S T A T E O F N E W Y O R K

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I N S E N A T E

May 8, 2014

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

AN ACT to amend the real property tax law, in relation to establishing a partial abatement of real property taxes on real property that was rebuilt after being seriously damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more

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 467-h to read as follows:

S 467-H. PARTIAL ABATEMENT FOR CERTAIN REBUILT REAL PROPERTY SERIOUSLY DAMAGED BY THE SEVERE STORM THAT OCCURRED ON THE TWENTY-NINTH AND THIRTIETH OF OCTOBER, TWO THOUSAND TWELVE IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE. 1. GENERALLY. NOTWITHSTANDING ANY PROVISION OF ANY GENERAL, SPECIAL OR LOCAL LAW TO THE CONTRARY, ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IN ACCORDANCE WITH THIS SECTION TO GRANT A PARTIAL ABATEMENT OF REAL PROPERTY TAXES FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN, IN THE AMOUNT PROVIDED IN THIS SECTION TO ELIGIBLE REAL PROPERTY AS DEFINED IN SUBDIVISION THREE OF THIS SECTION ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN. IF LEGAL TITLE TO ELIGIBLE REAL PROPERTY IS HELD BY ONE OR MORE TRUSTEES, THE BENEFICIAL OWNER OR OWNERS SHALL BE DEEMED TO OWN THE PROPERTY FOR PURPOSES OF THIS SECTION. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, A PROPERTY THAT IS RECEIVING BENEFITS PURSUANT TO ANY OTHER SECTION OF THIS ARTICLE SHALL NOT BE PROHIBITED FROM RECEIVING A PARTIAL ABATEMENT PURSUANT TO THIS SECTION IF SUCH PROPERTY IS OTHERWISE ELIGIBLE TO RECEIVE SUCH ABATEMENT.

2. DEFINITIONS. AS USED IN THIS SECTION:

A. "ACTUAL ASSESSED VALUATION" MEANS THE ASSESSED VALUATION OF REAL PROPERTY PRIOR TO THE CALCULATION OF ANY TRANSITIONAL ASSESSED VALUATION PURSUANT TO SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED FIVE OF THIS

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

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CHAPTER, AND WHICH IS NOT REDUCED BY ANY EXEMPTION FROM REAL PROPERTY TAXES.

B. "ANNUAL TAX" MEANS THE AMOUNT OF REAL PROPERTY TAX THAT IS IMPOSED ON A PROPERTY FOR A FISCAL YEAR, DETERMINED AFTER REDUCTION FOR ANY AMOUNT FROM WHICH THE PROPERTY IS EXEMPT, OR WHICH IS ABATED, PURSUANT TO APPLICABLE LAW.

C. "ANNUAL TAX ATTRIBUTABLE TO IMPROVEMENTS" MEANS THE AMOUNT OF REAL PROPERTY TAX THAT IS IMPOSED ON A PROPERTY FOR A FISCAL YEAR, DETERMINED AFTER REDUCTION FOR ANY AMOUNT FROM WHICH THE PROPERTY IS EXEMPT, OR WHICH IS ABATED, PURSUANT TO APPLICABLE LAW, MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS EQUAL TO THE ASSESSED VALUATION OF THE PROPERTY FOR SUCH FISCAL YEAR THAT IS ATTRIBUTABLE TO THE IMPROVEMENTS ON THE PROPERTY, AND THE DENOMINATOR OF WHICH IS THE TOTAL ASSESSED VALUATION OF THE PROPERTY FOR SUCH FISCAL YEAR.

D. "ASSESSED VALUATION" MEANS THE ASSESSED VALUATION OF REAL PROPERTY THAT WAS USED TO DETERMINE THE ANNUAL TAX AS DEFINED IN PARAGRAPH B OF THIS SUBDIVISION, AND WHICH IS NOT REDUCED BY ANY EXEMPTION FROM REAL PROPERTY TAXES. FOR REAL PROPERTY CLASSIFIED AS CLASS TWO OR CLASS FOUR REAL PROPERTY AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER TO WHICH SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED FIVE OF THIS CHAPTER APPLIES, UNLESS OTHERWISE PROVIDED, THE ASSESSED VALUATION IS THE LOWER OF THE ACTUAL ASSESSED VALUATION AS DEFINED IN PARAGRAPH A OF THIS SUBDIVISION AND TRANSITIONAL ASSESSED VALUATION AS DEFINED IN PARAGRAPH J OF THIS SUBDIVISION.

E. "ASSESSED VALUATION ATTRIBUTABLE TO IMPROVEMENTS" MEANS THAT PORTION OF THE ASSESSED VALUATION OF REAL PROPERTY THAT WAS USED TO DETERMINE THE ANNUAL TAX ATTRIBUTABLE TO IMPROVEMENTS AS DEFINED IN PARAGRAPH C OF THIS SUBDIVISION, AND WHICH IS NOT REDUCED BY ANY EXEMPTION FROM REAL PROPERTY TAXES.

F. "COMMISSIONER OF FINANCE" MEANS THE COMMISSIONER OF FINANCE OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE, OR HIS OR HER DESIGNEE.

G. "DEPARTMENT OF FINANCE" MEANS THE DEPARTMENT OF FINANCE OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE.

H. "IMPROVEMENTS" MEANS BUILDINGS AND OTHER ARTICLES AND STRUCTURES, SUBSTRUCTURES AND SUPERSTRUCTURES ERECTED UPON, UNDER OR ABOVE THE LAND, OR AFFIXED THERETO, INCLUDING BRIDGES AND WHARVES AND PIERS AND THE VALUE OF THE RIGHT TO COLLECT WHARFAGE, CRANAGE OR DOCKAGE THEREON.

I. "TOTAL SQUARE FOOTAGE OF THE IMPROVEMENTS ON THE PROPERTY" MEANS, WITH RESPECT TO A FISCAL YEAR, THE SQUARE FOOTAGE USED BY THE DEPARTMENT OF FINANCE IN DETERMINING THE ASSESSED VALUATION ATTRIBUTABLE TO IMPROVEMENTS ON THE PROPERTY FOR SUCH FISCAL YEAR.

J. "TRANSITIONAL ASSESSED VALUATION" IS THE ASSESSED VALUATION CALCULATED PURSUANT TO SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED FIVE OF THIS CHAPTER, AND WHICH IS NOT REDUCED BY ANY EXEMPTION FROM REAL PROPERTY TAXES.

3. ELIGIBLE REAL PROPERTY. FOR PURPOSES OF THIS SECTION, "ELIGIBLE REAL PROPERTY" MEANS ANY TAX LOT THAT CONTAINED, ON THE APPLICABLE TAXABLE STATUS DATE, CLASS ONE, CLASS TWO OR CLASS FOUR REAL PROPERTY AS SUCH CLASS OF REAL PROPERTY IS DEFINED IN SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER, AS TO WHICH:

A. THE DEPARTMENT OF FINANCE REDUCED THE ASSESSED VALUATION ATTRIBUTABLE TO IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND THIRTEEN FROM THE ASSESSED VALUATION ATTRIBUTABLE TO IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND TWELVE AS A RESULT OF DAMAGE

CAUSED BY THE SEVERE STORM THAT OCCURRED ON THE TWENTY-NINTH AND THIRTIETH OF OCTOBER, TWO THOUSAND TWELVE;

B. THE DEPARTMENT OF FINANCE INCREASED THE ASSESSED VALUATION ATTRIBUTABLE TO IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN FROM THE ASSESSED VALUATION ATTRIBUTABLE TO IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND THIRTEEN; AND

C. THE ASSESSED VALUATION ATTRIBUTABLE TO IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN EXCEEDS THE ASSESSED VALUATION ATTRIBUTABLE TO IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND TWELVE.

4. AMOUNT OF PARTIAL ABATEMENT. A. EXCEPT AS PROVIDED IN PARAGRAPH C OF THIS SUBDIVISION, ELIGIBLE REAL PROPERTY SHALL RECEIVE A PARTIAL ABATEMENT OF THE REAL PROPERTY TAXES DUE ON SUCH PROPERTY EQUAL TO THE AMOUNT BY WHICH (1) THE ANNUAL TAX ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN EXCEEDS (2) THE ANNUAL TAX ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND TWELVE.

B. NOTWITHSTANDING PARAGRAPH A OF THIS SUBDIVISION AND EXCEPT AS PROVIDED IN PARAGRAPH C OF THIS SUBDIVISION, THE AMOUNT OF THE PARTIAL ABATEMENT OF THE REAL PROPERTY TAXES DUE ON ELIGIBLE REAL PROPERTY CLASSIFIED AS CLASS TWO OR CLASS FOUR REAL PROPERTY AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER TO WHICH SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED FIVE OF THIS CHAPTER APPLIES SHALL BE EQUAL TO THE AMOUNT OF (1) THE INCREASE IN THE ACTUAL ASSESSED VALUATION ATTRIBUTABLE TO AN ADDITION TO OR IMPROVEMENT OF THE PROPERTY AS PROVIDED IN SUBDIVISION FIVE OF SECTION EIGHTEEN HUNDRED FIVE OF THIS CHAPTER FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN, (2) REDUCED BY THE INCREASE IN THE ACTUAL ASSESSED VALUATION ATTRIBUTABLE TO AN ADDITION TO OR IMPROVEMENT OF THE PROPERTY AS PROVIDED IN SUBDIVISION FIVE OF SECTION EIGHTEEN HUNDRED FIVE OF THIS CHAPTER FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN, MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE TRANSITIONAL ASSESSED VALUATION FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND THIRTEEN, AND THE DENOMINATOR OF WHICH IS THE ACTUAL ASSESSED VALUATION FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND THIRTEEN, (3) MULTIPLIED BY THE REAL PROPERTY TAX RATE THAT IS APPLICABLE TO THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN. ELIGIBLE REAL PROPERTY SHALL NOT BE ELIGIBLE FOR AN ABATEMENT UNDER THIS SECTION IF THE FRACTION CALCULATED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH IS EQUAL TO OR GREATER THAN ONE.

C. IN THE EVENT THAT THE TOTAL SQUARE FOOTAGE OF THE IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN EXCEEDS THE TOTAL SQUARE FOOTAGE OF THE IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND TWELVE, THE AMOUNT OF THE PARTIAL ABATEMENT SHALL BE THE AMOUNT COMPUTED BY MULTIPLYING THE AMOUNT CALCULATED UNDER PARAGRAPH A OR B OF THIS SUBDIVISION BY A FRACTION, THE NUMERATOR OF WHICH IS EQUAL TO THE AMOUNT OF THE TOTAL SQUARE FOOTAGE OF THE IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND TWELVE, AND THE DENOMINATOR OF WHICH IS EQUAL TO THE AMOUNT OF THE TOTAL SQUARE FOOTAGE OF THE IMPROVEMENTS ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN.

D. FOR PROPERTY HELD IN THE COOPERATIVE FORM OF OWNERSHIP, THE ABATEMENT SHALL BE CREDITED TO EACH UNIT THEREIN IN AN AMOUNT EQUAL TO THAT PROPORTION OF THE AMOUNT CALCULATED UNDER THIS SUBDIVISION THAT IS ATTRIBUTABLE TO SUCH UNIT, AS DETERMINED BY THE PROPORTIONAL RELATIONSHIP OF THE OWNER'S SHARE OR SHARES OF STOCK IN THE COOPERATIVE CORPORATION THAT OWNS SUCH REAL PROPERTY TO THE TOTAL OUTSTANDING STOCK OF THE COOPERATIVE CORPORATION.

E. ELIGIBLE REAL PROPERTY SHALL NOT BE ELIGIBLE FOR AN ABATEMENT UNDER THIS SECTION IF THE AMOUNT OF THE ABATEMENT CALCULATED PURSUANT TO THIS SUBDIVISION EXCEEDS THE ANNUAL TAX ON THE PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN.

5. RECOVERY OF ERRONEOUS ABATEMENT.

A. FOR PURPOSES OF THIS SECTION, AN "ERRONEOUS ABATEMENT" MEANS THAT:

(1) AN ABATEMENT WAS GRANTED TO A PROPERTY THAT WAS NOT ENTITLED TO AN ABATEMENT UNDER THIS SECTION, OR

(2) AN ABATEMENT WAS APPLIED OR CALCULATED IN ERROR UNDER THIS SECTION. IN SUCH EVENT, THE AMOUNT OF THE ERRONEOUS ABATEMENT SHALL BE EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OF THE ABATEMENT ORIGINALLY RECEIVED AND THE AMOUNT TO WHICH THE PROPERTY WAS ENTITLED.

B. IF THE COMMISSIONER OF FINANCE DETERMINES THAT A PROPERTY RECEIVED AN ERRONEOUS ABATEMENT, HE OR SHE SHALL RECOVER SUCH ERRONEOUS ABATEMENT BY DEDUCTING THE AMOUNT OF THE ERRONEOUS ABATEMENT FROM ANY REFUND OR REBATE OTHERWISE PAYABLE TO THE OWNER, AND ANY BALANCE OF THE AMOUNT OF THE ERRONEOUS ABATEMENT REMAINING UNPAID SHALL CONSTITUTE A TAX LIEN ON THE REAL PROPERTY, AS OF THE DUE AND PAYABLE DATE PROVIDED ON THE NEXT TAX BILL MAILED BY THE COMMISSIONER OF FINANCE CONTAINING SUCH AMOUNT. IF SUCH AMOUNT IS NOT PAID BY SUCH DUE AND PAYABLE DATE, INTEREST AT THE RATE APPLICABLE TO DELINQUENT REAL PROPERTY TAXES ON SUCH PROPERTY SHALL BE CHARGED AND COLLECTED ON SUCH AMOUNT FROM THE DUE AND PAYABLE DATE PROVIDED ON SUCH NOTICE TO THE DATE OF PAYMENT. SUCH TAX LIEN SHALL BE ENFORCEABLE IN ACCORDANCE WITH THE PROVISIONS OF LAW RELATING TO THE ENFORCEMENT OF TAX LIENS IN ANY SUCH CITY.

6. REDUCTION OF ASSESSED VALUE. IF THE TAXABLE ASSESSED VALUE OF A PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND FOURTEEN IS REDUCED AFTER THE ASSESSMENT ROLL APPLICABLE TO SUCH FISCAL YEAR BECOMES FINAL, ANY ABATEMENT ALREADY GRANTED PURSUANT TO THIS SECTION SHALL BE ADJUSTED ACCORDINGLY. THE DIFFERENCE BETWEEN THE ORIGINAL ABATEMENT AND THE ADJUSTED ABATEMENT SHALL BE DEDUCTED FROM ANY CREDIT OTHERWISE DUE.

7. RULEMAKING. THE COMMISSIONER OF FINANCE SHALL BE AUTHORIZED TO PROMULGATE RULES NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

S 2. This act shall take effect immediately.