

# STATE OF NEW YORK

9181

## IN SENATE

October 22, 2018

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the real property tax law, in relation to exempting active duty service members from taxation of qualifying residential real property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

3 § 458-c. Exemption for active duty service members. 1. The following  
4 terms whenever used or referred to in this section shall have the  
5 following meanings unless a different meaning clearly appears in the  
6 context:

7 (a) "Active duty service member" means a person who is serving or has  
8 served in active duty for any period of time in the United States army,  
9 navy, marine corps, air force, or coast guard, for other than training  
10 purposes.

11 (b) "Qualified owner" means an active duty service member, the spouse  
12 of an active duty service member or the unremarried surviving spouse of  
13 an active duty service member. Where property is owned by more than one  
14 qualified owner, the exemption to which each is entitled may be  
15 combined. Where an active duty service member is also the unremarried  
16 surviving spouse of an active duty service member, such person may also  
17 receive any exemption to which the deceased spouse was entitled.

18 (c) "Qualifying residential real property" means property owned by a  
19 qualified owner which is used exclusively for residential purposes;  
20 provided however, that in the event any portion of such property is not  
21 so used exclusively for residential purposes but is used for other  
22 purposes, such portion shall be subject to taxation and the remaining  
23 portion only shall be entitled to the exemption provided by this  
24 section. Such property shall be the primary residence of the active duty  
25 service member or unremarried surviving spouse of the active duty  
26 service member, unless the active duty service member or unremarried  
27 surviving spouse is absent from the property due to medical reasons or

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

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1 institutionalization. In the event the active duty service member dies  
2 and there is no unremarried surviving spouse, "qualifying residential  
3 real property" shall mean the primary residence owned by a qualified  
4 owner prior to death, provided that the title to the property becomes  
5 vested in the dependent father or mother or dependent child or children  
6 under twenty-one years of age of an active duty service member by virtue  
7 of devise by or descent from the deceased qualified owner, provided that  
8 the property is the primary residence of one or all of the devisees.

9 (d) "Latest state equalization rate" means the latest final state  
10 equalization rate or special equalization rate established by the  
11 commissioner pursuant to article twelve of this chapter. The commis-  
12 sioner shall establish a special equalization rate if it finds that there  
13 has been a material change in the level of assessment since the estab-  
14 lishment of the latest state equalization rate, but in no event shall  
15 such special equalization rate exceed one hundred. In the event that the  
16 state equalization rate exceeds one hundred, then the state equalization  
17 rate shall be one hundred for the purposes of this section. Where a  
18 special equalization rate is established for purposes of this section,  
19 the assessor is directed and authorized to recompute the active duty  
20 service member exemption on the assessment roll by applying such special  
21 equalization rate instead of the latest state equalization rate applied  
22 in the previous year and to make the appropriate corrections on the  
23 assessment roll, notwithstanding the fact that such assessor may receive  
24 the special equalization rate after the completion, verification and  
25 filing of such final assessment roll. In the event that the assessor  
26 does not have custody of the roll when such recomputation is accom-  
27 plished, the assessor shall certify such recomputation to the local  
28 officers having custody and control of such roll, and such local offi-  
29 cers are hereby directed and authorized to enter the recomputed active  
30 duty service member exemption certified by the assessor on such roll.

31 (e) "Latest class ratio" means the latest final class ratio estab-  
32 lished by the commissioner pursuant to title one of article twelve of  
33 this chapter for use in a special assessing unit as defined in section  
34 eighteen hundred one of this chapter.

35 2. (a) Qualifying residential real property shall be exempt from taxa-  
36 tion to the extent of fifteen percent of the assessed value of such  
37 property; provided, however, that such exemption shall not exceed twelve  
38 thousand dollars or the product of twelve thousand dollars multiplied by  
39 the latest state equalization rate for the assessing unit, or in the  
40 case of a special assessing unit, the latest class ratio, whichever is  
41 less.

42 (b) In addition to the exemption provided by paragraph (a) of this  
43 subdivision, where the active duty service member is serving or served  
44 in a combat theatre or combat zone of operations, as documented by the  
45 award of a United States campaign ribbon or service medal, or the armed  
46 forces expeditionary medal, navy expeditionary medal, marine corps  
47 expeditionary medal, or global war on terrorism expeditionary medal,  
48 qualifying residential real property also shall be exempt from taxation  
49 to the extent of ten percent of the assessed value of such property;  
50 provided, however, that such exemption shall not exceed eight thousand  
51 dollars or the product of eight thousand dollars multiplied by the  
52 latest state equalization rate for the assessing unit, or in the case of  
53 a special assessing unit, the class ratio, whichever is less.

54 (c) In addition to the exemptions provided by paragraphs (a) and (b)  
55 of this subdivision, where the active duty service member received a  
56 compensation rating from the United States veteran's administration or

1 from the United States department of defense because of a service  
2 connected disability, qualifying residential real property shall be  
3 exempt from taxation to the extent of the product of the assessed value  
4 of such property multiplied by fifty percent of the active duty service  
5 member's disability rating; provided, however, that such exemption shall  
6 not exceed forty thousand dollars or the product of forty thousand  
7 dollars multiplied by the latest state equalization rate for the assess-  
8 ing unit, or in the case of a special assessing unit, the latest class  
9 ratio, whichever is less. For purposes of this paragraph, where a person  
10 died in service of a service connected disability, such person shall be  
11 deemed to have been assigned a compensation rating of one hundred  
12 percent.

13 (d) (i) The exemption from taxation provided by this subdivision shall  
14 be applicable to county, city, town, village and school district taxa-  
15 tion if the governing body of the school district in which the property  
16 is located, or in the case of a city with a population of one million or  
17 more, the local legislative body, after public hearings, adopts a resol-  
18 ution, or in the case of a city with a population of one million or  
19 more, a local law, providing such exemption, the procedure for such  
20 hearing and resolution or local law shall be conducted separately from  
21 the procedure for any hearing and local law or resolution conducted  
22 pursuant to subparagraph (ii) of this paragraph, subdivision four and  
23 paragraph (d) of subdivision six of this section.

24 (ii) Each county, city, town, village or school district may adopt a  
25 local law to reduce the maximum exemption allowable in paragraphs (a),  
26 (b) and (c) of this subdivision to nine thousand dollars, six thousand  
27 dollars and thirty thousand dollars, respectively, or six thousand  
28 dollars, four thousand dollars and twenty thousand dollars, respective-  
29 ly. Each county, city, town, village or school district is also author-  
30 ized to adopt a local law to increase the maximum exemption allowable in  
31 paragraphs (a), (b) and (c) of this subdivision to fifteen thousand  
32 dollars, ten thousand dollars and fifty thousand dollars, respectively;  
33 eighteen thousand dollars, twelve thousand dollars and sixty thousand  
34 dollars, respectively; twenty-one thousand dollars, fourteen thousand  
35 dollars, and seventy thousand dollars, respectively; twenty-four thou-  
36 sand dollars, sixteen thousand dollars, and eighty thousand dollars,  
37 respectively; twenty-seven thousand dollars, eighteen thousand dollars,  
38 and ninety thousand dollars, respectively; thirty thousand dollars,  
39 twenty thousand dollars, and one hundred thousand dollars, respectively;  
40 thirty-three thousand dollars, twenty-two thousand dollars, and one  
41 hundred ten thousand dollars, respectively; thirty-six thousand dollars,  
42 twenty-four thousand dollars, and one hundred twenty thousand dollars,  
43 respectively; thirty-nine thousand dollars, twenty-six thousand dollars,  
44 and one hundred thirty thousand dollars, respectively; forty-two thou-  
45 sand dollars, twenty-eight thousand dollars, and one hundred forty thou-  
46 sand dollars, respectively; and forty-five thousand dollars, thirty  
47 thousand dollars and one hundred fifty thousand dollars, respectively.  
48 In addition, a county, city, town, village or school district which is a  
49 "high-appreciation municipality" as defined in this subparagraph is  
50 authorized to adopt a local law to increase the maximum exemption allow-  
51 able in paragraphs (a), (b) and (c) of this subdivision to thirty-nine  
52 thousand dollars, twenty-six thousand dollars, and one hundred thirty  
53 thousand dollars, respectively; forty-two thousand dollars, twenty-eight  
54 thousand dollars, and one hundred forty thousand dollars, respectively;  
55 forty-five thousand dollars, thirty thousand dollars and one hundred  
56 fifty thousand dollars, respectively; forty-eight thousand dollars,

1 thirty-two thousand dollars and one hundred sixty thousand dollars,  
2 respectively; fifty-one thousand dollars, thirty-four thousand dollars  
3 and one hundred seventy thousand dollars, respectively; fifty-four thou-  
4 sand dollars, thirty-six thousand dollars and one hundred eighty thou-  
5 sand dollars, respectively; fifty-seven thousand dollars, thirty-eight  
6 thousand dollars and one hundred ninety thousand dollars, respectively;  
7 sixty thousand dollars, forty thousand dollars and two hundred thousand  
8 dollars, respectively; sixty-three thousand dollars, forty-two thousand  
9 dollars and two hundred ten thousand dollars, respectively; sixty-six  
10 thousand dollars, forty-four thousand dollars and two hundred twenty  
11 thousand dollars, respectively; sixty-nine thousand dollars, forty-six  
12 thousand dollars and two hundred thirty thousand dollars, respectively;  
13 seventy-two thousand dollars, forty-eight thousand dollars and two  
14 hundred forty thousand dollars, respectively; seventy-five thousand  
15 dollars, fifty thousand dollars and two hundred fifty thousand dollars,  
16 respectively. For purposes of this subparagraph, a "high-appreciation  
17 municipality" means: (A) a special assessing unit that is a city, (B) a  
18 county for which the commissioner has established a sales price differ-  
19 ential factor for purposes of the STAR exemption authorized by section  
20 four hundred twenty-five of this title in three consecutive years, and  
21 (C) a city, town, village or school district which is wholly or partly  
22 located within such a county.

23 3. (a) Application for exemption shall be made by the owner, or all of  
24 the owners, of the property on a form prescribed by the commissioner.  
25 The owner or owners shall file the completed form in the assessor's  
26 office on or before the appropriate taxable status date. The exemption  
27 shall continue in full force and effect for all appropriate subsequent  
28 tax years and the owner or owners of the property shall not be required  
29 to refile each year. Applicants shall be required to refile on or before  
30 the appropriate taxable status date if the percentage of disability  
31 percentage increases or decreases or may refile if other changes have  
32 occurred which affect qualification for an increased or decreased amount  
33 of exemption. Any applicant convicted of making any willful false state-  
34 ment in the application for such exemption shall be subject to the  
35 penalties prescribed in the penal law.

36 (b) Notwithstanding the provisions of this section or any other  
37 provision of law, in a city having a population of one million or more,  
38 applications for the exemption authorized pursuant to this section shall  
39 be considered timely filed if they are filed on or before the fifteenth  
40 day of March of the appropriate year.

41 4. A local law or resolution adopted pursuant to this section may be  
42 repealed by the governing body of the applicable county, city, town,  
43 village, or school district. Such repeal must occur at least ninety days  
44 prior to the taxable status date of such county, city, town, village or  
45 school district.

46 5. Notwithstanding any other provision of law to the contrary, the  
47 provisions of this section shall apply to any real property held in  
48 trust solely for the benefit of a person or persons who would otherwise  
49 be eligible for a real property tax exemption, pursuant to this section,  
50 were such person or persons the owner or owners of such real property.

51 6. (a) For the purposes of this section, title to that portion of real  
52 property owned by a cooperative apartment corporation in which a  
53 tenant-stockholder of such corporation resides and which is represented  
54 by his share or shares of stock in such corporation as determined by its  
55 or their proportional relationship to the total outstanding stock of the

1 corporation, including that owned by the corporation, shall be deemed to  
2 be vested in such tenant-stockholder.

3 (b) Provided that all other eligibility criteria of this section are  
4 met, that proportion of the assessment of such real property owned by a  
5 cooperative apartment corporation determined by the relationship of such  
6 real property vested in such tenant-stockholder to such real property  
7 owned by such cooperative apartment corporation in which such tenant-  
8 stockholder resides shall be subject to exemption from taxation pursuant  
9 to this section and any exemption so granted shall be credited by the  
10 appropriate taxing authority against the assessed valuation of such real  
11 property; the reduction in real property taxes realized thereby shall be  
12 credited by the cooperative apartment corporation against the amount of  
13 such taxes otherwise payable by or chargeable to such tenant-stockhold-  
14 er.

15 (c) Notwithstanding paragraph (b) of this subdivision, a tenant-stock-  
16 holder who resides in a dwelling that is subject to the provisions of  
17 either article two, four, five or eleven of the private housing finance  
18 law shall not be eligible for an exemption pursuant to this section.

19 (d) Notwithstanding paragraph (b) of this subdivision, real property  
20 owned by a cooperative corporation may be exempt from taxation pursuant  
21 to this section by a municipality in which such property is located only  
22 if the governing body of such municipality, after public hearing, adopts  
23 a local law, ordinance or resolution providing therefor.

24 7. Notwithstanding the provisions of paragraph (c) of subdivision one  
25 of this section and subdivision three of this section, the governing  
26 body of any municipality may, after public hearing, adopt a local law,  
27 ordinance or resolution providing that where an active duty service  
28 member, the spouse of an active duty service member or unremarried  
29 surviving spouse already receiving an exemption pursuant to this section  
30 sells the property receiving the exemption and purchases property within  
31 the same county, or in the case of a city having a population of one  
32 million or more persons, within the same city, the assessor shall trans-  
33 fer and prorate, for the remainder of the fiscal year, the exemption  
34 received. The prorated exemption shall be based upon the date the active  
35 duty service member, the spouse of the active duty service member or  
36 unremarried surviving spouse obtains title to the new property and shall  
37 be calculated by multiplying the tax rate or rates for each municipal  
38 corporation which levied taxes, or for which taxes were levied, on the  
39 appropriate tax roll used for the fiscal year or years during which the  
40 transfer occurred times the previously granted exempt amount times the  
41 fraction of each fiscal year or years remaining subsequent to the trans-  
42 fer of title. Nothing in this section shall be construed to remove the  
43 requirement that any such active duty service member, the spouse of the  
44 active duty service member or unremarried surviving spouse transferring  
45 an exemption pursuant to this subdivision shall reapply for the  
46 exemption authorized pursuant to this section on or before the following  
47 taxable status date, in the event such active duty service member, the  
48 spouse of the active duty service member or unremarried surviving spouse  
49 wishes to receive the exemption in future fiscal years.

50 8. The commissioner shall develop in consultation with the director of  
51 the New York state division of veterans' affairs a listing of documents  
52 to be used to establish eligibility under this section. Such informa-  
53 tion shall be made available to each county, city, town or village  
54 assessor's office, or congressional chartered veterans service officers  
55 who request such information. The listing of acceptable military records

1 shall be made available on the internet websites of the division of  
2 veterans' affairs and the office of real property tax services.

3 § 2. This act shall take effect on the first of January next succeed-  
4 ing the date on which it shall have become a law and shall apply to  
5 assessment rolls prepared on the basis of taxable status dates occurring  
6 on or after such date.