

3714

2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. LENTOL, AUBRY, P. RIVERA, WRIGHT, V. LOPEZ, ABBATE, ROBINSON, CYMBROWITZ, GORDON, ORTIZ, TOWNS -- Multi-Sponsored by -- M. of A. BRENNAN, JACOBS, MILLMAN -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to a partial real property tax abatement for owners in certain cities who charge rents below fair market rental value

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 467-g to read as follows:  
3 S 467-G. PARTIAL TAX ABATEMENT FOR OWNERS IN CERTAIN CITIES WHO CHARGE  
4 RENTS BELOW FAIR MARKET VALUE. 1. AS USED IN THIS SECTION:  
5 A. "ELIGIBLE HOUSEHOLD" MEANS A HOUSEHOLD (I) WHOSE GROSS INCOME DOES  
6 NOT EXCEED EIGHTY PERCENT OF THE MEDIAN INCOME LEVEL FOR THE CENSUS  
7 TRACT, AS SET BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN  
8 DEVELOPMENT, IN WHICH THE HOUSEHOLD RESIDES;  
9 (II) WHOSE LEASE FOR AN ELIGIBLE UNIT PROVIDES FOR AN ANNUAL RENT  
10 WHICH IS AT LEAST THIRTY PERCENT OF THE HOUSEHOLD'S ANNUAL NET INCOME;  
11 AND  
12 (III) HAS LIVED IN THE SAME APARTMENT FOR AT LEAST ONE YEAR.  
13 ANY HOUSEHOLD CONTAINING A MEMBER OF THE UNIT OWNER'S IMMEDIATE FAMILY  
14 SHALL NOT QUALIFY AS AN ELIGIBLE HOUSEHOLD NOTWITHSTANDING THE FACT THAT  
15 THE OTHER CRITERIA ARE MET.  
16 B. "ELIGIBLE UNIT" MEANS A RENTAL UNIT IN A MULTIPLE DWELLING CONTAIN-  
17 ING NOT MORE THAN FIVE RENTAL UNITS WHICH IS SUBJECT NEITHER TO THE  
18 EMERGENCY HOUSING RENT CONTROL LAW, NOR TO THE RENT AND REHABILITATION  
19 LAW OF THE CITY OF NEW YORK ENACTED PURSUANT TO THE LOCAL EMERGENCY  
20 HOUSING RENT CONTROL LAW, NOR THE EMERGENCY TENANT PROTECTION ACT OF  
21 NINETEEN SEVENTY-FOUR.

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

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1 C. "FAIR MARKET RENTAL VALUE" MEANS THE FAIR MARKET RENT SET FOR THE  
2 CITY BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT;  
3 SUCH RENT MAY BE ADJUSTED, AT THE DISCRETION OF THE SUPERVISING AGENCY,  
4 BY, AMONG OTHER THINGS, EXAMINING REAL PROPERTY TAX ROLLS TO MORE ACCU-  
5 Rately REFLECT THE FAIR MARKET RENTS IN PARTICULAR NEIGHBORHOODS.

6 D. "GROSS INCOME" MEANS INCOME FROM ALL SOURCES AND INCLUDES SOCIAL  
7 SECURITY AND RETIREMENT BENEFITS, SUPPLEMENTAL SECURITY INCOME AND ADDI-  
8 TIONAL STATE PAYMENTS, PUBLIC ASSISTANCE BENEFITS, INTEREST, DIVIDENDS,  
9 NET RENTAL INCOME, SALARY OR EARNINGS, AND NET INCOME FROM SELF-EMPLOY-  
10 MENT, BUT SHALL NOT INCLUDE INCOME FROM GIFTS, ALIMONY, ANNUITIES, CHILD  
11 SUPPORT, INHERITANCES, PAYMENTS MADE TO INDIVIDUALS BECAUSE OF THEIR  
12 STATUS AS VICTIMS OF NAZI PERSECUTION, AS DEFINED IN P.L. 103-286, OR  
13 INCREASES IN BENEFITS ACCORDED PURSUANT TO THE SOCIAL SECURITY ACT OR A  
14 PUBLIC OR PRIVATE PENSION PAID TO ANY MEMBER OF THE HOUSEHOLD, WHICH  
15 INCREASE, IN ANY GIVEN YEAR, DOES NOT EXCEED THE CONSUMER PRICE INDEX  
16 (ALL ITEMS UNITED STATES CITY AVERAGE) FOR SUCH YEAR WHICH TAKES EFFECT  
17 AFTER THE DATE OF ELIGIBILITY OF THE HEAD OF THE HOUSEHOLD RECEIVING  
18 BENEFITS HEREUNDER, WHETHER RECEIVED BY THE HEAD OF THE HOUSEHOLD OR ANY  
19 OTHER MEMBER OF THE HOUSEHOLD.

20 E. "HEAD OF THE HOUSEHOLD" MEANS A PERSON WHO IS ENTITLED TO THE  
21 POSSESSION OR THE USE OR OCCUPANCY OF A DWELLING UNIT.

22 F. "HOUSEHOLD" MEANS THE HEAD OF THE HOUSEHOLD AND ANY PERSON, OTHER  
23 THAN A BONA FIDE ROOMER, BOARDER, OR SUBTENANT WHO IS NOT RELATED TO THE  
24 HEAD OF THE HOUSEHOLD, PERMANENTLY RESIDING IN THE DWELLING UNIT.

25 G. "MULTIPLE DWELLING" MEANS MULTIPLE DWELLING AS DEFINED IN SUBDIVI-  
26 SION SEVEN OF SECTION FOUR OF THE MULTIPLE DWELLING LAW.

27 H. "OWNER'S IMMEDIATE FAMILY" MEANS ANY OR ALL OF THE FOLLOWING  
28 RELATIONS TO THE OWNER OF AN ELIGIBLE UNIT: HUSBAND, WIFE, SON, DAUGH-  
29 TER, STEPSON, STEPDAUGHTER, FATHER, MOTHER, FATHER-IN-LAW,  
30 MOTHER-IN-LAW, GRANDMOTHER, OR GRANDFATHER.

31 I. "NET INCOME" MEANS GROSS INCOME MINUS ALL INCOME AND SOCIAL SECURI-  
32 TY TAXES PAID.

33 J. "REAL PROPERTY TAX YEAR" MEANS THE TWELVE-MONTH PERIOD FOR WHICH  
34 REAL PROPERTY TAXES ARE CHARGED; IN THE CITY OF NEW YORK THE REAL PROP-  
35 erty TAX YEAR IS JULY FIRST THROUGH JUNE THIRTIETH OF THE NEXT CALENDAR  
36 YEAR.

37 K. "SUPERVISING AGENCY" MEANS THE COMPTROLLER IN A MUNICIPALITY HAVING  
38 A COMPTROLLER; IN A MUNICIPALITY HAVING NO COMPTROLLER, THE CHIEF FISCAL  
39 OFFICER OF SUCH MUNICIPALITY; EXCEPT THAT IN THE CITY OF NEW YORK IT  
40 SHALL BE THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT.

41 2. THE GOVERNING BODY OF A CITY WITH A POPULATION OF ONE MILLION OR  
42 MORE IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT, AFTER PUBLIC HEARING,  
43 IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, A LOCAL LAW, ORDI-  
44 NANCE, OR RESOLUTION PROVIDING FOR THE ABATEMENT OF TAXES OF SAID CITY  
45 IMPOSED ON REAL PROPERTY. THE ABATEMENT SHALL WORK AS FOLLOWS: AN OWNER  
46 SHALL BE ENTITLED TO A PARTIAL TAX ABATEMENT OF THE REAL PROPERTY TAXES  
47 ASSESSED AGAINST THE MULTIPLE DWELLING CONTAINING THE ELIGIBLE UNIT WHEN  
48 SUCH OWNER RENTS THE ELIGIBLE UNIT, FOR AT LEAST ONE ADDITIONAL YEAR, TO  
49 AN ELIGIBLE HOUSEHOLD AT LESS THAN THE FAIR MARKET RENTAL VALUE FOR THE  
50 UNIT. THE OWNER OF A MULTIPLE DWELLING DEFINED AS CLASS ONE REAL PROPER-  
51 TY IN SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER SHALL RECEIVE A  
52 RETROACTIVE PARTIAL ABATEMENT EQUAL TO THE LESSER OF: (I) THE REAL PROP-  
53 erty TAXES ASSESSED AGAINST THE MULTIPLE DWELLING CONTAINING THE ELIGI-  
54 BLE UNIT IN THE APPLICABLE REAL PROPERTY TAX YEAR, AND (II) FIFTY  
55 PERCENT OF THE DIFFERENCE OF THE FAIR MARKET RENTAL VALUE FOR THE ELIGI-  
56 BLE UNIT AND THE ACTUAL RENT WHICH WAS COLLECTED FROM THE ELIGIBLE

1 HOUSEHOLD FOR THE UNIT IN THE APPLICABLE REAL PROPERTY TAX YEAR. THE  
2 OWNER OF A MULTIPLE DWELLING DEFINED AS CLASS TWO REAL PROPERTY, AS  
3 DEFINED IN SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER SHALL RECEIVE A  
4 RETROACTIVE PARTIAL ABATEMENT EQUAL TO THE LESSER OF: (I) THE REAL PROP-  
5 ERTY TAXES ASSESSED AGAINST THE MULTIPLE DWELLING CONTAINING THE ELIGI-  
6 BLE UNIT IN THE APPLICABLE REAL PROPERTY TAX YEAR, AND (II) SIXTY  
7 PERCENT OF THE DIFFERENCE OF THE FAIR MARKET RENTAL VALUE FOR THE ELIGI-  
8 BLE UNIT AND THE ACTUAL RENT WHICH WAS COLLECTED FROM THE ELIGIBLE  
9 HOUSEHOLD FOR THE UNIT IN THE APPLICABLE REAL PROPERTY TAX YEAR. THE  
10 AMOUNT OF THE ABATEMENT SHALL BE DEDUCTED FROM THE REAL PROPERTY TAXES  
11 LEVIED IN THE FOLLOWING REAL PROPERTY TAX YEAR ON THE MULTIPLE DWELLING  
12 CONTAINING THE ELIGIBLE UNIT. AFTER THE FIRST YEAR IN WHICH AN OWNER  
13 RECEIVES A TAX ABATEMENT UNDER THIS SECTION, IF THE OWNER AGREES TO RENT  
14 THE SAME UNIT TO THE SAME HOUSEHOLD FOR AN ADDITIONAL YEAR WITH A WRIT-  
15 TEN LEASE, AT LESS THAN THE FAIR MARKET RENTAL VALUE FOR THE UNIT,  
16 ASSUMING SUCH UNIT REMAINS AN ELIGIBLE UNIT AND SUCH HOUSEHOLD REMAINS  
17 AN ELIGIBLE HOUSEHOLD, THE AMOUNT OF THE ABATEMENT WILL BE INCREASED FOR  
18 EACH SUCH ADDITIONAL YEAR BY THREE PERCENT OF THE ANNUAL RENT FOR THE  
19 ELIGIBLE UNIT.

20 3. A. AN APPLICATION FOR ABATEMENT PURSUANT TO THIS SECTION FOR ANY  
21 REAL PROPERTY TAX YEAR SHALL BE SUBMITTED TO THE SUPERVISING AGENCY BY  
22 THE OWNER OF THE ELIGIBLE UNIT FOR EACH REAL PROPERTY TAX YEAR FOR WHICH  
23 THE ABATEMENT IS SOUGHT.

24 B. THE SUPERVISING AGENCY SHALL DETERMINE THE FORM AND CONTENT OF THE  
25 APPLICATION AND THE INFORMATION IT WILL CONTAIN. SUCH APPLICATION SHALL  
26 REQUIRE AT A MINIMUM THAT ANY OWNER SEEKING AN ABATEMENT PURSUANT TO  
27 THIS SECTION MUST CERTIFY THAT, FOR THE YEAR THE ABATEMENT IS BEING  
28 SOUGHT, THE UNIT WAS AN ELIGIBLE UNIT AND THE HOUSEHOLD RESIDING IN THE  
29 ELIGIBLE UNIT WAS AN ELIGIBLE HOUSEHOLD. IN ADDITION, THE SUPERVISING  
30 AGENCY IS AUTHORIZED TO AND SHALL COLLECT THE FOLLOWING INFORMATION FROM  
31 UNITS FOR WHICH AN ABATEMENT IS SOUGHT, WITHOUT LIMITATION:

32 (I) THE NAMES AND SOCIAL SECURITY OR TAX IDENTIFICATION NUMBERS OF ALL  
33 HOUSEHOLD MEMBERS IN THE UNIT EIGHTEEN YEARS OR OLDER;

34 (II) FOR EACH HOUSEHOLD MEMBER IN THE UNIT EIGHTEEN YEARS OR OLDER,  
35 THE TOTAL ANNUAL GROSS AND NET INCOME OF SUCH HOUSEHOLD MEMBER AS  
36 REPORTED ON THE HOUSEHOLD MEMBER'S MOST RECENT INCOME TAX RETURN;

37 (III) THE AMOUNT OF MONTHLY RENT CHARGED FOR THE UNIT AND THE AMOUNT  
38 OF RENT ACTUALLY PAID FOR ONE YEAR PRECEDING THE APPLICATION; AND

39 (IV) THE NUMBER OF RENTAL UNITS IN THE MULTIPLE DWELLING AND THE  
40 MONTHLY RENT CHARGED IN EACH UNIT, WHETHER OR NOT AN ELIGIBLE UNIT, IN  
41 THE YEAR PRECEDING THE YEAR OF THE APPLICATION.

42 IN COLLECTING THE INFORMATION DESCRIBED IN SUBPARAGRAPHS (I) THROUGH  
43 (IV) OF THIS PARAGRAPH, AND ANY OTHER INFORMATION RELATING TO THE TAX  
44 ABATEMENT DESCRIBED IN THIS SECTION, THE SUPERVISING AGENCY SHALL BE  
45 PERMITTED, WHERE RECORDS ARE NOT AVAILABLE, TO ACCEPT SWORN AFFIDAVITS  
46 AND OTHER CERTIFICATIONS THAT THE INFORMATION PROVIDED IS CORRECT.

47 C. THE SUPERVISING AGENCY SHALL INFORM IN WRITING ANY OWNER WHO  
48 APPLIES FOR THE ABATEMENT PROVIDED FOR IN THIS SECTION OF THE AMOUNT OF  
49 SUCH ABATEMENT NO LATER THAN THREE MONTHS AFTER RECEIVING A SUFFICIENTLY  
50 COMPLETED APPLICATION.

51 4. THE SUPERVISING AGENCY IS AUTHORIZED AND DIRECTED TO PROMULGATE  
52 RULES AND REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS  
53 SECTION.

54 5. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE SUPERVIS-  
55 ING AGENCY SHALL DENY, TERMINATE OR REVOKE ANY ABATEMENT APPLIED FOR OR  
56 GRANTED PURSUANT TO THIS SECTION UPON A DETERMINATION THAT THE RENT

1 CERTIFIED BY THE OWNER AS THE RENT PAID BY AN ELIGIBLE UNIT WAS MATE-  
2 RIALY DIFFERENT THAN THE RENT ACTUALLY PAID BY THE ELIGIBLE HOUSEHOLD  
3 FOR SUCH UNIT AND THAT THE OWNER OF THE UNIT WHO CERTIFIED THE INCORRECT  
4 RENT DID SO PRIMARILY FOR THE PURPOSE OF RECEIVING AN ABATEMENT UNDER  
5 THIS SECTION. IN MAKING SUCH DETERMINATION, THE SUPERVISING AGENCY MAY  
6 CONSIDER, AMONG OTHER FACTORS, WHETHER THE RENT CERTIFIED BY THE OWNER  
7 AS THE RENT CHARGED IS CONSISTENT WITH THE RENT CHARGED IN COMPARABLE  
8 DWELLING UNITS.

9 6. EXCEPT IN ACCORDANCE WITH PROPER JUDICIAL ORDER OR AS OTHERWISE  
10 PROVIDED BY LAW, NEITHER THE SUPERVISING AGENCY NOR AN EMPLOYEE THEREOF,  
11 NOR ANY PERSON WHO, PURSUANT TO THIS SUBDIVISION, IS AUTHORIZED TO  
12 INSPECT THE APPLICATION OR STATEMENTS IN CONNECTION THEREWITH REQUIRED  
13 BY THIS SECTION, SHALL DISCLOSE OR MAKE KNOWN THE CONTENTS OF ANY SUCH  
14 APPLICATION OR STATEMENTS. EXCEPT AS PROVIDED IN THIS SUBDIVISION THE  
15 OFFICERS CHARGED WITH THE CUSTODY OF ANY SUCH APPLICATION OR STATEMENTS  
16 SHALL NOT BE REQUIRED TO PRODUCE THEM IN ANY ACTION OR PROCEEDING IN ANY  
17 COURT OR BEFORE ANY ADMINISTRATIVE TRIBUNAL, BUT ANY SUCH APPLICATION OR  
18 STATEMENTS MAY BE PRODUCED ON BEHALF OF THE DEPARTMENT OF FINANCE.  
19 NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO PROHIBIT THE DELIVERY  
20 OF A CERTIFIED COPY OF ANY SUCH APPLICATION OR STATEMENTS TO THE UNITED  
21 STATES OF AMERICA OR ANY DEPARTMENT THEREOF, THE STATE OF NEW YORK OR  
22 ANY DEPARTMENT THEREOF, OR A CITY HAVING A POPULATION OF ONE MILLION OR  
23 MORE OR ANY DEPARTMENT THEREOF, PROVIDED ANY SUCH APPLICATION OR STATE-  
24 MENTS ARE REQUIRED FOR OFFICIAL BUSINESS; NOR TO PROHIBIT THE INSPECTION  
25 FOR OFFICIAL BUSINESS OF ANY SUCH APPLICATION OR STATEMENTS BY THE TAX  
26 COMMISSION OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE, OR BY  
27 THE CORPORATION COUNSEL OR OTHER LEGAL REPRESENTATIVE OF A CITY HAVING A  
28 POPULATION OF ONE MILLION OR MORE, OR BY ANY PERSON ENGAGED OR RETAINED  
29 BY THE DEPARTMENT OF FINANCE ON AN INDEPENDENT CONTRACT BASIS; NOR TO  
30 PROHIBIT THE PUBLICATION OF STATISTICS SO CLASSIFIED AS TO PREVENT THE  
31 IDENTIFICATION OF ANY PARTICULAR APPLICATION OR STATEMENTS.

32 7. THE INFORMATION CONTAINED IN APPLICATIONS OR STATEMENTS IN  
33 CONNECTION THEREWITH, FILED WITH THE SUPERVISING AGENCY PURSUANT TO  
34 SUBDIVISION THREE OF THIS SECTION SHALL NOT BE SUBJECT TO DISCLOSURE  
35 UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

36 S 2. The abatement provided for in this act shall first apply to real  
37 property taxes for the real property tax year which follows immediately  
38 after the year that this act is passed, and shall apply every year ther-  
39 eafter.

40 S 3. This act shall take effect on the first of January next succeed-  
41 ing the date on which it shall have become a law and shall apply to  
42 assessment rolls prepared on the basis of taxable status dates occurring  
43 on or after such effective date.