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

6541--A

Cal. No. 1012

I N S E N A T E

February 4, 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 report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

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:

Section 1. The real property tax law is amended by adding a new section 458-c to read as follows:

S 458-C. EXEMPTION FOR PERMANENTLY TOTALLY DISABLED VETERANS. 1. THE FOLLOWING TERMS WHENEVER USED OR REFERRED TO IN THIS SECTION SHALL HAVE THE FOLLOWING MEANINGS UNLESS A DIFFERENT MEANING CLEARLY APPEARS IN THE CONTEXT:

(A) "VETERAN" MEANS A PERSON WHO SERVED ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES, AND WAS DISCHARGED OR RELEASED THEREFROM UNDER HONORABLE CONDITIONS.

(B) "SERVICE CONNECTED" MEANS, WITH RESPECT TO DISABILITY, THAT SUCH DISABILITY WAS INCURRED OR AGGRAVATED IN THE LINE OF DUTY WHILE ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES.

(C) "PERMANENTLY TOTALLY DISABLED" MEANS THAT THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE BRANCH OF THE ARMED SERVICES FROM WHICH A VETERAN WAS DISCHARGED OR RELEASED HAS RATED THE VETERAN'S SERVICE CONNECTED DISABILITY AT ONE HUNDRED PERCENT OR HAS RATED THE DISABILITY COMPENSATION PAYABLE TO A VETERAN AT ONE HUNDRED PERCENT BY REASON OF BEING ABLE TO SECURE OR FOLLOW A SUBSTANTIALLY GAINFUL EMPLOYMENT. THE PERMANENT LOSS OR LOSS OF USE OF BOTH HANDS, OF BOTH FEET, OF ONE HAND AND ONE FOOT, OF THE SIGHT OF BOTH EYES, OR BECOMING PERMANENTLY HELPLESS OR BEDRIDDEN ARE CONSIDERED PERMANENT TOTAL DISABILITIES. BEING BLIND IN BOTH EYES MEANS HAVING A VISUAL ACUITY OF 5/200 OR LESS, 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.

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 UNREMARRIED 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 AND WHICH WAS DONATED TO THE QUALIFIED OWNER BY A CHARITABLE ORGANIZATION AT NO COST; 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 UNREMARRIED SURVIVING SPOUSE OF THE QUALIFIED OWNER, UNLESS THE QUALIFIED OWNER OR UNREMARRIED SURVIVING SPOUSE IS ABSENT FROM THE PROPERTY DUE TO MEDICAL REASONS OR INSTITUTIONALIZATION. IN THE EVENT THE QUALIFIED OWNER DIES AND THERE IS NO UNREMARRIED 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 PERCENTAGE 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. (A) 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 PROVIDE THAT NO EXEMPTION SHALL BE GRANTED PURSUANT TO THIS SECTION FOR THE PURPOSES OF TAXES LEVIED FOR SUCH COUNTY, CITY, TOWN OR VILLAGE. FOR THE PURPOSES OF A COUNTY WHICH IS NOT AN ASSESSING UNIT, THE TAXABLE STATUS DATE NEXT OCCURRING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN SHALL MEAN THE FIRST SUCH TAXABLE STATUS DATE OF ANY CITY OR TOWN WITHIN SUCH COUNTY UPON THE ASSESSMENT ROLL OF WHICH THE COUNTY LEVIES TAXES. A LOCAL LAW ADOPTED PURSUANT TO THIS PARAGRAPH MAY BE REPEALED BY THE GOVERNING BOARD OF THE APPLICABLE COUNTY, CITY, TOWN OR VILLAGE. SUCH REPEAL MUST OCCUR AT LEAST NINETY DAYS PRIOR TO THE TAXABLE STATUS DATE OF SUCH COUNTY, CITY, TOWN OR VILLAGE.

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

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

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

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

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

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