STATE OF NEW YORK

6328--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 5, 2023

Introduced by M. of A. THIELE -- read once and referred to the Committee on Real Property Taxation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to assessment and taxation of lessees and users of certain tax exempt property

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

Section 1. Subdivision 12 of section 102 of the real property tax law is amended by adding a new paragraph (k) to read as follows:

(k) The possessory interest of a private lessee or contractor which uses real property owned by the United States or the state of New York, except real property owned by public authorities, where the property would be subject to real property taxation if owned by such lessee or contractor, except where the use is by way of a concession which is available for the use of the general public and is located in or adjacent to a public airport, park, market, fairground, road, pier, marina, railroad, busline, subway or similar property which is available for the use of the general public.

§ 2. The section heading and subdivision 1 of section 402 of the real property tax law are amended to read as follows:

United States or state property held under **lease or** contract [~~of sale~~]. 1. Whenever the legal title of real property is in the United States, or in the state of New York, but the use, occupation or possession thereof is in a person, partnership, association or corporation**, or his or her or its successor in interest,** under a **lease,** contract [~~of sale~~]**, option** or other agreement [~~whereby a right to acquire the premises through an option, a first privilege or a first refusal is granted, or whereby upon one or more payments the legal title thereto is to be or may be acquired by such person, partnership, association or corporation~~], **such that the interest is a possessory interest described in paragraph (k) of subdivision twelve of section one hundred**

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

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two of this chapter, his or her or its interest in such real property shall be assessed and taxed [as] for the same amount and to the same extent as though the lessee, contractor or user were the owner of such real property and shall be entered in the assessment roll in the same manner as if such person, partnership, association or corporation held the legal title to such property, except for the addition to the description of the property of the name of the owner and of the words "interest under lease", "interest under contract", "interest under option", or other appropriate words descriptive of the interest in the property so assessed. [Such assessment shall be at the full value of such interest.]

§ 3. Subdivision 2 of section 402 of the real property tax law is amended to read as follows:

2. [The assessors shall add to the assessment roll opposite the description of any such interest a notation stating that the real property itself so owned by the United States, or by the state, is not to be taxed. Every notice of sale or other process and every conveyance or other instrument affecting the title to any such property, consequent upon the non-payment of any such tax, shall contain a statement that such legal title is not sold or to be sold or affected] Taxes shall be assessed to the lessees, contractors or users of such real property and collected in the same manner as taxes assessed to owners of real property, except that such taxes shall not become a lien against the real property of the United States or of the state of New York. When due, such taxes shall constitute a debt due and owing from the lessee, contractor or user to the municipal corporation or special district for which the taxes were levied and shall be recoverable by action in supreme court.

§ 4. Section 402 of the real property tax law is amended by adding two new subdivisions 4 and 5 to read as follows:

4. Possessory interests, as described in paragraph (k) of subdivision twelve of section one hundred two of this chapter, shall only be taxable as provided in this section if the governing body of the municipal corporation in which the possessory interests are located, after public hearing, adopts a local law, ordinance or resolution so providing, provided, however, the provisions of this section shall not be applicable where a possessory interest is making payments in lieu of taxes which payment is equal to the taxes that would be paid had the property been taxable. Any such local law, ordinance or resolution shall apply alike to all possessory interests which are located within the municipal corporation. Possessory interests in existence on the effective date of the local law, ordinance or resolution shall be partially exempt from taxation for the next succeeding four years in accordance with this section; provided, however, that (a) if the lease, contract, option or other agreement is renegotiated or renewed and such renegotiation or renewal becomes effective during those four years, the partial exemption shall not be available subsequent to the effective date of the new agreement, and (b) if the lease, contract, option or other agreement contains any provision assigning liability between the parties in the event that real property taxes are imposed, the partial exemption shall not be available to possessory interests created thereunder. Except in the instances set forth in this subdivision, for the first taxable status date occurring subsequent to the effective date of the local law, ordinance or resolution, taxable possessory interests shall be exempt from taxation by any municipal corporation in which located to the extent of eighty percent of the assessed value; for the second taxable

status date, to the extent of sixty percent; for the third taxable status date, to the extent of forty percent; and for the fourth taxable status date, to the extent of twenty percent. Notwithstanding any other provision of law in this chapter, possessory interests on parcels which have been designated as military land shall be fully exempt from school property tax if the school district whereupon such military land parcels are situated receives Impact Aid funds from the federal government pursuant to 30 CFR Part 222.

5. This section shall not apply to businesses with less than twenty-five employees.

§ 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.