

3720

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 28, 2013

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

AN ACT to amend the real property tax law, in relation to exempting real  
property purchased by first-time homebuyers from real property taxa-  
tion

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

1     Section 1. The real property tax law is amended by adding a new  
2     section 457-a to read as follows:  
3     S 457-A. EXEMPTION FOR FIRST-TIME HOMEBUYERS. 1. PRIMARY RESIDENTIAL  
4     PROPERTY PURCHASED BY ONE OR MORE PERSONS, EACH OF WHOM IS A FIRST-TIME  
5     HOMEBUYER AND HAS NOT BEEN MARRIED TO A HOMEOWNER IN THE THREE YEARS  
6     PRIOR TO APPLYING FOR THIS FIRST-TIME HOMEOWNERS EXEMPTION, SHALL BE  
7     EXEMPT FROM TAXATION LEVIED BY OR ON BEHALF OF ANY COUNTY, CITY, TOWN,  
8     VILLAGE OR SCHOOL DISTRICT IN WHICH SUCH RESIDENTIAL PROPERTY IS  
9     LOCATED, PROVIDED THE LEGISLATIVE BODY OR GOVERNING BOARD OF SUCH COUN-  
10    TY, CITY, TOWN OR VILLAGE, AFTER PUBLIC HEARING, ADOPTS A LOCAL LAW, OR  
11    A SCHOOL DISTRICT, OTHER THAN A SCHOOL DISTRICT TO WHICH ARTICLE FIFTY-  
12    TWO OF THE EDUCATION LAW APPLIES, ADOPTS A RESOLUTION PROVIDING THERE-  
13    FOR. THE LENGTH OF SUCH EXEMPTION SHALL BE SET FORTH IN SUCH LOCAL LAW  
14    OR RESOLUTION, BUT IN NO EVENT SHALL IT EXCEED FIVE YEARS. SUCH  
15    EXEMPTION SHALL BE COMPUTED IN ACCORDANCE WITH THE FOLLOWING TABLE:

16	YEAR OF EXEMPTION	PERCENTAGE ASSESSED
17		VALUATION EXEMPT FROM TAX
18	1	40
19	2	30
20	3	25
21	4	25
22	5	10
23	6 OR MORE	0

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

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1 A COPY OF SUCH LOCAL LAWS OR RESOLUTIONS SHALL BE FILED WITH THE  
2 COMMISSIONER AND THE ASSESSOR OF SUCH COUNTY, CITY, TOWN, OR VILLAGE WHO  
3 PREPARES THE ASSESSMENT ROLL ON WHICH THE TAXES OF SUCH COUNTY, CITY,  
4 TOWN, VILLAGE OR SCHOOL DISTRICT ARE LEVIED.

5 2. (A) ANY PRIMARY RESIDENTIAL REAL PROPERTY WITHIN THE PURCHASE PRICE  
6 LIMITS DEFINED BY THE STATE OF NEW YORK MORTGAGE AGENCY LOW INTEREST  
7 RATE MORTGAGE PROGRAM IN THE NON-TARGET, ONE FAMILY NEW CATEGORY FOR THE  
8 COUNTY WHERE SUCH PROPERTY IS LOCATED AND IN EFFECT ON THE CONTRACT DATE  
9 FOR THE PURCHASE AND SALE OF SUCH PROPERTY, SHALL BE ELIGIBLE FOR THE  
10 EXEMPTION ALLOWED PURSUANT TO THIS SECTION.

11 (B) A FIRST-TIME HOMEBUYER SHALL NOT QUALIFY FOR THE EXEMPTION AUTHOR-  
12 IZED PURSUANT TO THIS SECTION IF THE HOUSEHOLD INCOME EXCEEDS INCOME  
13 LIMITS DEFINED BY THE STATE OF NEW YORK MORTGAGE AGENCY LOW INTEREST  
14 RATE MORTGAGE PROGRAM IN THE NON-TARGET, ONE AND TWO PERSON HOUSEHOLD  
15 CATEGORY FOR THE COUNTY WHERE SUCH PROPERTY IS LOCATED AND IN EFFECT ON  
16 THE CONTRACT DATE FOR THE PURCHASE AND SALE OF SUCH PROPERTY.

17 (I) THE TERM "HOUSEHOLD INCOME" AS USED HEREIN SHALL MEAN THE TOTAL  
18 COMBINED INCOME OF ALL THE OWNERS, AND OF ANY OWNERS' SPOUSES RESIDING  
19 ON THE PREMISES, FOR THE INCOME TAX YEAR PRECEDING THE DATE OF MAKING  
20 APPLICATION FOR THE EXEMPTION.

21 (II) THE TERM "INCOME" AS USED HEREIN SHALL MEAN THE "ADJUSTED GROSS  
22 INCOME" FOR FEDERAL INCOME TAX PURPOSES AS REPORTED ON THE APPLICANT'S  
23 LATEST AVAILABLE FEDERAL OR STATE INCOME TAX RETURN SUBJECT TO ANY  
24 SUBSEQUENT AMENDMENTS OR REVISIONS, REDUCED BY DISTRIBUTIONS, TO THE  
25 EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME, RECEIVED FROM AN INDI-  
26 VIDUAL RETIREMENT ACCOUNT AND AN INDIVIDUAL RETIREMENT ANNUITY; PROVIDED  
27 THAT IF NO SUCH RETURN WAS FILED WITHIN THE ONE YEAR PERIOD PRECEDING  
28 TAXABLE STATUS DATE, "INCOME" SHALL MEAN THE ADJUSTED GROSS INCOME THAT  
29 WOULD HAVE BEEN SO REPORTED IF SUCH A RETURN HAD BEEN FILED. FOR  
30 PURPOSES OF THIS SUBDIVISION, "LATEST AVAILABLE RETURN" SHALL MEAN THE  
31 FEDERAL OR STATE INCOME TAX RETURN FOR THE YEAR IMMEDIATELY PRECEDING  
32 THE DATE OF MAKING APPLICATION, PROVIDED HOWEVER, THAT IF THE TAX RETURN  
33 FOR SUCH TAX YEAR HAS NOT BEEN FILED, THEN THE INCOME TAX RETURN FOR THE  
34 TAX YEAR TWO YEARS PRECEDING THE DATE OF MAKING APPLICATION SHALL BE  
35 CONSIDERED THE LATEST AVAILABLE.

36 3. PRIMARY RESIDENTIAL PROPERTY PURCHASED BY FIRST-TIME HOMEBUYERS AT  
37 A SALES PRICE GREATER THAN THE MAXIMUM ELIGIBLE SALES PRICE SHALL QUALI-  
38 FY FOR THE EXEMPTION ALLOWED PURSUANT TO THIS SECTION FOR THAT PORTION  
39 OF THE SALES PRICE OF SUCH NEWLY CONSTRUCTED PRIMARY RESIDENTIAL PROPER-  
40 TY EQUAL TO THE MAXIMUM ELIGIBLE SALES PRICE, PROVIDED, HOWEVER, THAT  
41 ANY NEWLY CONSTRUCTED PRIMARY RESIDENTIAL PROPERTY PURCHASED AT A SALES  
42 PRICE GREATER THAN FIFTEEN PERCENT ABOVE THE MAXIMUM ELIGIBLE SALES  
43 PRICE SHALL NOT BE ALLOWED ANY EXEMPTION.

44 4. THE LEGISLATIVE BODY OR GOVERNING BOARD OF A COUNTY, CITY, TOWN OR  
45 VILLAGE MAY ADOPT A LOCAL LAW, OR A SCHOOL DISTRICT, OTHER THAN A SCHOOL  
46 DISTRICT TO WHICH ARTICLE FIFTY-TWO OF THE EDUCATION LAW APPLIES MAY  
47 ADOPT A RESOLUTION TO PROVIDE FOR AN INCREASE NOT TO EXCEED TWENTY-FIVE  
48 PER CENTUM ON THE PURCHASE PRICE LIMIT USED FOR ELIGIBILITY FOR THE  
49 EXEMPTION PROVIDED FOR IN THIS SECTION.

50 5. NO EXEMPTION SHALL BE ALLOWED PURSUANT TO THIS SECTION FOR ANY  
51 PRIMARY RESIDENTIAL PROPERTY PURCHASED BY A FIRST-TIME HOMEBUYER ON OR  
52 AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN, UNLESS SUCH  
53 PURCHASE IS PURSUANT TO A BINDING WRITTEN CONTRACT ENTERED INTO PRIOR TO  
54 DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN. PROVIDED, HOWEVER, THAT  
55 ANY FIRST-TIME HOMEBUYER WHO IS ALLOWED AN EXEMPTION PURSUANT TO THIS

SECTION PRIOR TO SUCH DATE SHALL CONTINUE TO BE ALLOWED FURTHER EXEMPTIONS PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

6. (A) NO PORTION OF A SINGLE FAMILY PRIMARY RESIDENTIAL PROPERTY SHALL BE LEASED DURING THE PERIOD OF TIME WHEN THE FIRST-TIME HOMEOWNER EXEMPTION SHALL APPLY TO THE RESIDENCE. IF ANY PORTION OF THE SINGLE FAMILY NEWLY CONSTRUCTED PRIMARY RESIDENTIAL PROPERTY IS FOUND TO BE THE SUBJECT OF A LEASE AGREEMENT THE ASSESSOR SHALL DISCONTINUE ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION.

(B) IN THE EVENT THAT A PRIMARY RESIDENTIAL PROPERTY GRANTED AN EXEMPTION PURSUANT TO THIS SECTION CEASES TO BE USED PRIMARILY FOR RESIDENTIAL PURPOSES OR TITLE THERETO IS TRANSFERRED TO OTHER THAN THE HEIRS OR DISTRIBUTEES OF THE OWNER, THE EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL BE DISCONTINUED.

(C) UPON DETERMINING THAT AN EXEMPTION 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 EXEMPTION.

7. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OF SUCH BUILDING ON A FORM PRESCRIBED BY THE COMMISSIONER. THE APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE CITY, TOWN, VILLAGE OR COUNTY HAVING THE POWER TO ASSESS PROPERTY FOR TAXATION ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE OF SUCH CITY, TOWN, VILLAGE AND COUNTY.

8. IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH PRIMARY RESIDENTIAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD VALOREM LEVIES AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESSMENT ROLL PREPARED ON THE BASIS OF THE TAXABLE STATUS DATE REFERRED TO IN SUBDIVISION SEVEN OF THIS SECTION. THE ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL BE ENTERED BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE PROPERTY, WITH THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

9. FOR PURPOSES OF THIS SECTION: (A) "FIRST-TIME HOMEBUYER" MEANS A PERSON WHO HAS NOT OWNED A PRIMARY RESIDENTIAL PROPERTY AND IS NOT MARRIED TO A PERSON WHO HAS OWNED A RESIDENTIAL PROPERTY DURING THE THREE-YEAR PERIOD PRIOR TO HIS OR HER PURCHASE OF THE PRIMARY RESIDENTIAL PROPERTY, AND WHO DOES NOT OWN A VACATION OR INVESTMENT HOME.

(B) "PRIMARY RESIDENTIAL PROPERTY" MEANS ANY ONE OR TWO FAMILY HOUSE, TOWNHOUSE OR CONDOMINIUM LOCATED IN THIS STATE WHICH IS OWNER OCCUPIED BY SUCH HOMEBUYER.

S 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014.