

## LOCAL LAW NO. "F" FOR 2011

### A LOCAL LAW OF THE COUNTY OF ALBANY CONTINUING THE FIRST-TIME HOMEBUYER COUNTY PROPERTY TAX EXEMPTION

Introduced: 7/11/11

By Messrs. Commisso, Morse, Ward, McCoy, Aylward, Beston, Bullock, Ms. Chapman, Messrs. Clay, Clenahan, Ms. Connolly, Messrs. Cotrofeld, Dawson, Domalewicz, Ethier, Gordon, Higgins, Horstmyer, Houghtaling, Infante, Joyce, Ms. Maffia-Tobler, Mr. Mayo, Ms. McKnight, Messrs. Nichols, Rahm, Reilly, Scavo, Steck, Timmins and Ms. Willingham:

BE IT ENACTED by the Legislature of the County of Albany as follows:

#### Section 1. Legislative Intent

In enacting Local Law No. 6 for 2006 this Legislature found and determined that home ownership by persons of moderate income is an essential element of the County's economy and the development, stabilization and preservation of neighborhoods and communities.

The Legislature also found that many individuals are unable to attain homeownership without some leveraging of their resources.

By Chapter 77 of the Laws of 2011, Section 457 of the New York Real Property Tax Law was amended to authorize the continuation through December 31, 2016 of the tax exemption for first-time homebuyers based on income in order to create a positive climate for economic growth and to assist future homeowners in Albany County.

#### Section 2. Definitions

- A.) "Household income" shall mean the total combined income of all the owners, and of any owners' spouses residing on the premises, for the income tax year preceding the date of making application for the exemption.
- B.) "Income" shall mean the "adjusted gross income" for federal income tax purposes as reported on the applicant's latest available federal or state income tax return subject to any subsequent amendments or revisions reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account, and an individual retirement annuity, provided that if no such return was filed within the one year period preceding taxable status date, "Income" shall mean the adjusted gross income that would have been

so reported if such a return had been filed. For purposes of this local law “latest available return” shall mean the Federal or State income tax return for the year immediately preceding the date of making application, provided however, that if the tax return for such tax year has not been filed, then the income tax return for the tax year two years preceding the date of making application shall be considered the latest available.

- C.) “First-time homebuyer” shall mean a person who has not owned a primary residential property and is not married to a person who has owned a residential property during the three year period prior to his or her purchase of the primary residential property, and who does not own a vacation or investment home.
  
- D.) “Primary residential property” shall mean any one or two family house, townhouse or condominium located in Albany County which is owner-occupied by such homebuyer.
  
- E.) “Newly constructed” shall mean an improvement to real property which was constructed as a primary residential property, and which has never been occupied and was constructed after the effective date of this local law. “Newly constructed” shall also mean that portion of a primary residential property that is altered, improved, or reconstructed.

Section 3. Real Property Tax Exemption

Newly constructed primary residential property located within the County of Albany and purchased by one or more persons, each of whom is a first-time homebuyer shall be exempt from taxation levied by or on behalf of the County of Albany, for a period of five (5) years which shall be computed in accordance with the following:

<u>Year of Exemption</u>	<u>Percentage Assessed Valuation Exemption from Tax</u>
1	50
2	40
3	30
4	20
5	10
6 or more	0

Section 4. Eligibility

- A.) Any newly constructed primary residential real property within the purchase price limits as defined by the State of New York Mortgage Agency low interest rate mortgage program in the non-target, one family new category in effect on the contract date for the purchase and sale of such property shall be eligible for the exemption allowed pursuant to Section 3 of this local law.
- B.) A first-time homebuyer who either as part of a written contract for sale of the primary residential property, or who enters into a written contract within ninety (90) days after closing on the sale of the primary residence for reconstruction, alteration or improvements, the value of which exceeds three thousand dollars, to the primary residential property shall be exempt from taxation to the extent provided by this local law. Such exemption shall apply solely to the increase in assessed value thereof attributable to such reconstruction, alteration, or improvement provided that the assessed value after reconstruction, alteration, or improvements does not exceed fifteen percent more than the purchase price limits as defined in paragraph A of this section. For purposes of this paragraph, the terms reconstruction, alteration and improvement shall not include ordinary maintenance and repairs.
- C.) A first-time homebuyer shall not qualify for the exemption authorized pursuant to this local law if the household income exceeds income limits defined by the State of New York Mortgage Agency Low Interest Rate Mortgage Program in the non-target, one and two person household category in effect on the contract date for the purchase and sale of such property.

#### Section 5. Applicability

- A.) Newly constructed primary residential property purchased by first-time homebuyers at a sales price greater than the maximum eligible sales price shall qualify for the exemption allowed pursuant to this local law for that portion of the sales price of such newly constructed primary residential property equal to the maximum eligible sales price, provided, however, that any newly constructed primary residential property purchased at sales price greater than twenty-five percent above the maximum eligible sales price shall not be allowed any exemption.
- B.) No exemption shall be allowed pursuant to this local law for any newly constructed primary residential property purchased by a first-time homebuyer on or after December 31, 2016, unless such purchase is pursuant to a binding written contract entered into prior to December

31, 2016, provided, however, that any first-time homebuyer who is allowed an exemption pursuant to this local law prior to such date shall continue to be allowed further exemptions pursuant to Section 3 of this local law.

#### Section 6. Restrictions on Use of Eligible Property

- A.) No portion of a single family newly constructed primary residential property shall be leased during the period of time when the first-time homebuyer exemption shall apply to the residence. If any portion of the single family newly constructed primary residential property is found to be the subject of a lease agreement, the Assessor shall discontinue any exemption granted pursuant to this local law.
- B.) In the event that a primary residential property granted an exemption pursuant to this local law ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this local law shall be discontinued.
- C.) Upon determining that an exemption granted pursuant to this local law 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 510 of the New York Real Property Tax Law. 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.

#### Section 7. Application

- A.) Such exemption shall be granted only upon application by the owner of such building on a form prescribed by the State Board of Real Property Services. The application shall be filed with the Assessor having the power to assess property for taxation on or before the appropriate taxable status date of Albany County.
- B.) If satisfied that the applicant is entitled to an exemption pursuant to this local law, the Assessor shall approve the application and such primary residential property shall thereafter be exempt from taxation and special Ad Valorem levies as provided in this local law commencing with the assessment roll prepared on the basis of the taxable status date referred to in Paragraph A of this section. The assessed value of any exemption granted pursuant to this local law

shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

#### Section 8. Severability

If any clause, sentence, paragraph, subdivision, section, or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this local law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

#### Section 9. Filing

The Clerk of the Albany County Legislature is directed to file a copy of this local law with the New York State Board of Real Property Services and the Assessors who prepare the assessment roll on which the taxes of this County are levied.

#### Section 10. Effective Date

This local law shall take effect immediately upon filing in the Office of the Secretary of State and shall apply to taxable years beginning on or after July 1, 2011.

*Referred to Audit and Finance Committee. 7/11/11*

*Favorable Recommendation – Audit and Finance Committee. 7/27/11*

*On roll call vote the following voted in favor: Mr. Aylward, Ms. Benedict, Messrs. Beston, Bullock, Carman, Ms. Chapman, Messrs. Clay, Clenahan, Clouse, Commisso, Ms. Connolly, Messrs. Cotrofeld, Dawson, Domalewicz, Ethier, Gordon, Higgins, Hoblock, Horstmyer, Houghtaling, Mss. Lockart, Maffia-Tobler, Messrs. Mayo, McCoy, Ms. McKnight, Messrs. Mendick, Morse, Nichols, Reilly, Scavo, Steck, Timmins, Tunny, Ward and Ms. Willingham – 35.*

*Those opposed: - 0.*

*Local Law was adopted. 8/8/11*