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

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2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Aging

AN ACT to amend the real property tax law, in relation to granting a total exemption from real property taxation for school tax purposes for certain persons seventy-five years of age or over

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 467-g to read as follows:

S 467-G. PERSONS SEVENTY-FIVE YEARS OF AGE OR OVER. 1. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTION FOUR HUNDRED SIXTY-SEVEN OF THIS TITLE OR ANY OTHER PROVISION OF LAW, REAL PROPERTY OWNED BY ONE OR MORE PERSONS EACH OF WHOM IS SEVENTY-FIVE YEARS OF AGE OR OVER, OR REAL PROPERTY OWNED BY HUSBAND AND WIFE OR SIBLINGS, ONE OF WHOM IS SEVENTY-FIVE YEARS OF AGE OR OVER AND THE YOUNGEST OWNER IS AT LEAST SIXTY-FIVE YEARS OF AGE; SUCH PERSONS HAVE RESIDED IN THE SCHOOL DISTRICT FOR AT LEAST THIRTY YEARS AND DO NOT HAVE ANY CHILDREN ENROLLED IN SUCH SCHOOL DISTRICT SHALL BE EXEMPT FROM TAXATION BY ANY MUNICIPAL CORPORATION FOR SCHOOL PURPOSES, IN WHICH LOCATED, TO THE TOTAL EXTENT OF THE ASSESSED VALUATION THEREOF PROVIDED THE GOVERNING BOARD OF SUCH MUNICIPALITY, AFTER PUBLIC HEARING, ADOPTS A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THEREFOR.

2. ALL OF THE PROVISIONS OF SECTION FOUR HUNDRED SIXTY-SEVEN OF THIS TITLE APPLICABLE TO THE GRANTING OF EXEMPTIONS FOR GENERAL, COUNTY, CITY, TOWN, VILLAGE, OR SCHOOL PURPOSES INSOFAR AS SUCH PROVISIONS ARE NOT INCONSISTENT WITH THE PROVISIONS OF THIS SECTION SHALL BE APPLICABLE TO THE EFFECTUATING OF THE EXEMPTION PROVIDED IN THIS SECTION.

3. (A) TO QUALIFY FOR EXEMPTION 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.

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

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IF THE PROPERTY IS NOT AN ELIGIBLE TYPE OF PROPERTY, BUT A PORTION OF THE PROPERTY IS PARTIALLY USED BY THE OWNER AS A PRIMARY RESIDENCE, THAT PORTION WHICH IS SO USED SHALL BE ENTITLED TO THE EXEMPTION PROVIDED BY THIS SECTION; PROVIDED THAT IN NO EVENT SHALL THE EXEMPTION EXCEED THE ASSESSED VALUE ATTRIBUTABLE TO THAT PORTION.

(B) PRIMARY RESIDENCE. THE PROPERTY MUST SERVE AS THE PRIMARY RESIDENCE OF ONE OR MORE OF THE OWNERS THEREOF.

(C) TRUSTS. IF LEGAL TITLE TO THE PROPERTY IS HELD BY ONE OR MORE TRUSTEES, THE BENEFICIAL OWNER OR OWNERS SHALL BE DEEMED TO OWN THE PROPERTY FOR PURPOSES OF THIS SUBDIVISION.

(D) FARM DWELLINGS NOT OWNED BY THE RESIDENT. (I) IF LEGAL TITLE TO THE FARM DWELLING IS HELD BY AN S-CORPORATION OR BY A C-CORPORATION, THE EXEMPTION SHALL BE GRANTED IF THE PROPERTY SERVES AS THE PRIMARY RESIDENCE OF A SHAREHOLDER OF SUCH CORPORATION.

(II) IF THE LEGAL TITLE TO THE FARM DWELLING IS HELD BY A PARTNERSHIP, THE EXEMPTION SHALL BE GRANTED IF THE PROPERTY SERVES AS THE PRIMARY RESIDENCE OF ONE OR MORE OF THE PARTNERS.

(III) ANY INFORMATION DEEMED NECESSARY TO ESTABLISH SHAREHOLDER OR PARTNER STATUS FOR ELIGIBILITY PURPOSES SHALL BE CONSIDERED CONFIDENTIAL AND EXEMPT FROM THE FREEDOM OF INFORMATION LAW.

4. (A) THE COMBINED INCOME OF ALL OF THE OWNERS, AND OF ANY OWNERS' SPOUSES RESIDING ON THE PREMISES, MAY NOT EXCEED THE APPLICABLE INCOME STANDARD SPECIFIED HEREIN.

(I) FOR FINAL ASSESSMENT ROLLS TO BE COMPLETED PRIOR TO TWO THOUSAND THIRTEEN, ELIGIBILITY FOR THE EXEMPTION SHALL BE BASED UPON INCOME FOR THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE DATE OF MAKING APPLICATION FOR THE EXEMPTION, AND THE INCOME STANDARD SHALL BE SIXTY THOUSAND DOLLARS.

(II) FOR FINAL ASSESSMENT ROLLS TO BE COMPLETED IN TWO THOUSAND THIRTEEN, ELIGIBILITY FOR THE EXEMPTION SHALL BE BASED UPON INCOME FOR THE INCOME TAX YEAR ENDING IN TWO THOUSAND ELEVEN, AND THE INCOME STANDARD SHALL BE THE PREVIOUSLY-APPLICABLE INCOME STANDARD OF SIXTY THOUSAND DOLLARS INCREASED BY THE COST-OF-LIVING-ADJUSTMENT PERCENTAGE FOR TWO THOUSAND ELEVEN. FOR PURPOSES OF THIS COMPUTATION, THE COST-OF-LIVING-ADJUSTMENT PERCENTAGE FOR TWO THOUSAND ELEVEN SHALL BE EQUAL TO THE "APPLICABLE INCREASE PERCENTAGE" USED BY THE UNITED STATES COMMISSIONER OF SOCIAL SECURITY TO DETERMINE MONTHLY SOCIAL SECURITY BENEFITS PAYABLE IN TWO THOUSAND ELEVEN TO INDIVIDUALS, AS PROVIDED BY SUBSECTION (I) OF SECTION FOUR HUNDRED FIFTEEN OF TITLE FORTY-TWO OF THE UNITED STATES CODE.

(III) FOR FINAL ASSESSMENT ROLLS TO BE COMPLETED IN EACH ENSUING YEAR, THE APPLICABLE INCOME TAX YEAR, COST-OF-LIVING-ADJUSTMENT PERCENTAGE AND APPLICABLE INCREASE PERCENTAGE SHALL ALL BE ADVANCED BY ONE YEAR, AND THE INCOME STANDARD SHALL BE THE PREVIOUSLY-APPLICABLE INCOME STANDARD INCREASED BY THE NEW COST-OF-LIVING-ADJUSTMENT PERCENTAGE. IF THERE SHOULD BE A YEAR FOR WHICH THERE IS NO APPLICABLE INCREASE PERCENTAGE DUE TO A GENERAL BENEFIT INCREASE AS DEFINED BY SUBDIVISION THREE OF SUBSECTION (I) OF SECTION FOUR HUNDRED FIFTEEN OF TITLE FORTY-TWO OF THE UNITED STATES CODE, THE APPLICABLE INCREASE PERCENTAGE FOR PURPOSES OF THIS COMPUTATION SHALL BE DEEMED TO BE THE PERCENTAGE WHICH WOULD HAVE YIELDED THAT GENERAL BENEFIT INCREASE.

(IV) IN NO CASE SHALL AN INCOME STANDARD BE DECREASED FROM ONE ASSESSMENT ROLL TO THE NEXT.

(V) IF THE INCOME STANDARD INITIALLY COMPUTED FOR AN ASSESSMENT ROLL IS NOT EXACTLY EQUAL TO A MULTIPLE OF FIFTY DOLLARS, IT SHALL BE ROUNDED UP TO THE NEXT HIGHER MULTIPLE OF FIFTY DOLLARS.

(VI) IT SHALL BE THE RESPONSIBILITY OF THE COMMISSIONER TO ANNUALLY DETERMINE ALL INCOME STANDARDS PURSUANT TO THIS SUBDIVISION BEGINNING WITH FINAL ASSESSMENT ROLLS TO BE COMPLETED IN TWO THOUSAND THIRTEEN, TO CAUSE NOTICE THEREOF TO BE PUBLISHED IN THE STATE REGISTER, TO DISSEMINATE NOTICE THEREOF TO ASSESSORS, COUNTY DIRECTORS OF REAL PROPERTY TAX SERVICES, AND SUCH OTHER PARTIES AS IT MAY DEEM APPROPRIATE, AND TO POST NOTICE THEREOF ON ITS WEBSITE.

(B) THE TERM "INCOME" AS USED HEREIN SHALL MEAN THE "ADJUSTED GROSS INCOME" FOR FEDERAL INCOME TAX PURPOSES AS REPORTED ON THE APPLICANT'S FEDERAL OR STATE INCOME TAX RETURN FOR THE APPLICABLE INCOME TAX YEAR, 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.

(C) ANY INFORMATION OR DOCUMENTATION SUBMITTED BY THE APPLICANT IN CONNECTION WITH APPLICATIONS FOR OR RENEWAL OF THE EXEMPTION 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, AND EXCEPT AS AUTHORIZED BY PARAGRAPH (E) OF THIS SUBDIVISION. ANY UNAUTHORIZED DISCLOSURE OF SUCH INFORMATION SHALL BE DEEMED A VIOLATION OF SECTION EIGHT HUNDRED FIVE-A OF THE GENERAL MUNICIPAL LAW.

(D) EFFECTIVE WITH APPLICATIONS FOR THE ENHANCED EXEMPTION ON FINAL ASSESSMENT ROLLS TO BE COMPLETED IN TWO THOUSAND THIRTEEN, THE APPLICATION FORM SHALL INDICATE THAT THE OWNERS OF THE PROPERTY AND ANY OWNERS' SPOUSES RESIDING ON THE PREMISES MAY AUTHORIZE THE ASSESSOR TO HAVE THEIR INCOME ELIGIBILITY VERIFIED ANNUALLY THEREAFTER BY THE STATE DEPARTMENT OF TAXATION AND FINANCE, IN LIEU OF FURNISHING COPIES OF THE APPLICABLE INCOME TAX RETURN OR RETURNS WITH THE APPLICATION. IF THE OWNERS OF THE PROPERTY AND ANY OWNERS' SPOUSES RESIDING ON THE PREMISES ELECT TO PARTICIPATE IN THIS PROGRAM, WHICH SHALL BE KNOWN AS THE STAR INCOME VERIFICATION PROGRAM, THEY MUST FURNISH THEIR TAXPAYER IDENTIFICATION NUMBERS IN ORDER TO FACILITATE MATCHING WITH RECORDS OF THE DEPARTMENT OF TAXATION AND FINANCE. THEREAFTER, THEIR INCOME ELIGIBILITY SHALL BE VERIFIED ANNUALLY BY THE STATE DEPARTMENT OF TAXATION AND FINANCE AND THE ASSESSOR SHALL NOT REQUEST INCOME DOCUMENTATION FROM THEM, UNLESS SUCH DEPARTMENT ADVISES THE ASSESSOR THROUGH THE COMMISSIONER THAT THEY DO NOT SATISFY THE APPLICABLE INCOME ELIGIBILITY REQUIREMENTS, OR THAT IT IS UNABLE TO DETERMINE WHETHER THEY SATISFY THOSE REQUIREMENTS.

(E) THE ASSESSOR SHALL FORWARD TO THE COMMISSIONER, IN THE TIME AND MANNER REQUIRED BY THE COMMISSIONER, INFORMATION IDENTIFYING THE PERSONS WHO HAVE ELECTED TO PARTICIPATE IN THE STAR INCOME VERIFICATION PROGRAM. THE COMMISSIONER SHALL FORWARD SUCH INFORMATION TO THE DEPARTMENT OF TAXATION AND FINANCE IN THE MANNER PROVIDED BY THE AGREEMENT EXECUTED PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-K OF THE TAX LAW, AND SHALL NOTIFY THE ASSESSOR OF THE RESPONSE OR RESPONSES HE OR SHE RECEIVES FROM SUCH DEPARTMENT PURSUANT TO SUCH AGREEMENT. AFTER RECEIVING SUCH RESPONSE OR RESPONSES, THE ASSESSING AUTHORITY SHALL CAUSE NOTICES TO BE MAILED TO PARTICIPANTS. INFORMATION OBTAINED BY THE COMMISSIONER IDENTIFYING SUCH PERSONS, AND RESPONSES OBTAINED FROM SUCH DEPARTMENT SHALL BE CONFIDENTIAL AND SHALL NOT BE SUBJECT TO DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

(F) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (D) AND (E) OF THIS SUBDIVISION, WHICH ESTABLISH A STAR INCOME VERIFICATION PROGRAM, INCOME DOCUMENTATION MUST BE SUBMITTED TO THE ASSESSOR IN CONNECTION WITH EACH OF THE FOLLOWING:

(I) INITIAL APPLICATIONS FOR THE ENHANCED STAR EXEMPTION;

(II) RENEWAL APPLICATIONS SUBMITTED BY A PERSON OR PERSONS WHO HAVE NOT ELECTED TO PARTICIPATE IN THE STAR INCOME VERIFICATION PROGRAM;

(III) APPLICATIONS THAT WOULD ALLOW AN ENHANCED EXEMPTION TO RESUME AFTER HAVING BEEN DISCONTINUED;

(IV) APPLICATIONS SUBMITTED BY A PERSON OR PERSONS WHO HAD PREVIOUSLY QUALIFIED FOR THE ENHANCED EXEMPTION BUT NOT IN THE ASSESSING UNIT IN QUESTION; AND

(V) APPLICATIONS WITH RESPECT TO WHICH THE DEPARTMENT OF TAXATION AND FINANCE HAS ADVISED THE ASSESSOR THROUGH THE COMMISSIONER THAT IT IS UNABLE TO DETERMINE WHETHER A PARTICIPANT OR PARTICIPANTS IN THE STAR INCOME VERIFICATION PROGRAM SATISFY THE INCOME ELIGIBILITY REQUIREMENTS.

S 2. This act shall take effect immediately and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after the first of January next succeeding the date on which this act shall have become a law.