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

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I N S E N A T E

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Introduced by Sens. VALESKY, CARLUCCI, KLEIN, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law and the state finance law, in relation to establishing the study and stay program

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 608 to read as follows:

S 608. STUDY AND STAY PROGRAM. (A) FOR THE PURPOSES OF THIS SECTION:

(1) "ELIGIBLE TAXPAYER" MEANS A RESIDENT TAXPAYER WHO RECEIVED A BACHELOR'S DEGREE AWARDED BY AN INSTITUTION OF HIGHER EDUCATION IN THIS STATE AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, WHO DOES NOT HAVE NOR EVER HAD AN OWNERSHIP INTEREST IN THE RESIDENTIAL REAL PROPERTY IN WHICH HE OR SHE RESIDED. FURTHERMORE, AN ELIGIBLE TAXPAYER SHALL NOT HAVE AN OWNERSHIP IN ANY OTHER RESIDENTIAL REAL PROPERTY, INCLUDING VACATION HOMES OR RESIDENTIAL RENTAL PROPERTY.

(2) "OWNERSHIP INTEREST" MEANS AND INCLUDES A FEE SIMPLE INTEREST, A JOINT TENANCY, A TENANCY IN COMMON, A TENANCY BY THE ENTIRETY, THE INTEREST OF A TENANT-SHAREHOLDER IN A RESIDENTIAL COOPERATIVE, A LIFE ESTATE AND A LAND CONTRACT. SUCH TERM SHALL NOT INCLUDE:

(A) REMAINDER INTERESTS;

(B) A LEASE WITH OR WITHOUT AN OPTION TO PURCHASE;

(C) A MERE EXPECTANCY TO INHERIT AN INTEREST IN RESIDENTIAL REAL PROPERTY;

(D) THE INTEREST THAT A PURCHASER OF RESIDENTIAL REAL PROPERTY ACQUIRES UPON THE EXECUTION OF A PURCHASE CONTRACT; OR

(E) AN INTEREST IN REAL ESTATE OTHER THAN RESIDENTIAL REAL PROPERTY.

(B) THERE SHALL BE ESTABLISHED BY THE DEPARTMENT A STUDY AND STAY PROGRAM WHEREBY ELIGIBLE TAXPAYERS MAY DESIGNATE, FOR A PERIOD OF NOT MORE THAN THE TEN TAX YEARS FOLLOWING SUCH TAXPAYER'S RECEIPT OF HIS OR HER BACHELOR'S DEGREE, NOT MORE THAN FIVE THOUSAND DOLLARS OF HIS OR HER PAYMENT OF THE TAXES IMPOSED PURSUANT TO THIS ARTICLE FOR A TAX YEAR FOR DEPOSIT INTO AN ACCOUNT DESIGNATED FOR SUCH TAXPAYER WITHIN THE STUDY

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

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AND STAY PROGRAM FUND ESTABLISHED BY SECTION EIGHTY-FIVE OF THE STATE FINANCE LAW. THE MONEYS SO DEPOSITED INTO AN ELIGIBLE TAXPAYER'S ACCOUNT SHALL ONLY BE WITHDRAWN THEREFROM AND EXPENDED BY SUCH TAXPAYER FOR THE PAYMENT OF THE DOWN PAYMENT FOR HIS OR HER FIRST PURCHASE OF OWNER-OCCUPIED RESIDENTIAL REAL PROPERTY.

(C) THE DESIGNATION OF ALL OR ANY PORTION OF AN ELIGIBLE TAXPAYER'S TAX PAYMENT DURING ANY TAX YEAR, SHALL NOT BE DEEMED TO INCREASE SUCH TAXPAYER'S LIABILITY FOR TAXES PURSUANT TO THIS ARTICLE. THE COMMISSIONER SHALL INCLUDE A SPACE ON THE PERSONAL INCOME TAX RETURNS TO ENABLE ELIGIBLE TAXPAYERS TO DESIGNATE MONEYS FOR DEPOSIT INTO THE STUDY AND STAY PROGRAM FUND.

(D) EACH TAX YEAR, THE COMMISSIONER SHALL TRANSFER, TO THE STATE COMPTROLLER, FOR DEPOSIT INTO THE APPROPRIATE ACCOUNTS WITHIN THE STUDY AND STAY PROGRAM FUND, ALL MONEYS DESIGNATED BY ELIGIBLE TAXPAYERS PURSUANT TO THIS SECTION; PROVIDED, HOWEVER, THAT IN NO EVENT SHALL MORE THAN TEN MILLION DOLLARS, IN THE AGGREGATE, BE SO DESIGNATED DURING ANY TAX YEAR.

(E) DURING THE FIRST YEAR THAT AN ELIGIBLE TAXPAYER DESIGNATES MONEYS FOR DEPOSIT INTO THE STUDY AND STAY PROGRAM FUND, SUCH TAXPAYER SHALL SUBMIT, TO THE DEPARTMENT, SUCH PROOF OF RECEIPT AND THE DATE OF RECEIPT OF A BACHELOR'S DEGREE FROM AN INSTITUTION OF HIGHER EDUCATION LOCATED IN THIS STATE, AS THE COMMISSIONER SHALL DESIGNATE.

S 2. The state finance law is amended by adding a new section 85 to read as follows:

S 85. STUDY AND STAY PROGRAM FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "STUDY AND STAY PROGRAM FUND".

2. THE COMPTROLLER SHALL ESTABLISH A SEPARATE AND DISTINCT ACCOUNT, WITHIN THE STUDY AND STAY PROGRAM FUND, FOR EACH ELIGIBLE TAXPAYER WHO DESIGNATES MONEYS FOR DEPOSIT INTO THE FUND PURSUANT TO SECTION SIX HUNDRED EIGHT OF THE TAX LAW.

3. THE FUND SHALL CONSIST OF ALL MONEYS DEPOSITED THEREIN PURSUANT TO SECTION SIX HUNDRED EIGHT OF THE TAX LAW.

4. MONEYS IN EACH ACCOUNT OF THE STUDY AND STAY FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH OTHER MONEYS IN THE CUSTODY OF THE STATE COMPTROLLER.

5. THE MONEYS IN THE ACCOUNT OF AN ELIGIBLE TAXPAYER SHALL BE MADE AVAILABLE, WITHIN TEN DAYS OF SUBMISSION OF AN APPLICATION THEREFOR, TO SUCH TAXPAYER SOLELY FOR THE PURPOSE OF THE PAYMENT OF THE DOWN PAYMENT FOR HIS OR HER FIRST PURCHASE OF RESIDENTIAL REAL PROPERTY OCCUPIED BY SUCH TAXPAYER AS HIS OR HER PRIMARY RESIDENCE, INCLUDING A MULTIPLE DWELLING HAVING NOT MORE THAN TWO HOUSING UNITS. NO SUCH MONEYS SHALL BE EXPENDED IN AN AMOUNT IN EXCESS OF SUCH DOWN PAYMENT, NOR SHALL SUCH MONEYS BE EXPENDED FOR REAL PROPERTY USED IN A BUSINESS OR TRADE, USED AS A VACATION RESIDENCE OR USED AS AN INVESTMENT, EXCEPT A MULTIPLE DWELLING HAVING NOT MORE THAN TWO HOUSING UNITS IN ONE OF WHICH THE ELIGIBLE TAXPAYER HAS HIS OR HER PRIMARY RESIDENCE.

6. EACH ELIGIBLE TAXPAYER SHALL, WITHIN SIXTY DAYS OF RECEIPT OF MONEYS IN HIS OR HER ACCOUNT PURSUANT TO SUBDIVISION FIVE OF THIS SECTION, SUBMIT A SWORN STATEMENT TO THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE, IN SUCH FORM AND CONTENT AS SHALL BE DETERMINED BY THE COMMISSIONER OF TAXATION AND FINANCE, CERTIFYING THAT SUCH MONEYS EXPENDED AS REQUIRED PURSUANT TO SUCH SUBDIVISION AND RETURNING TO THE STATE COMPTROLLER ALL MONEYS NOT SO EXPENDED. ALL MONEYS NOT SO EXPENDED AND REPAID TO THE STATE COMPTROLLER SHALL CONSTI-

TUTE TAX MONEYS PAYABLE TO THE DEPARTMENT OF TAXATION AND FINANCE, PURSUANT TO ARTICLE TWENTY-TWO OF THE TAX LAW.

7. THE FOLLOWING MONEYS IN AN ELIGIBLE TAXPAYER'S ACCOUNT SHALL BE TRANSFERRED TO AND DEPOSITED INTO THE GENERAL FUND:

(A) ANY MONEYS REMAINING IN THE ACCOUNT AFTER DISBURSEMENT TO THE ELIGIBLE TAXPAYER PURSUANT TO SUBDIVISION FIVE OF THIS SECTION;

(B) ANY MONEYS REMAINING IN THE ACCOUNT OF THE ELIGIBLE TAXPAYER IN THE ELEVENTH TAX YEAR AFTER SUCH TAXPAYER RECEIVED HIS OR HER BACHELOR'S DEGREE; AND

(C) ANY MONEYS REMAINING IN THE ACCOUNT OF THE ELIGIBLE TAXPAYER WHEN HE OR SHE CEASES TO BE A RESIDENT OF THE STATE.

8. (A) AN ELIGIBLE TAXPAYER WHO MAKES A DOWN PAYMENT FOR THE PURCHASE OF HIS OR HER PRIMARY RESIDENCE WITH MONEYS FROM HIS OR HER ACCOUNT WITHIN THE STUDY AND STAY PROGRAM FUND, SHALL BE LIABLE TO THE STATE FOR A PENALTY IN THE FOLLOWING AMOUNTS WHEN SUCH TAXPAYER CEASES TO BE A RESIDENT OF THIS STATE WITHIN THE FOLLOWING PERIODS OF TIME AFTER RECEIPT OF MONEYS FROM HIS OR HER ACCOUNT:

(I) ONE YEAR	ALL MONEYS RECEIVED FROM THE ACCOUNT;
(II) TWO YEARS	EIGHTY PERCENT OF THE MONEYS RECEIVED FROM THE ACCOUNT;
(III) THREE YEARS	SIXTY PERCENT OF THE MONEYS RECEIVED FROM THE ACCOUNT;
(IV) FOUR YEARS	FORTY PERCENT OF THE MONEYS RECEIVED FROM THE ACCOUNT;
(V) FIVE YEARS	TWENTY PERCENT OF THE MONEYS RECEIVED FROM THE ACCOUNT; AND
(VI) MORE THAN FIVE YEARS	NO PENALTY.

(B) PENALTIES IMPOSED PURSUANT TO THIS SUBDIVISION SHALL CONSTITUTE PERSONAL INCOME TAX PAYABLE PURSUANT TO ARTICLE TWENTY-TWO OF THE TAX LAW.

(C) THE PENALTIES IMPOSED BY PARAGRAPH (A) OF THIS SUBDIVISION MAY BE WAIVED, IN THE DISCRETION OF THE COMMISSIONER OF TAXATION AND FINANCE, UPON DEMONSTRATION THAT THE ELIGIBLE TAXPAYER CEASED RESIDENCY IN THE STATE DUE TO:

(I) AN EMPLOYMENT RELOCATION OUTSIDE OF THE STATE WHICH REQUIRED RESIDENCY IN ANOTHER STATE; OR

(II) THE SEVERE FINANCIAL HARDSHIP OF THE ELIGIBLE TAXPAYER OR HIS OR HER DEPENDENT.

S 3. This act shall take effect immediately.