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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:

1 Section 1. The tax law is amended by adding a new section 608 to read
2 as follows:
3 S 608. STUDY AND STAY PROGRAM. (A) FOR THE PURPOSES OF THIS SECTION:
4 (1) "ELIGIBLE TAXPAYER" MEANS A RESIDENT TAXPAYER WHO RECEIVED A BACH-
5 ELOR'S DEGREE AWARDED BY AN INSTITUTION OF HIGHER EDUCATION IN THIS
6 STATE AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, WHO DOES NOT HAVE NOR
7 EVER HAD AN OWNERSHIP INTEREST IN THE RESIDENTIAL REAL PROPERTY IN WHICH
8 HE OR SHE RESIDED. FURTHERMORE, AN ELIGIBLE TAXPAYER SHALL NOT HAVE AN
9 OWNERSHIP IN ANY OTHER RESIDENTIAL REAL PROPERTY, INCLUDING VACATION
10 HOMES OR RESIDENTIAL RENTAL PROPERTY.
11 (2) "OWNERSHIP INTEREST" MEANS AND INCLUDES A FEE SIMPLE INTEREST, A
12 JOINT TENANCY, A TENANCY IN COMMON, A TENANCY BY THE ENTIRETY, THE
13 INTEREST OF A TENANT-SHAREHOLDER IN A RESIDENTIAL COOPERATIVE, A LIFE
14 ESTATE AND A LAND CONTRACT. SUCH TERM SHALL NOT INCLUDE:
15 (A) REMAINDER INTERESTS;
16 (B) A LEASE WITH OR WITHOUT AN OPTION TO PURCHASE;
17 (C) A MERE EXPECTANCY TO INHERIT AN INTEREST IN RESIDENTIAL REAL PROP-
18 ERTY;
19 (D) THE INTEREST THAT A PURCHASER OF RESIDENTIAL REAL PROPERTY
20 ACQUIRES UPON THE EXECUTION OF A PURCHASE CONTRACT; OR
21 (E) AN INTEREST IN REAL ESTATE OTHER THAN RESIDENTIAL REAL PROPERTY.
22 (B) THERE SHALL BE ESTABLISHED BY THE DEPARTMENT A STUDY AND STAY
23 PROGRAM WHEREBY ELIGIBLE TAXPAYERS MAY DESIGNATE, FOR A PERIOD OF NOT
24 MORE THAN THE TEN TAX YEARS FOLLOWING SUCH TAXPAYER'S RECEIPT OF HIS OR
25 HER BACHELOR'S DEGREE, NOT MORE THAN FIVE THOUSAND DOLLARS OF HIS OR HER
26 PAYMENT OF THE TAXES IMPOSED PURSUANT TO THIS ARTICLE FOR A TAX YEAR FOR
27 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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1 AND STAY PROGRAM FUND ESTABLISHED BY SECTION EIGHTY-FIVE OF THE STATE
2 FINANCE LAW. THE MONEYS SO DEPOSITED INTO AN ELIGIBLE TAXPAYER'S ACCOUNT
3 SHALL ONLY BE WITHDRAWN THEREFROM AND EXPENDED BY SUCH TAXPAYER FOR THE
4 PAYMENT OF THE DOWN PAYMENT FOR HIS OR HER FIRST PURCHASE OF OWNER-OC-
5 CUPED RESIDENTIAL REAL PROPERTY.

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

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

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

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

24 S 85. STUDY AND STAY PROGRAM FUND. 1. THERE IS HEREBY ESTABLISHED IN
25 THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXA-
26 TION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "STUDY AND STAY
27 PROGRAM FUND".

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

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

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

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

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

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

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

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

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

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

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

18 (I) ONE YEAR	ALL MONEYS RECEIVED FROM THE ACCOUNT;
19 (II) TWO YEARS	EIGHTY PERCENT OF THE MONEYS RECEIVED
20	FROM THE ACCOUNT;
21 (III) THREE YEARS	SIXTY PERCENT OF THE MONEYS RECEIVED
22	FROM THE ACCOUNT;
23 (IV) FOUR YEARS	FORTY PERCENT OF THE MONEYS RECEIVED
24	FROM THE ACCOUNT;
25 (V) FIVE YEARS	TWENTY PERCENT OF THE MONEYS RECEIVED
26	FROM THE ACCOUNT; AND
27 (VI) MORE THAN FIVE YEARS	NO PENALTY.

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

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

35 (I) AN EMPLOYMENT RELOCATION OUTSIDE OF THE STATE WHICH REQUIRED RESI-
36 DENCY IN ANOTHER STATE; OR

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

39 S 3. This act shall take effect immediately.