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

5536

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sen. DeFRANCISCO -- 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, in relation to facilitating mortgage refinancing

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

Section 1. Paragraph (c) of subdivision 1 of section 255 of the tax law is relettered paragraph (d) and a new paragraph (c) is added to read as follows:

(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION IF THE DEBT EVIDENCED OR SECURED BY AN INSTRUMENT OR MORTGAGE IS REFINANCED, UPON WHICH ALL RECORDING TAXES DUE AND PAYABLE HAVE BEEN PAID, AND UPON THE PAYOFF OF THE EXISTING DEBT A SATISFACTION IS INTENDED TO BE RECORDED; THEN, UPON THE RECORDING OF A NEW MORTGAGE TO THE SAME OBLIGER OR OBLIGERS, SUCH NEW INSTRUMENT OR MORTGAGE MAY BE RECORDED WITHOUT THE PAYMENT OF ANY NEW OR ADDITIONAL TAXATION UNDER THIS ARTICLE UP TO AN AMOUNT EQUAL TO THE UNPAID PRINCIPAL BALANCE OF THE EXISTING DEBT BEING SATISFIED SIMULTANEOUSLY THEREWITH, AND A TAX UNDER SECTION TWO HUNDRED FIFTY-THREE OF THIS ARTICLE WILL ONLY BE IMPOSED UPON ANY AMOUNT IN EXCESS OF THE UNPAID PRINCIPAL BALANCE OF THE EXISTING DEBT.

S 2. Subdivision 2 of section 255 of the tax law, as amended by chapter 409 of the laws of 1986, is amended to read as follows:

2. (a) (I) If, at the time of recording such instrument or additional mortgage, any exemption is claimed under this section, there shall be filed with the recording officer and preserved in his office a statement under oath of the facts on which such claim for exemption is based. The determination of the recording officer upon the question of exemption shall be reviewable by the [tax commission] DEPARTMENT.

(II) IF AT THE TIME OF RECORDING A NEW INSTRUMENT OR MORTGAGE AS PROVIDED FOR IN PARAGRAPH (C) OF SUBDIVISION ONE OF THIS SECTION, ANY

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

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EXEMPTION IS CLAIMED UNDER SUCH SUBDIVISION, THERE SHALL BE FILED WITH THE RECORDING OFFICER AND PRESENTED IN HIS OR HER OFFICE A STATEMENT UNDER OATH OF THE FACTS ON WHICH SUCH CLAIM FOR EXEMPTION IS BASED ACCOMPANIED BY A TRUE COPY OF THE PAYOFF STATEMENT ISSUED BY THE EXISTING MORTGAGE LENDER SETTING FORTH THE OUTSTANDING UNPAID PRINCIPAL BALANCE OF THE EXISTING DEBT SHOWING THE IDENTITY OF THE OBLIGOR OR OBLIGORS. THE DETERMINATION OF THE RECORDING OFFICER UPON THE QUESTION OF EXEMPTION SHALL BE REVIEWABLE BY THE DEPARTMENT.

(b) If an exemption is claimed under this section, at any time after such instrument or additional mortgage is recorded and tax paid, there shall be filed with the [tax commission] DEPARTMENT, as part of the application for refund a statement under oath of the facts on which such claim for exemption is based. A copy of the order of refund of the [tax commission] DEPARTMENT shall likewise be filed with the recording officer and preserved in his office.

(C) ANY STATEMENT UNDER OATH DESCRIBED IN THIS SECTION SHALL BE RECORDED WITH THE NEW NOTE AND MORTGAGE AND SHALL BE SUBJECT TO THE SAME RECORDATION FEES AS THOSE COLLECTED FOR THE ASSIGNMENT OF A MORTGAGE.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.