

3952

2009-2010 Regular Sessions

I N   S E N A T E

April 7, 2009

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Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and  
when printed to be committed to the Committee on Investigations and  
Government Operations

AN ACT to amend the tax law, in relation to creating a tax credit for  
disabled persons; qualification

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

1     Section 1.     Section 606 of the tax law is amended by adding a new  
2     subsection (c-2) to read as follows:  
3     (C-2) DISABLED PERSONS REAL PROPERTY TAX CREDIT. (1) FOR THE PURPOSES  
4     OF THIS SECTION:  
5     (I) AS USED IN THIS SECTION, "DISABLED" MEANS A PHYSICAL, MENTAL OR  
6     MEDICAL IMPAIRMENT, RESULTING FROM ANATOMICAL, PHYSIOLOGICAL OR NEURO-  
7     LOGICAL CONDITIONS, WHICH PREVENTS THE EXERCISE OF A NORMAL BODILY FUNC-  
8     TION OR IS DEMONSTRABLE BY MEDICALLY ACCEPTED CLINICAL LABORATORY DIAG-  
9     NOSTIC TECHNIQUES AND IS OF A NATURE SUFFICIENT TO QUALIFY ANY SUCH  
10    PERSON OR PERSONS AS ELIGIBLE FOR FEDERAL SOCIAL SECURITY DISABILITY  
11    BENEFITS.  
12    (II) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A DISABLED  
13    TAXPAYER AND ALL OTHER PERSONS, NOT NECESSARILY RELATED, WHO HAVE THE  
14    SAME RESIDENCE AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOMMODATIONS.  
15    SUCH TERMS SHALL NOT INCLUDE A TENANT, SUBTENANT, ROOMER OR BOARDER WHO  
16    IS NOT RELATED TO THE DISABLED TAXPAYER IN ANY DEGREE SPECIFIED IN PARA-  
17    GRAPHS ONE THROUGH EIGHT OF SUBSECTION (A) OF SECTION ONE HUNDRED  
18    FIFTY-TWO OF THE INTERNAL REVENUE CODE. PROVIDED, HOWEVER, NO PERSON  
19    MAY BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.  
20    (III) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS  
21    INCOME OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED  
22    FOR FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED  
23    GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,  
24    WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE

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

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1 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH  
2 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-  
3 ERTY OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES  
4 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY  
5 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY  
6 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;  
7 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION  
8 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS  
9 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND  
10 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-  
11 ANS' DISABILITY PENSIONS); DISABILITY BENEFITS EXCLUDABLE FROM SUCH  
12 ADJUSTED GROSS INCOME BY SUBSECTION (D) OF SECTION ONE HUNDRED FIVE OF  
13 THE INTERNAL REVENUE CODE; ALL PAYMENTS RECEIVED UNDER THE STATE UNEM-  
14 PLOYMENT INSURANCE LAWS; NONTAXABLE INTEREST RECEIVED FROM THE STATE OF  
15 NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS OR POLI-  
16 TICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO  
17 AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-  
18 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF  
19 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE  
20 NEEDY, PAID TO OR FOR THE BENEFIT OF THE DISABLED TAXPAYER OR MEMBERS OF  
21 HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE SURPLUS  
22 FOODS OR OTHER RELIEF IN KIND. PROVIDED, FURTHER, HOUSEHOLD GROSS  
23 INCOME SHALL ONLY INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE  
24 HOUSEHOLD WHILE MEMBERS OF SUCH HOUSEHOLD.

25 (IV) "RESIDENCE" MEANS A DWELLING IN THIS STATE, WHETHER OWNED OR  
26 RENTED, AND SO MUCH OF THE LAND ABUTTING IT, NOT EXCEEDING ONE ACRE, AS  
27 IS REASONABLY NECESSARY FOR USE OF THE DWELLING AS A HOME, AND MAY  
28 CONSIST OF A PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUD-  
29 ING A COOPERATIVE OR CONDOMINIUM, AND RENTAL UNITS WITHIN A SINGLE  
30 DWELLING. RESIDENCE INCLUDES A TRAILER OR MOBILE HOME, USED EXCLUSIVELY  
31 FOR RESIDENTIAL PURPOSES AND DEFINED AS REAL PROPERTY PURSUANT TO PARA-  
32 GRAPH (G) OF SUBDIVISION TWELVE OF SECTION ONE HUNDRED TWO OF THE REAL  
33 PROPERTY TAX LAW.

34 (V) "QUALIFYING REAL PROPERTY TAXES" MEANS ALL REAL PROPERTY TAXES,  
35 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENAL-  
36 TIES AND INTEREST, LEVIED ON THE RESIDENCE OF A DISABLED TAXPAYER AND  
37 PAID DURING THE TAXABLE YEAR, AS WELL AS ANY ADDITIONAL AMOUNT THAT  
38 WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION FROM REAL PROPERTY  
39 TAXATION PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF THE REAL PROP-  
40 ERTY TAX LAW. IF TENANT-STOCKHOLDERS IN A COOPERATIVE HOUSING CORPO-  
41 RATION HAVE MET THE REQUIREMENTS OF SECTION TWO HUNDRED SIXTEEN OF THE  
42 INTERNAL REVENUE CODE BY WHICH THEY ARE ALLOWED A DEDUCTION FOR REAL  
43 ESTATE TAXES, THE AMOUNT OF TAXES SO ALLOWABLE, OR WHICH WOULD BE ALLOW-  
44 ABLE IF THE TAXPAYER HAD FILED RETURNS ON A CASH BASIS, SHALL BE QUALI-  
45 FYING REAL PROPERTY TAXES. IF A RESIDENCE IS OWNED BY TWO OR MORE INDI-  
46 VIDUALS AS JOINT TENANTS OR TENANTS IN COMMON, AND ONE OR MORE THAN ONE  
47 INDIVIDUAL IS NOT A MEMBER OF THE HOUSEHOLD, QUALIFYING REAL PROPERTY  
48 TAXES IS THAT PART OF SUCH TAXES ON THE RESIDENCE WHICH REFLECTS THE  
49 OWNERSHIP PERCENTAGE OF THE DISABLED TAXPAYER AND MEMBERS OF HIS OR HER  
50 HOUSEHOLD. IF A RESIDENCE IS AN INTEGRAL PART OF A LARGER UNIT, QUALI-  
51 FYING REAL PROPERTY TAXES SHALL BE LIMITED TO THAT AMOUNT OF SUCH TAXES  
52 PAID AS MAY BE REASONABLY APPORTIONED TO SUCH RESIDENCE. IF A HOUSEHOLD  
53 OWNS AND OCCUPIES TWO OR MORE RESIDENCES DURING DIFFERENT PERIODS IN  
54 THE SAME TAXABLE YEAR, QUALIFYING REAL PROPERTY TAXES SHALL BE THE SUM  
55 OF THE PRORATED QUALIFYING REAL PROPERTY TAXES ATTRIBUTABLE TO THE  
56 HOUSEHOLD DURING THE PERIODS SUCH HOUSEHOLD OCCUPIES EACH OF SUCH RESI-

1 DENCES. IF THE HOUSEHOLD OWNS AND OCCUPIES A RESIDENCE FOR PART OF THE  
2 TAXABLE YEAR AND RENTS A RESIDENCE FOR PART OF THE SAME TAXABLE YEAR,  
3 IT MAY INCLUDE BOTH THE PRORATION OF QUALIFYING REAL PROPERTY TAXES ON  
4 THE RESIDENCE OWNED AND THE REAL PROPERTY TAX EQUIVALENT WITH RESPECT TO  
5 THE MONTHS THE RESIDENCE IS RENTED. PROVIDED, HOWEVER, FOR PURPOSES OF  
6 THE CREDIT ALLOWED UNDER THIS SUBSECTION, QUALIFYING REAL PROPERTY TAXES  
7 MAY BE INCLUDED BY A DISABLED TAXPAYER ONLY TO THE EXTENT THAT SUCH  
8 TAXPAYER OR THE SPOUSE OF SUCH TAXPAYER OCCUPYING SUCH RESIDENCE FOR SIX  
9 MONTHS OR MORE OF THE TAXABLE YEAR OWNS OR HAS OWNED THE RESIDENCE AND  
10 PAID SUCH TAXES.

11 (VI) "REAL PROPERTY TAX EQUIVALENT" MEANS TWENTY-FIVE PERCENT OF THE  
12 ADJUSTED RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY  
13 FOR THE RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE  
14 YEAR.

15 IF (A) A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS CO-TENANTS,  
16 OR SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT  
17 OF OCCUPANCY OF SUCH RESIDENCE, AND (B) EACH OF SUCH INDIVIDUALS IS A  
18 MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES  
19 SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF TWENTY-  
20 FIVE PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH  
21 REFLECTS THAT PORTION OF THE RENT ATTRIBUTABLE TO THE DISABLED TAXPAYER  
22 AND THE MEMBERS OF HIS OR HER HOUSEHOLD.

23 (VII) "ADJUSTED RENT" MEANS RENTAL PAID FOR THE RIGHT OF OCCUPANCY OF  
24 A RESIDENCE, EXCLUDING CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS  
25 AND BOARD. WHERE CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS OR  
26 BOARD ARE INCLUDED IN RENTAL BUT WHERE SUCH CHARGES AND THE AMOUNT THERE-  
27 OF ARE NOT SEPARATELY SET FORTH IN A WRITTEN RENTAL AGREEMENT, FOR  
28 PURPOSES OF DETERMINING ADJUSTED RENT THE DISABLED TAXPAYER SHALL REDUCE  
29 RENTAL PAID AS FOLLOWS:

30 (A) FOR HEAT, OR HEAT AND GAS, DEDUCT FIFTEEN PERCENT OF RENTAL PAID.

31 (B) FOR HEAT, GAS AND ELECTRICITY, DEDUCT TWENTY PERCENT OF RENTAL  
32 PAID.

33 (C) FOR HEAT, GAS, ELECTRICITY AND FURNISHINGS, DEDUCT TWENTY-FIVE  
34 PERCENT OF RENTAL PAID.

35 (D) FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND BOARD, DEDUCT FIFTY  
36 PERCENT OF RENTAL PAID.

37 IF THE COMMISSIONER DETERMINES THAT THE ADJUSTED RENT SHOWN ON THE  
38 RETURN IS EXCESSIVE, THE COMMISSIONER MAY REDUCE SUCH RENT, FOR PURPOSES  
39 OF THE COMPUTATION OF THE CREDIT, TO AN AMOUNT SUBSTANTIALLY EQUIVALENT  
40 TO RENT FOR A COMPARABLE ACCOMMODATION.

41 (2) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVEN AND THEREAFTER,  
42 A DISABLED TAXPAYER SHALL BE ALLOWED A CREDIT, AS HEREINAFTER PROVIDED  
43 IN PARAGRAPH THREE OF THIS SUBSECTION AGAINST THE TAXES IMPOSED BY THIS  
44 ARTICLE REDUCED BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT  
45 EXCEEDS THE TAX, AS SO REDUCED, FOR SUCH YEAR UNDER THIS ARTICLE, THE  
46 DISABLED TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, SUBJECT TO A CERTIF-  
47 ICATE FROM THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTER-  
48 EST, ANY EXCESS BETWEEN SUCH TAX, AS SO REDUCED, AND THE AMOUNT OF THE  
49 CREDIT. IF A DISABLED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT  
50 TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A DISABLED TAXPAYER  
51 MAY, NEVERTHELESS, RECEIVE AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE  
52 OF THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT THE FULL AMOUNT OF THE  
53 CREDIT, WITHOUT INTEREST.

54 (3) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE AND THEREAFTER,  
55 FOR DISABLED TAXPAYERS THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS  
56 SUBSECTION SHALL BE FIFTY PERCENT OR IN THE CASE OF A DISABLED TAXPAYER

WHO HAS ELECTED TO INCLUDE AN ADDITIONAL AMOUNT PURSUANT TO SUBPARAGRAPH (V) OF PARAGRAPH ONE OF THIS SUBSECTION, TWENTY-FIVE PERCENT, OF THE EXCESS OF REAL PROPERTY TAXES OR OF THE EXCESS OF REAL PROPERTY TAX EQUIVALENT DETERMINED AS FOLLOWS:

|                                                            | EXCESS REAL PROPERTY TAXES<br>ARE THE EXCESS OF THE REAL<br>PROPERTY TAX EQUIVALENT OR<br>THE EXCESS OF QUALIFYING<br>REAL PROPERTY TAXES OVER<br>THE FOLLOWING PERCENTAGE OF<br>HOUSEHOLD GROSS INCOME: |
|------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| IF HOUSEHOLD GROSS<br>INCOME FOR THE TAX-<br>ABLE YEAR IS: |                                                                                                                                                                                                          |
| \$ 0 TO \$ 3,000                                           | 3 1/2                                                                                                                                                                                                    |
| \$3,001 TO \$ 5,000                                        | 4                                                                                                                                                                                                        |
| \$5,001 TO \$ 7,000                                        | 4 1/2                                                                                                                                                                                                    |
| \$7,001 TO \$ 9,000                                        | 5                                                                                                                                                                                                        |
| \$9,001 TO \$11,000                                        | 5 1/2                                                                                                                                                                                                    |
| \$11,001 TO \$14,000                                       | 6                                                                                                                                                                                                        |
| \$14,001 TO \$18,000                                       | 6 1/2                                                                                                                                                                                                    |

NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETERMINED UNDER THIS PARAGRAPH WITH RESPECT TO ANY TAXPAYER SHALL NOT EXCEED AN AMOUNT SHOWN IN COLUMN TWO BELOW.

| COLUMN 1                                                 | COLUMN 2                                                  |
|----------------------------------------------------------|-----------------------------------------------------------|
| IF HOUSEHOLD GROSS<br>INCOME FOR THE<br>TAXABLE YEAR IS: | THE MAXIMUM CREDIT FOR<br>DISABLED TAXPAYERS<br>SHALL BE: |
| \$ 0 TO \$ 1,000                                         | \$375                                                     |
| \$1,001 TO \$ 2,000                                      | \$358                                                     |
| \$2,001 TO \$ 3,000                                      | \$341                                                     |
| \$3,001 TO \$ 4,000                                      | \$324                                                     |
| \$4,001 TO \$ 5,000                                      | \$307                                                     |
| \$5,001 TO \$ 6,000                                      | \$290                                                     |
| \$6,001 TO \$ 7,000                                      | \$273                                                     |
| \$7,001 TO \$ 8,000                                      | \$256                                                     |
| \$8,001 TO \$ 9,000                                      | \$239                                                     |
| \$9,001 TO \$10,000                                      | \$222                                                     |
| \$10,001 TO \$11,000                                     | \$205                                                     |
| \$11,001 TO \$12,000                                     | \$188                                                     |
| \$12,001 TO \$13,000                                     | \$171                                                     |
| \$13,001 TO \$14,000                                     | \$154                                                     |
| \$14,001 TO \$15,000                                     | \$137                                                     |
| \$15,001 TO \$16,000                                     | \$120                                                     |
| \$16,001 TO \$17,000                                     | \$103                                                     |
| \$17,001 TO \$18,000                                     | \$ 86                                                     |

(4) IF A DISABLED TAXPAYER OCCUPIES A RESIDENCE FOR A PERIOD OF LESS THAN TWELVE MONTHS DURING THE TAXABLE YEAR OR OCCUPIES TWO OR MORE RESIDENCES DURING DIFFERENT PERIODS IN SUCH TAXABLE YEAR, THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE COMPUTED IN SUCH MANNER AS THE COMMISSIONER MAY, BY REGULATION, PRESCRIBE IN ORDER TO PROPERLY REFLECT THE CREDIT OR PORTION THEREOF ATTRIBUTABLE TO SUCH RESIDENCE OR RESIDENCES AND SUCH PERIOD OR PERIODS.

(5) THE COMMISSIONER MAY PRESCRIBE THAT THE CREDIT UNDER THIS SUBSECTION SHALL BE DETERMINED IN WHOLE OR IN PART BY THE USE OF TABLES PRESCRIBED BY SUCH COMMISSIONER. SUCH TABLES SHALL SET FORTH THE CREDIT TO THE NEAREST DOLLAR.

(6) ONLY ONE CREDIT PER HOUSEHOLD AND PER A DISABLED TAXPAYER SHALL BE ALLOWED PER TAXABLE YEAR UNDER THIS SUBSECTION. WHEN TWO OR MORE MEMBERS OF A HOUSEHOLD ARE ABLE TO MEET THE QUALIFICATIONS FOR A DISABLED TAXPAYER, THE CREDIT SHALL BE EQUALLY DIVIDED BETWEEN OR AMONG SUCH INDIVIDUALS UNLESS SUCH INDIVIDUALS FILE WITH THE COMMISSIONER A WRITTEN AGREEMENT AMONG SUCH INDIVIDUALS SETTING FORTH A DIFFERENT DIVISION.

(I) PROVIDED, HOWEVER, WHERE A JOINT INCOME TAX RETURN HAS BEEN FILED PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE BY A DISABLED TAXPAYER AND HIS OR HER SPOUSE (OR WHERE BOTH SPOUSES ARE DISABLED TAXPAYERS AND HAVE FILED SUCH JOINT RETURN), THE CREDIT, OR THE PORTION OF THE CREDIT IF DIVIDED, TO WHICH THE HUSBAND AND WIFE ARE ENTITLED SHALL BE APPLIED AGAINST THE TAX OF BOTH SPOUSES AND ANY OVERPAYMENT SHALL BE MADE TO BOTH SPOUSES.

(II) WHERE A DISABLED TAXPAYER AND HIS OR HER SPOUSE (OR WHERE BOTH SPOUSES ARE DISABLED TAXPAYERS) FILE THEIR SEPARATE RETURNS ON A SINGLE FORM UNDER SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, THE CREDIT, OR THE PORTION OF THE CREDIT IF DIVIDED, ALLOWED TO THE DISABLED TAXPAYER MAY BE OFFSET BY THE COMMISSIONER AGAINST THE TAX LIABILITY OF THE OTHER SPOUSE PROVIDED, HOWEVER, IF THE RETURN OF EITHER SPOUSE INCLUDES A DEMAND THAT ANY OVERPAYMENT OF TAXES MADE BY HIM OR HER SHALL BE APPLIED ONLY ON ACCOUNT OF HIS OR HER SEPARATE LIABILITY, THE CREDIT, OR THE PORTION OF THE CREDIT IF DIVIDED, SHALL ALSO BE SO APPLIED.

(III) WHERE ANY RETURN REQUIRED TO BE FILED PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE IS COMBINED WITH THE RETURN OF TAX IMPOSED BY A LOCAL LAW OF THE CITY OF NEW YORK PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY OF THIS CHAPTER OR FORMER ARTICLE TWO-E OF THE GENERAL CITY LAW, THE CREDIT OR THE PORTION OF THE CREDIT IF DIVIDED, ALLOWED TO THE DISABLED TAXPAYER MAY BE APPLIED BY THE COMMISSIONER TOWARD ANY LIABILITY FOR THE STATE TAXES IMPOSED UNDER THIS CHAPTER AND THE AFOREMENTIONED LOCAL TAXES.

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

(I) FOR THE TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVEN AND THEREAFTER IF HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR EXCEEDS EIGHTEEN THOUSAND DOLLARS.

(II) TO A PROPERTY OWNER UNLESS: (A) THE PROPERTY IS USED FOR RESIDENTIAL PURPOSES; AND (B) NOT MORE THAN TWENTY PERCENT OF THE RENTAL INCOME, IF ANY, FROM THE PROPERTY IS FROM RENTAL FOR NONRESIDENTIAL PURPOSES; AND (C) THE PROPERTY IS OCCUPIED AS A RESIDENCE IN WHOLE OR IN PART BY ONE OR MORE OF THE OWNERS OF THE PROPERTY.

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

(IV) TO A TENANT IF ADJUSTED RENT FOR THE RESIDENCE EXCEEDS THREE HUNDRED DOLLARS PER MONTH AND FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVEN AND THEREAFTER, IF THE ADJUSTED RENT EXCEEDS FOUR HUNDRED FIFTY DOLLARS PER MONTH ON AVERAGE.

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

(VI) WITH RESPECT TO A RESIDENCE THAT IS WHOLLY EXEMPTED FROM REAL PROPERTY TAXATION.

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

(8) THE RIGHT TO CLAIM A CREDIT WHERE SUCH CREDIT HAS BEEN DIVIDED UNDER THIS SUBSECTION, SHALL BE PERSONAL TO THE DISABLED TAXPAYER AND SHALL NOT SURVIVE HIS OR HER DEATH, BUT SUCH RIGHT MAY BE EXERCISED ON

1 BEHALF OF A CLAIMANT BY HIS OR HER LEGAL GUARDIAN OR ATTORNEY IN FACT  
2 DURING HIS OR HER LIFETIME.

3 (9) IF A DISABLED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT  
4 TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A CLAIM FOR A CREDIT  
5 MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE YEARS  
6 FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED PURSU-  
7 ANT TO SUCH SECTION HAD THE DISABLED TAXPAYER HAD A TAXABLE YEAR ENDING  
8 ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE IN SUCH  
9 FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHO SHALL MAKE AVAIL-  
10 ABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

11 (10) THE COMMISSIONER MAY REQUIRE A DISABLED TAXPAYER TO FURNISH THE  
12 FOLLOWING INFORMATION IN SUPPORT OF HIS OR HER CLAIM FOR CREDIT UNDER  
13 THIS SUBSECTION: HOUSEHOLD GROSS INCOME, RENT PAID, NAME AND ADDRESS OF  
14 OWNER OR MANAGING AGENT OF THE PROPERTY RENTED, REAL PROPERTY TAXES  
15 LEVIED OR THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION  
16 FROM REAL PROPERTY TAX PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF  
17 THE REAL PROPERTY TAX LAW, THE NAMES OF MEMBERS OF THE HOUSEHOLD AND  
18 OTHER DISABLED TAXPAYERS OCCUPYING THE SAME RESIDENCE AND THEIR IDENTI-  
19 FIFYING NUMBERS INCLUDING SOCIAL SECURITY NUMBERS, HOUSEHOLD GROSS INCOME,  
20 SIZE AND NATURE OF PROPERTY CLAIMED AS RESIDENCE AND ALL OTHER INFORMA-  
21 TION WHICH MAY BE REQUIRED BY THE COMMISSIONER TO DETERMINE THE CREDIT.

22 (11) THE PROVISIONS OF THIS ARTICLE, INCLUDING THE PROVISIONS OF  
23 SECTIONS SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT, AND SIX  
24 HUNDRED FIFTY-NINE AND THE PROVISIONS OF PART SIX OF THIS ARTICLE RELAT-  
25 ING TO PROCEDURE AND ADMINISTRATION, INCLUDING THE JUDICIAL REVIEW OF  
26 THE DECISIONS OF THE TAX APPEALS TRIBUNAL, EXCEPT SO MUCH OF SECTION SIX  
27 HUNDRED EIGHTY-SEVEN OF THIS ARTICLE WHICH PERMITS A CLAIM FOR CREDIT OR  
28 REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN PARAGRAPH NINE OF  
29 THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED FIFTY-SEVEN, SIX HUNDRED  
30 EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX OF THIS ARTICLE, SHALL APPLY TO  
31 THE PROVISIONS OF THIS SUBSECTION IN THE SAME MANNER AND WITH THE SAME  
32 FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE PROVISIONS HAD BEEN INCOR-  
33 PORATED IN FULL INTO THIS SUBSECTION AND HAD EXPRESSLY REFERRED TO THE  
34 CREDIT ALLOWED OR RETURNS FILED UNDER THIS SUBSECTION, EXCEPT TO THE  
35 EXTENT THAT ANY SUCH PROVISION IS EITHER INCONSISTENT WITH A PROVISION  
36 OF THIS SUBSECTION OR IS NOT RELEVANT TO THIS SUBSECTION. AS USED IN  
37 SUCH SECTIONS AND SUCH PART, THE TERM "TAXPAYER" SHALL INCLUDE A DISA-  
38 BLED TAXPAYER UNDER THIS SUBSECTION AND, NOTWITHSTANDING THE PROVISIONS  
39 OF SUBSECTION (E) OF SECTION SIX HUNDRED NINETY-SEVEN OF THIS ARTICLE,  
40 WHERE A DISABLED TAXPAYER HAS PROTESTED THE DENIAL OF A CLAIM FOR CREDIT  
41 UNDER THIS SUBSECTION AND THE TIME TO FILE A PETITION FOR REDETERMI-  
42 NATION OF A DEFICIENCY OR FOR A REFUND HAS NOT EXPIRED, HE OR SHE SHALL,  
43 SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE COMMISSIONER, RECEIVE  
44 SUCH INFORMATION: (I) WHICH IS CONTAINED IN ANY RETURN FILED UNDER THIS  
45 ARTICLE BY A MEMBER OF HIS OR HER HOUSEHOLD FOR THE TAXABLE YEAR FOR  
46 WHICH THE CREDIT IS CLAIMED; AND (II) WHICH THE COMMISSIONER FINDS IS  
47 RELEVANT AND MATERIAL TO THE ISSUE OF WHETHER SUCH CLAIM WAS PROPERLY  
48 DENIED. THE COMMISSIONER SHALL HAVE THE AUTHORITY TO PROMULGATE SUCH  
49 RULES AND REGULATIONS AS MAY BE NECESSARY FOR THE PROCESSING, DETERMI-  
50 NATION AND GRANTING OF CREDITS AND REFUNDS UNDER THIS SUBSECTION.

51 (12) THE COMMISSIONER MAY REQUEST THE COOPERATION OF THE STATE BOARD  
52 OF REAL PROPERTY SERVICES IN CARRYING OUT THE PROVISIONS OF THIS  
53 SUBSECTION. SUCH BOARD MAY PROMULGATE SUCH RULES AND REGULATIONS,  
54 SUBJECT TO PRIOR CONSULTATION WITH THE COMMISSIONER, AS MAY BE NECES-  
55 SARY TO PROVIDE SUCH ASSISTANCE WITH RESPECT TO THE DETERMINATION OF

1 FULL VALUE OF REAL PROPERTY FOR PURPOSES OF THE CREDIT ALLOWED UNDER  
2 THIS SUBSECTION.

3 (13) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, THE CREDIT  
4 ALLOWED UNDER THIS SUBSECTION SHALL BE DETERMINED AFTER THE DETERMI-  
5 NATION AND APPLICATION OF ANY OTHER CREDITS PERMITTED UNDER THE  
6 PROVISIONS OF THIS ARTICLE.

7 S 2. This act shall take effect immediately and shall apply to all  
8 taxable years commencing after December 31, 2009.