STATE OF NEW YORK

2137

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

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

AN ACT to amend the real property tax law, in relation to establishing a real property tax exemption for persons eighty 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 465 to read as follows:

§ 465. Persons eighty years of age or over. 1. (a) Real property owned by one or more persons, each of whom is eighty years of age or over, or real property owned by husband and wife, one of whom is eighty years of age or over, shall be exempt from taxation by any municipal corporation in which located to the extent provided pursuant to paragraph (b) of this subdivision, provided the governing board of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor.

(b) The exemption provided by this section shall be calculated as follows:

(i) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty, ten percent of the assessed valuation;

(ii) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty-one, twenty percent of the assessed valuation;

(iii) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty-two, thirty percent of the assessed valuation;

(iv) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty-three, forty percent of the assessed valuation;

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

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(v) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty-four, fifty percent of the assessed valuation;

(vi) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty-five, sixty percent of the assessed valuation;

(vii) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty-six, seventy percent of the assessed valuation;

(viii) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty-seven, eighty percent of the assessed valuation;

(ix) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty-eight, ninety percent of the assessed valuation; and

(x) for assessment rolls prepared on the basis of taxable status dates occurring during the year two thousand twenty-nine, one hundred percent of the assessed valuation.

(c) Any exemption provided by this section shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.

(d) The real property tax exemption on real property owned by husband and wife, one of whom is eighty years of age or over, once granted, shall not be rescinded by any municipal corporation solely because of the death of the older spouse so long as the surviving spouse is at least seventy years of age.

2. Exemption from taxation for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school of elementary or secondary education.

3. No exemption shall be granted:

(a) unless the owner shall have held an exemption under this section for his previous residence or unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twelve consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. In the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption

from taxation by a municipality within the state granting such exemption. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months shall be deemed satisfied;

(b) unless the property is used exclusively for residential purposes, 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;

(c) unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property: except where, (i) an owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall only be income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility, and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or, (ii) the real property is owned by a husband and/or wife, or an ex-husband and/or an ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be seventy years of age or over.

4. (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 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) 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 entire parcel and the buildings thereon 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) Real property may be exempt from taxation pursuant to this subdivision by a municipality in which such property is located only if the governing board of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor.

Notwithstanding any provision of law to the contrary, any local law, ordinance or resolution adopted pursuant to this paragraph may provide, or be amended to provide, that a tenant-stockholder who resides in a dwelling which is subject to the provisions of either article two, four, five or eleven of the private housing finance law and who is eligible for a rent increase exemption pursuant to section four hundred sixty-seven-c of this title shall not be eligible for an exemption pursuant to this subdivision and that a tenant-stockholder who resides in a dwelling which is subject to the provisions of either article two, four, five or eleven of the private housing finance law and who is not eligible for a rent increase exemption pursuant to section four hundred sixty-seven-c of this title but who meets the requirements for eligibility for an exemption pursuant to this section shall be eligible for such exemption provided that such exemption shall be in an amount determined by multiplying the exemption otherwise allowable pursuant to this section by a fraction having a numerator equal to the amount of real property taxes or payments in lieu of taxes that were paid with respect to such dwelling and a denominator equal to the full amount of real property taxes that would have been owed with respect to such dwelling had it not been granted an exemption or abatement of real property taxes pursuant to any provision of law, provided, however, that any reduction in real property taxes received with respect to such dwelling pursuant to this section or section four hundred sixty-seven-c of this title shall not be considered in calculating such numerator. Any such local law, ordinance or resolution that so provides, or is amended to so provide, shall also provide that a tenant-stockholder who resides in a dwelling which was or continues to be subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the National Housing Act, as amended, and who is eligible for both a rent increase exemption pursuant to section four hundred sixty-seven-c of this title and an exemption pursuant to this subdivision, may apply for and receive either a rent increase exemption pursuant to section four hundred sixty-seven-c of this title or an exemption pursuant to this subdivision, but not both.

5. Every municipal corporation in which such real property is located shall notify, or cause to be notified, each person owning residential real property in such municipal corporation of the provisions of this section. The provisions of this subdivision may be met by a notice or legend sent on or with each tax bill to such persons reading "You may be eligible for tax exemptions for persons eighty years of age or over. Such persons have until month....., day....., year....., to apply for such exemptions. For information please call or write...," followed by the name, telephone number and/or address of a person or department selected by the municipal corporation to explain the provisions of this section. Each cooperative apartment corporation shall notify each tenant-stockholder thereof in residence of such provisions as set forth in this subdivision. Failure to notify, or cause to be notified any person who is in fact, eligible to receive the exemption provided by this section or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

6. Application for such exemption shall be made by the owner, or all of the owners of the property, on forms prescribed by the commission to be furnished by the appropriate assessing authority and shall furnish the information and be executed in the manner required or prescribed in such forms, and shall be filed in such assessor's office on or before the appropriate taxable status date. Notwithstanding any other provision of law, at the option of the municipal corporation, any person otherwise qualifying under this section shall not be denied the exemption under this section if he becomes eighty years of age after the appropriate taxable status date and on or before December thirty-first of the same year.

7. Any local law or ordinance adopted pursuant to paragraph (a) of subdivision one of this section may be amended, or a local law or ordinance may be adopted to provide, notwithstanding subdivision five of this section, that an application for such exemption may be filed with the assessor after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent, brother or sister; or (b) an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician. The assessor shall approve or deny such application as if it had been filed on or before the taxable status date.

8. Notwithstanding the provisions of this section or any other provision of law, a county with an annual taxable status date of January first or January second and with a population of one million or more, may, at its option and by amendment or adoption of a local law or ordinance, authorize its assessor to accept applications for the exemption from real property taxes authorized pursuant to this section on a date later than such county's statutory deadline date for receiving applications for such exemption. Any application filed later than such statutory deadline date which is in compliance with such local law or ordinance amended or adopted pursuant to this subdivision and which meets all other necessary requirements for granting the exemption authorized by this section shall be deemed to have been timely filed prior to such statutory deadline date, and any individual or individuals for whom such an application has been filed shall be granted such exemption and shall receive such exemption on the assessment rolls prepared for such county on the basis of the taxable status date immediately preceding the date such application was filed.

9. 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.

10. (a) The exemption granted pursuant to this section shall remain in effect until discontinued in the manner provided in this section.

(b) The assessor shall discontinue any exemption granted pursuant to this section if it appears that: (i) the property may not be the primary residence of the owner or owners who applied for the exemption, (ii) title to the property has been transferred to a new owner or owners, or (iii) the property otherwise may no longer be eligible for the exemption.

(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.

11. Any conviction of having made any wilful false statement in the application for such exemption, shall be punishable by a fine of not more than one hundred dollars and shall disqualify the applicant or applicants from further exemption for a period of five years.

12. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to real property in which a person or persons hold a legal life estate or which is held in trust solely for the benefit of a person or persons if such person or persons would otherwise be eligible for a real property tax exemption, pursuant to subdivision one of this section, were such person or persons the owner or owners of such real property.

§ 2. This act shall take effect immediately.