

# STATE OF NEW YORK

5336

2019-2020 Regular Sessions

## IN ASSEMBLY

February 11, 2019

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

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

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:

6 (a) "Active duty service member" means a person who is serving in  
7 full-time active duty in the United States army, navy, marine corps, air  
8 force, or coast guard, for other than training purposes.

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

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

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

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

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

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

36 2. (a) Each county, city, town or village may adopt a local law to  
37 provide that qualifying residential real property shall be exempt from  
38 taxation to the extent of fifteen percent of the assessed value of such  
39 property; provided, however, that such exemption shall not exceed twelve  
40 thousand dollars or the product of twelve thousand dollars multiplied by  
41 the latest state equalization rate for the assessing unit, or in the  
42 case of a special assessing unit, the latest class ratio, whichever is  
43 less.

44 (b) In addition to the exemption provided by paragraph (a) of this  
45 subdivision, each county, city, town or village may adopt a local law to  
46 allow an active duty service member who served or is serving in a combat  
47 theatre or combat zone of operations, as documented by the award of a  
48 United States campaign ribbon or service medal, or the armed forces  
49 expeditionary medal, navy expeditionary medal, marine corps expedition-  
50 ary medal, or global war on terrorism expeditionary medal, an exemption  
51 from taxation of qualifying residential real property to the extent of  
52 ten percent of the assessed value of such property; provided, however,  
53 that such exemption shall not exceed eight thousand dollars or the prod-  
54 uct of eight thousand dollars multiplied by the latest state equaliza-  
55 tion rate for the assessing unit, or in the case of a special assessing  
56 unit, the class ratio, whichever is less.

1 (c) Limitations. (i) The exemption from taxation provided by this  
2 subdivision shall be applicable to county, city, town, and village taxa-  
3 tion, but shall not be applicable to taxes levied for school purposes.

4 (ii) Each county, city, town or village may adopt a local law to  
5 reduce the maximum exemption allowable in paragraphs (a) and (b) of this  
6 subdivision to nine thousand dollars and six thousand dollars, respec-  
7 tively, or six thousand dollars and four thousand dollars, respectively.  
8 Each county, city, town, or village is also authorized to adopt a local  
9 law to increase the maximum exemption allowable in paragraphs (a) and  
10 (b) in this subdivision to fifteen thousand dollars and ten thousand  
11 dollars, respectively; eighteen thousand dollars and twelve thousand  
12 dollars, respectively; twenty-one thousand dollars and fourteen thousand  
13 dollars, respectively; twenty-four thousand dollars and sixteen thousand  
14 dollars, respectively; twenty-seven thousand dollars and eighteen thou-  
15 sand dollars, respectively; thirty thousand dollars and twenty thousand  
16 dollars, respectively; thirty-three thousand dollars and twenty-two  
17 thousand dollars, respectively; or thirty-six thousand dollars and twen-  
18 ty-four thousand dollars, respectively. In addition, a county, city,  
19 town or village which is a "high appreciation municipality" as defined  
20 in this subparagraph is authorized to adopt a local law to increase the  
21 maximum exemption allowable in paragraphs (a) and (b) of this subdivi-  
22 sion to thirty-nine thousand dollars and twenty-six thousand dollars,  
23 respectively; forty-two thousand dollars and twenty-eight thousand  
24 dollars, respectively; forty-five thousand dollars and thirty thousand  
25 dollars, respectively; forty-eight thousand dollars and thirty-two thou-  
26 sand dollars respectively; fifty-one thousand dollars and thirty-four  
27 thousand dollars, respectively; or fifty-four thousand dollars and thir-  
28 ty-six thousand dollars, respectively. For purposes of this subpara-  
29 graph, a "high-appreciation municipality" means: (A) a special assessing  
30 unit that is a city, (B) a county for which the commissioner has estab-  
31 lished a sales price differential factor for purposes of the STAR  
32 exemption authorized by section four hundred twenty-five of this title  
33 in three consecutive years, and (C) a city, town or village which is  
34 wholly or partly located within such a county.

35 (iii) A local law adopted pursuant to this section may be repealed by  
36 the governing body of the applicable county, city, town, or village.

37 3. Application for exemption must be made by the owner, or all of the  
38 owners, of the property on a form prescribed by the commissioner. The  
39 owner or owners shall file the completed form in the assessor's office  
40 on or before the appropriate taxable status date. The exemption shall  
41 continue in full force and effect for one tax year. Applicants shall be  
42 required to refile on or before the appropriate taxable status date if  
43 changes have occurred which affect qualification for or an increased or  
44 decreased amount of exemption. Any applicant convicted of making any  
45 willful false statement in the application for such exemption shall be  
46 subject to the penalties prescribed in the penal law.

47 4. A county, city, town or village that adopts a local law to provide  
48 for the exemptions allowable in paragraphs (a) and (b) of subdivision  
49 two of this section shall take all reasonable efforts to ensure that all  
50 qualifying residential real property is eligible for exemption from  
51 taxation.

52 5. Notwithstanding the provisions of this section or any other  
53 provision of law, in a city having a population of one million or more,  
54 applications for the exemption authorized pursuant to this section shall  
55 be considered timely filed if they are filed on or before the fifteenth  
56 day of March of the appropriate year.

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

6     7. (a) For the purposes of this section, title to that portion of real  
7 property owned by a cooperative apartment corporation in which a  
8 tenant-stockholder of such corporation resides and which is represented  
9 by his or her share or shares of stock in such corporation as determined  
10 by its or their proportional relationship to the total outstanding stock  
11 of the corporation, including that owned by the corporation, shall be  
12 deemed to be vested in such tenant-stockholder.

13     (b) Provided that all other eligibility criteria of this section are  
14 met, that proportion of the assessment of such real property owned by a  
15 cooperative apartment corporation determined by the relationship of such  
16 real property vested in such tenant-stockholder to such real property  
17 owned by such cooperative apartment corporation in which such tenant-  
18 stockholder resides shall be subject to exemption from taxation pursuant  
19 to this section and any exemption so granted shall be credited by the  
20 appropriate taxing authority against the assessed valuation of such real  
21 property; the reduction in real property taxes realized thereby shall be  
22 credited by the cooperative apartment corporation against the amount of  
23 such taxes otherwise payable by or chargeable to such tenant-stockhold-  
24 er.

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

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

34     8. Notwithstanding the provisions of paragraph (c) of subdivision one  
35 and subdivision three of this section, the governing body of any munici-  
36 pality may, after public hearing, adopt a local law, ordinance or resol-  
37 ution providing that where an active duty service member, the spouse of  
38 the active duty service member or unremarried surviving spouse already  
39 receiving an exemption pursuant to this section sells the property  
40 receiving the exemption and purchases property within the same city,  
41 town or village, the assessor shall transfer and prorate, for the  
42 remainder of the fiscal year, the exemption received. The prorated  
43 exemption shall be based upon the date the active duty service member,  
44 the spouse of the active duty service member or unremarried surviving  
45 spouse obtains title to the new property and shall be calculated by  
46 multiplying the tax rate or rates for each municipal corporation which  
47 levied taxes, or for which taxes were levied, on the appropriate tax  
48 roll used for the fiscal year or years during which the transfer  
49 occurred times the previously granted exempt amount times the fraction  
50 of each fiscal year or years remaining subsequent to the transfer of  
51 title. Nothing in this section shall be construed to remove the require-  
52 ment that any such active duty service member, the spouse of the active  
53 duty service member or unremarried surviving spouse transferring an  
54 exemption pursuant to this subdivision shall reapply for the exemption  
55 authorized pursuant to this section on or before the following taxable  
56 status date, in the event such active duty service member, the spouse of

1 the active duty service member or unremarried surviving spouse wishes to  
2 receive the exemption in future fiscal years.

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.