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

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I N A S S E M B L Y

(PREFILED)

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Introduced by M. of A. WRIGHT, FARRELL, AUBRY, V. LOPEZ, O'DONNELL, GLICK, BING, HEVESI, MILLMAN, ESPAILLAT, KAVANAGH, BRENNAN, TITONE, KELLNER, ROSENTHAL, JEFFRIES -- Multi-Sponsored by -- M. of A. BROOK-KRASNY, COLTON, DIAZ, GOTTFRIED, LANCMAN, SPANO -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing a renter tax credit

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1310 of the tax law is amended by adding a new subsection (g) to read as follows:

(G) RENTER TAX CREDIT. (1) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS GRANTING IN ANY SUCH CITY, FOR TAXABLE YEARS BEGINNING ON OR AFTER TWO THOUSAND NINE, A RENTER TAX CREDIT AGAINST THE CITY PERSONAL INCOME TAX FOR ANY QUALIFIED TAXPAYER. IF ANY SUCH CREDIT EXCEEDS THE TAX FOR SUCH YEAR, SUCH LOCAL LAW MAY PROVIDE THAT SUCH QUALIFIED TAXPAYER RECEIVE, AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO REDUCED AND THE AMOUNT OF THE CREDIT. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO A LOCAL LAW ENACTED PURSUANT TO THIS ARTICLE, SUCH LOCAL LAW MAY PROVIDE THAT SUCH QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT THE FULL AMOUNT OF THE CREDIT, WITHOUT INTEREST. (B) ANY CREDIT PROVIDED BY A LOCAL LAW ADOPTED PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED THREE HUNDRED DOLLARS.

(2) ONLY ONE CREDIT PER HOUSEHOLD AND PER QUALIFIED TAXPAYER SHALL BE ALLOWED PER TAXABLE YEAR UNDER THIS SUBSECTION. (A) WHEN TWO OR MORE

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

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MEMBERS OF A HOUSEHOLD ARE ABLE TO MEET THE QUALIFICATIONS FOR A QUALIFIED TAXPAYER, THE CREDIT SHALL BE EQUALLY DIVIDED BETWEEN OR AMONG SUCH INDIVIDUALS UNLESS SUCH INDIVIDUALS FILE WITH THE NEW YORK CITY TAX COMMISSION A WRITTEN AGREEMENT AMONG SUCH INDIVIDUALS SETTING FORTH A DIFFERENT DIVISION. (B) WHERE ANY RETURN REQUIRED TO BE FILED PURSUANT TO THE PROVISIONS OF SECTION THIRTEEN HUNDRED SIX OF THIS ARTICLE IS COMBINED WITH ANY RETURN OF TAX IMPOSED PURSUANT TO THE AUTHORITY OF THIS CHAPTER OR ANY OTHER LAW IF SUCH TAX IS ADMINISTERED BY THE COMMISSIONER, THE CREDIT OR THE PORTION OF THE CREDIT IF DIVIDED, ALLOWED TO THE QUALIFIED TAXPAYER MAY BE APPLIED BY THE COMMISSIONER TOWARD ANY LIABILITY FOR THE AFOREMENTIONED TAXES.

(3) FOR PURPOSES OF ANY LOCAL LAW ADOPTED PURSUANT TO THIS SUBSECTION:

(A) "DEPENDENT" MEANS AN INDIVIDUAL DESCRIBED IN SECTION ONE HUNDRED FIFTY-TWO OF THE INTERNAL REVENUE CODE.

(B) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE CITY OF NEW YORK (I) WHO HAS OCCUPIED THE SAME QUALIFIED RESIDENCE AS A RENTER OR LESSEE FOR SIX MONTHS OR MORE DURING THE TAXABLE YEAR, (II) HAS ATTAINED THE AGE OF EIGHTEEN, AND (III) WHO IS REQUIRED OR CHOOSES TO FILE A RETURN UNDER THIS ARTICLE.

(C) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED TAXPAYER AND ALL OTHER PERSONS, NOT NECESSARILY RELATED, WHO HAVE THE SAME QUALIFIED RESIDENCE AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOMMODATIONS. SUCH TERMS SHALL INCLUDE A DOMESTIC PARTNER, AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED FIVE-Q OF THE PUBLIC HEALTH LAW, BUT SHALL NOT INCLUDE A TENANT, SUBTENANT, ROOMER OR BOARDER WHO IS NOT RELATED TO THE QUALIFIED TAXPAYER IN ANY DEGREE SPECIFIED IN PARAGRAPHS ONE THROUGH EIGHT OF SUBSECTION (A) OF SECTION ONE HUNDRED FIFTY-TWO OF THE INTERNAL REVENUE CODE. PROVIDED, HOWEVER, NO PERSON MAY BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.

(D) "HOUSEHOLD GROSS INCOME" MEANS THE NEW YORK STATE ADJUSTED GROSS INCOME OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR. HOUSEHOLD GROSS INCOME SHALL ONLY INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE MEMBERS OF SUCH HOUSEHOLD.

(E) "QUALIFIED RESIDENCE" MEANS A DWELLING IN THE CITY OF NEW YORK, WHICH IS RENTED OR LEASED, AND MAY CONSIST OF A PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUDING A COOPERATIVE OR CONDOMINIUM, AND RENTAL UNITS WITHIN A SINGLE DWELLING, PROVIDED, HOWEVER, THAT SUCH DWELLING, OR BUILDING OF WHICH SUCH DWELLING IS A PART, IS SUBJECT TO THE REAL PROPERTY TAX. QUALIFIED RESIDENCE INCLUDES A TRAILER OR MOBILE HOME WHICH IS RENTED AND USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES, WHICH IS DEFINED AS REAL PROPERTY PURSUANT TO PARAGRAPH (G) OF SUBDIVISION TWELVE OF SECTION ONE HUNDRED TWO OF THE REAL PROPERTY TAX LAW, AND WHICH IS SUBJECT TO THE REAL PROPERTY TAX. QUALIFIED RESIDENCE SHALL ALSO INCLUDE A DWELLING OWNED BY A HOUSING COMPANY ORGANIZED AND OPERATING PURSUANT TO THE PROVISIONS OF ARTICLES TWO, FOUR, FIVE AND ELEVEN OF THE PRIVATE HOUSING FINANCE LAW.

(F) "RESIDENT INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS A MEMBER OF THE HOUSEHOLD AND CANNOT BE CLAIMED AS A PERSONAL EXEMPTION ON ANOTHER INDIVIDUAL'S INCOME TAX RETURN DURING THE TAXABLE YEAR.

(4) NO CREDIT SHALL BE GRANTED UNDER THIS SUBSECTION:

(A) IF HOUSEHOLD GROSS INCOME, IN THE CASE OF A RESIDENT INDIVIDUAL, EXCEEDS FORTY-THREE THOUSAND DOLLARS.

(B) IF HOUSEHOLD GROSS INCOME, IN THE CASE OF TWO OR MORE RESIDENT INDIVIDUALS, OR IN THE CASE OF ONE RESIDENT INDIVIDUAL HAVING ONE DEPENDENT, EXCEEDS FIFTY-FOUR THOUSAND DOLLARS.

(C) IF HOUSEHOLD GROSS INCOME, IN THE CASE OF TWO OR MORE RESIDENT INDIVIDUALS HAVING ONE DEPENDENT, OR IN THE CASE OF ONE RESIDENT INDIVIDUAL HAVING TWO DEPENDENTS, EXCEEDS SIXTY-FIVE THOUSAND DOLLARS.

(D) IF HOUSEHOLD GROSS INCOME, IN THE CASE OF TWO OR MORE RESIDENT INDIVIDUALS HAVING TWO OR MORE DEPENDENTS, OR IN THE CASE OF ONE RESIDENT INDIVIDUAL HAVING THREE OR MORE DEPENDENTS, EXCEEDS SEVENTY-FIVE THOUSAND DOLLARS.

(E) TO AN INDIVIDUAL WITH RESPECT TO WHOM A DEDUCTION UNDER SUBSECTION (C) OF SECTION ONE HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE IS ALLOWABLE TO ANOTHER TAXPAYER FOR THE TAXABLE YEAR.

(F) TO AN INDIVIDUAL WHO IS NOT A RESIDENT INDIVIDUAL OF THE CITY FOR THE ENTIRE TAXABLE YEAR.

(G) FOR PURPOSES OF THIS PARAGRAPH, BEGINNING ON JANUARY FIRST, TWO THOUSAND TEN, HOUSEHOLD GROSS INCOME SHALL BE ADJUSTED ANNUALLY, ON JANUARY FIRST, BY THE PERCENTAGE CHANGE IN THE AVERAGE COST-OF-LIVING INDEX IN THE PERIOD JANUARY FIRST THROUGH DECEMBER THIRTY-FIRST OF THE IMMEDIATE PRIOR YEAR COMPARED WITH THE SAME PERIOD FOR THE YEAR PRIOR TO THAT. FOR PURPOSES OF THIS SUBPARAGRAPH, THE "COST-OF-LIVING INDEX" IS THE AVERAGE OF THE MONTHLY CONSUMER-PRICE-INDEX FIGURES FOR THE STATED TWELVE-MONTH PERIOD, RELATIVE TO THE UNITED STATES AS A WHOLE, ISSUED BY THE UNITED STATES DEPARTMENT OF LABOR.

(5) IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO SECTION THIRTEEN HUNDRED SIX OF THIS ARTICLE, A CLAIM FOR A CREDIT MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE YEARS FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED PURSUANT TO SUCH SECTION HAD THE QUALIFIED TAXPAYER HAD A TAXABLE YEAR ENDING ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE IN SUCH FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHICH SHALL MAKE AVAILABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

(6) THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER TO FURNISH THE FOLLOWING INFORMATION IN SUPPORT OF HIS OR HER CLAIM FOR CREDIT UNDER THIS SUBSECTION: HOUSEHOLD GROSS INCOME, RENT PAID, NAME AND ADDRESS OF OWNER OR MANAGING AGENT OF THE PROPERTY RENTED, THE NAMES OF MEMBERS OF THE HOUSEHOLD AND OTHER QUALIFYING TAXPAYERS OCCUPYING THE SAME RESIDENCE AND THEIR IDENTIFYING NUMBERS INCLUDING SOCIAL SECURITY NUMBERS, HOUSEHOLD GROSS INCOME, SIZE AND NATURE OF PROPERTY CLAIMED AS RESIDENCE AND ALL OTHER INFORMATION WHICH MAY BE REQUIRED BY THE COMMISSIONER TO DETERMINE THE CREDIT.

(7) THE PROVISIONS OF ARTICLE TWENTY-TWO OF THIS CHAPTER, INCLUDING THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT AND SIX HUNDRED FIFTY-NINE AND THE PROVISIONS OF PART SIX OF SUCH ARTICLE RELATING TO PROCEDURE AND ADMINISTRATION, INCLUDING THE JUDICIAL REVIEW OF THE DECISIONS OF THE TAX APPEALS TRIBUNAL, EXCEPT SO MUCH OF SECTION SIX HUNDRED EIGHTY-SEVEN OF SUCH ARTICLE WHICH PERMITS A CLAIM FOR CREDIT OR REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN PARAGRAPH FIVE OF THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED FIFTY-SEVEN, SIX HUNDRED EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX OF SUCH ARTICLE, SHALL APPLY TO THE PROVISIONS OF THIS SUBSECTION IN THE SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE PROVISIONS HAD BEEN INCORPORATED IN FULL INTO THIS SUBSECTION AND HAD EXPRESSLY REFERRED TO THE CREDIT ALLOWED OR RETURNS FILED UNDER THIS SUBSECTION, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS EITHER INCONSISTENT WITH A PROVISION OF THIS SUBSECTION OR IS NOT RELEVANT TO THIS SUBSECTION. AS USED IN SUCH SECTIONS AND SUCH PART, THE TERM "TAXPAYER" SHALL INCLUDE A QUALIFIED TAXPAYER UNDER THIS SUBSECTION AND, NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (E) OF SECTION SIX HUNDRED

NINETY-SEVEN OF THIS CHAPTER, WHERE A QUALIFIED TAXPAYER HAS PROTESTED THE DENIAL OF A CLAIM FOR CREDIT UNDER THIS SUBSECTION AND THE TIME TO FILE A PETITION FOR REDETERMINATION OF A DEFICIENCY OR FOR REFUND HAS NOT EXPIRED, HE OR SHE SHALL, SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE COMMISSIONER, RECEIVE SUCH INFORMATION (A) WHICH IS CONTAINED IN ANY RETURN FILED UNDER THIS ARTICLE BY A MEMBER OF HIS OR HER HOUSEHOLD FOR THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED, AND (B) WHICH THE COMMISSIONER FINDS IS RELEVANT AND MATERIAL TO THE ISSUE OF WHETHER SUCH CLAIM WAS PROPERLY DENIED. THE COMMISSIONER SHALL HAVE THE AUTHORITY TO PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY FOR THE PROCESSING, DETERMINATION AND GRANTING OF CREDITS AND REFUNDS UNDER THIS SUBSECTION.

(8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE CREDIT ALLOWED BY A LOCAL LAW ENACTED UNDER THIS SUBSECTION SHALL BE DETERMINED AFTER THE DETERMINATION AND APPLICATION OF ANY OTHER CREDITS PERMITTED UNDER THE PROVISIONS OF THIS ARTICLE.

(9) A LOCAL LAW ENACTED PURSUANT TO THIS SUBSECTION SHALL BE APPLICABLE WITH RESPECT TO ANY TAXABLE YEAR ONLY IF IT HAS BEEN ENACTED ON OR BEFORE JULY THIRTY-FIRST OF SUCH YEAR. A CERTIFIED COPY OF SUCH LOCAL LAW SHALL BE MAILED BY REGISTERED MAIL TO THE STATE DEPARTMENT OF TAXATION AND FINANCE AT ITS OFFICE IN ALBANY WITHIN FIFTEEN DAYS OF ITS ENACTMENT. HOWEVER, THE STATE DEPARTMENT OF TAXATION AND FINANCE MAY ALLOW ADDITIONAL TIME FOR SUCH CERTIFIED COPY TO BE MAILED IF IT DEEMS SUCH ACTION TO BE CONSISTENT WITH ITS DUTIES UNDER THIS ARTICLE.

S 2. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2009.