AND THE OWNER OR OWNERS OF THE PROPERTY SHALL NOT BE REQUIRED TO REFILE EACH YEAR. APPLICANTS SHALL BE REQUIRED TO REFILE ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE IF THE PERCENTAGE OF DISABILITY DECREASES OR THE PERMANENCY OF THE DISABILITY CEASES. 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.

3-A. 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.

4. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SECTION, NO LATER THAN NINETY DAYS BEFORE THE TAXABLE STATUS DATE NEXT OCCURRING ON OR AFTER THE THIRTY-FIRST DAY OF DECEMBER TWO THOUSAND FIFTEEN, THE GOVERNING BOARD OF ANY COUNTY, CITY, TOWN OR VILLAGE MAY ADOPT A LOCAL LAW TO

1 PROVIDE THAT NO EXEMPTION SHALL BE GRANTED PURSUANT TO THIS SECTION FOR
2 THE PURPOSES OF TAXES LEVIED FOR SUCH COUNTY, CITY, TOWN OR VILLAGE. FOR
3 THE PURPOSES OF A COUNTY WHICH IS NOT AN ASSESSING UNIT, THE TAXABLE
4 STATUS DATE NEXT OCCURRING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOU-
5 SAND FIFTEEN SHALL MEAN THE FIRST SUCH TAXABLE STATUS DATE OF ANY CITY
6 OR TOWN WITHIN SUCH COUNTY UPON THE ASSESSMENT ROLL OF WHICH THE COUNTY
7 LEVIES TAXES. A LOCAL LAW ADOPTED PURSUANT TO THIS PARAGRAPH MAY BE
8 REPEALED BY THE GOVERNING BOARD OF THE APPLICABLE COUNTY, CITY, TOWN OR
9 VILLAGE. SUCH REPEAL MUST OCCUR AT LEAST NINETY DAYS PRIOR TO THE TAXA-
10 BLE STATUS DATE OF SUCH COUNTY, CITY, TOWN OR VILLAGE.

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

16 6. (A) FOR THE PURPOSES OF THIS SECTION, TITLE TO THAT PORTION OF REAL
17 PROPERTY OWNED BY A COOPERATIVE APARTMENT CORPORATION IN WHICH A
18 TENANT-STOCKHOLDER OF SUCH CORPORATION RESIDES AND WHICH IS REPRESENTED
19 BY HIS OR HER SHARE OR SHARES OF STOCK IN SUCH CORPORATION AS DETERMINED
20 BY ITS OR THEIR PROPORTIONAL RELATIONSHIP TO THE TOTAL OUTSTANDING STOCK
21 OF THE CORPORATION, INCLUDING THAT OWNED BY THE CORPORATION, SHALL BE
22 DEEMED TO BE VESTED IN SUCH TENANT-STOCKHOLDER.

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

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

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

44 7. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (D) OF SUBDIVISION ONE
45 OF THIS SECTION AND SUBDIVISION THREE OF THIS SECTION, THE GOVERNING
46 BODY OF ANY MUNICIPALITY MAY, AFTER PUBLIC HEARING, ADOPT A LOCAL LAW,
47 ORDINANCE OR RESOLUTION PROVIDING THAT WHERE A QUALIFIED OWNER ALREADY
48 RECEIVING AN EXEMPTION PURSUANT TO THIS SECTION SELLS THE PROPERTY
49 RECEIVING THE EXEMPTION AND PURCHASES PROPERTY WITHIN THE SAME CITY,
50 TOWN OR VILLAGE, THE ASSESSOR SHALL TRANSFER AND PRORATE, FOR THE
51 REMAINDER OF THE FISCAL YEAR, THE EXEMPTION RECEIVED. THE PRORATED
52 EXEMPTION SHALL BE BASED UPON THE DATE THE QUALIFIED OWNER OBTAINS TITLE
53 TO THE NEW PROPERTY AND SHALL BE CALCULATED BY MULTIPLYING THE TAX RATE
54 OR RATES FOR EACH MUNICIPAL CORPORATION WHICH LEVIED TAXES, OR FOR WHICH
55 TAXES WERE LEVIED, ON THE APPROPRIATE TAX ROLL USED FOR THE FISCAL YEAR
56 OR YEARS DURING WHICH THE TRANSFER OCCURRED TIMES THE PREVIOUSLY GRANTED

1 EXEMPT AMOUNT TIMES THE FRACTION OF EACH FISCAL YEAR OR YEARS REMAINING
2 SUBSEQUENT TO THE TRANSFER OF TITLE. NOTHING IN THIS SECTION SHALL BE
3 CONSTRUED TO REMOVE THE REQUIREMENT THAT ANY SUCH QUALIFIED OWNER TRANS-
4 FERRING AN EXEMPTION PURSUANT TO THIS SUBDIVISION SHALL REAPPLY FOR THE
5 EXEMPTION AUTHORIZED PURSUANT TO THIS SECTION ON OR BEFORE THE FOLLOWING
6 TAXABLE STATUS DATE, IN THE EVENT SUCH QUALIFIED OWNER WISHES TO RECEIVE
7 THE EXEMPTION IN FUTURE FISCAL YEARS.

8 S 2. This act shall take effect on the first of January next succeed-
9 ing the date on which it shall have become a law; provided that, effec-
10 tive immediately, any actions necessary to implement the provisions of
11 this act on its effective date are authorized and directed to be
12 completed on or before such date.