

9440

I N A S S E M B L Y

(PREFILED)

January 6, 2010

Introduced by M. of A. CASTRO -- read once and referred to the Committee
on Real Property Taxation

AN ACT to amend the real property tax law, in relation to creating tax
abatements for certain commercial properties located within the Kings-
bridge Armory mall project

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

Section 1. Article 4 of the real property tax law is amended by adding
a new title 3-A to read as follows:

TITLE 3-A

TAX ABATEMENT FOR CERTAIN COMMERCIAL
PROPERTIES LOCATED WITHIN THE KINGSBRIDGE ARMORY MALL
PROJECT

SECTION 496. DEFINITIONS.

- 496-A. REAL PROPERTY TAX ABATEMENT.
- 496-B. CREDIT TO TENANT.
- 496-C. ELIGIBILITY REQUIREMENTS.
- 496-D. APPLICATION FOR CERTIFICATE OF ABATEMENT.
- 496-E. ENFORCEMENT AND ADMINISTRATION.
- 496-F. REPORTING REQUIREMENTS; REVOCATION OF ABATEMENTS.
- 496-G. TAX LIEN; INTEREST AND PENALTY.
- 496-H. CONFIDENTIALITY.

S 496. DEFINITIONS. WHEN USED IN THIS TITLE, THE FOLLOWING TERMS SHALL
MEAN OR INCLUDE:

- 1. "ABATEMENT BASE". THE LESSER OF: (A) TWO DOLLARS AND FIFTY CENTS
OR (B) FIFTY PER CENTUM OF THE TAX LIABILITY PER SQUARE FOOT.
- 2. "ABATEMENT ZONE". ANY AREA LOCATED WITHIN A TWO AND ONE-HALF MILE
RADIUS OF THE CONSTRUCTION AREA OF THE KINGSBRIDGE ARMORY MALL PROJECT.
- 3. "AGGREGATE FLOOR AREA". THE SUM OF THE GROSS AREAS OF THE SEVERAL
FLOORS OF A BUILDING, MEASURED FROM THE EXTERIOR FACES OF EXTERIOR WALLS
OR FROM THE CENTER LINES OF WALLS SEPARATING TWO BUILDINGS.
- 4. "APPLICANT". THE LANDLORD AND THE TENANT.

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

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1 5. "BENEFIT PERIOD". THE PERIOD COMMENCING WITH THE FIRST DAY OF THE
2 MONTH IMMEDIATELY FOLLOWING THE RENT COMMENCEMENT DATE AND TERMINATING
3 NO LATER THAN SIXTY MONTHS THEREAFTER.

4 6. "BILLABLE ASSESSED VALUE". THE LESSER OF THE TAXABLE TRANSITIONAL
5 OR THE TAXABLE ACTUAL ASSESSED VALUE OF THE ELIGIBLE BUILDING AND THE
6 LAND ON WHICH THE ELIGIBLE BUILDING IS LOCATED FOR THE FISCAL YEAR IN
7 WHICH THE BENEFIT PERIOD COMMENCES, AS COMPUTED PURSUANT TO SUBDIVISION
8 THREE OF SECTION EIGHTEEN HUNDRED FIVE OF THIS CHAPTER.

9 7. "DEPARTMENT OF FINANCE". THE DEPARTMENT OF FINANCE OF THE CITY OF
10 NEW YORK.

11 8. "ELIGIBLE BUILDING". A NON-RESIDENTIAL OR MIXED-USE BUILDING
12 LOCATED IN THE ABATEMENT ZONE. SUCH ELIGIBLE BUILDING SHALL NOT INCLUDE
13 ANY BUILDING OWNED BY A GOVERNMENTAL AGENCY.

14 9. "ELIGIBLE PREMISES". PREMISES LOCATED IN AN ELIGIBLE BUILDING
15 WHICH ARE OCCUPIED OR USED BY A BUSINESS THAT (A) HAS BEEN CONDUCTING
16 BUSINESS OPERATIONS AND ENGAGING PRIMARILY IN RETAIL ACTIVITIES, ENTER-
17 TAINMENT, OR RESTAURANT SERVICES DURING THE FIVE CONSECUTIVE YEARS PRIOR
18 TO THE RENT COMMENCEMENT DATE; (B) WILL BE ENGAGED PRIMARILY IN RETAIL
19 ACTIVITIES, ENTERTAINMENT, OR RESTAURANT SERVICES AT SUCH ELIGIBLE PREM-
20 ISES; AND (C) WHO HAS FEWER THAN ONE HUNDRED TWENTY-FIVE EMPLOYEES IN
21 THE INITIAL TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

22 10. "FISCAL YEAR". THE FISCAL YEAR OF ANY CITY HAVING A POPULATION OF
23 ONE MILLION OR MORE.

24 11. "GOVERNMENTAL AGENCY". THE UNITED STATES OF AMERICA OR ANY AGENCY
25 OR INSTRUMENTALITY THEREOF, THE STATE OF NEW YORK, THE CITY OF NEW YORK,
26 ANY PUBLIC CORPORATION (INCLUDING A BODY CORPORATE AND POLITIC CREATED
27 PURSUANT TO AGREEMENT OR COMPACT BETWEEN THE STATE OF NEW YORK AND ANY
28 OTHER STATE), PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY OR OTHER
29 POLITICAL SUBDIVISION OF THE STATE.

30 12. "LANDLORD". ANY PERSON WHO: (A) CONTROLS ALL NON-RESIDENTIAL
31 PORTIONS OF AN ELIGIBLE BUILDING, INCLUDING, WITHOUT LIMITATION, THE
32 RECORD OWNER, THE LESSEE UNDER A GROUND LEASE, ANY MORTGAGEE IN
33 POSSESSION OR ANY RECEIVER; AND

34 (B) WHO GRANTS THE RIGHT TO USE OR OCCUPY ELIGIBLE PREMISES TO ANY
35 TENANT, PROVIDED THAT LANDLORD SHALL NOT INCLUDE ANY LESSEE WHO AT ANY
36 TIME DURING THE LEASE TERM OCCUPIED OR USED OR OCCUPIES OR USES ANY PART
37 OF THE NON-RESIDENTIAL PORTIONS OF SUCH ELIGIBLE BUILDING, OTHER THAN
38 PREMISES OCCUPIED OR USED BY SUCH LESSEE TO PROVIDE RENTAL OR MANAGEMENT
39 SERVICES TO SUCH BUILDING.

40 13. "LEASE COMMENCEMENT DATE". THE DATE SET FORTH IN THE LEASE ON
41 WHICH THE TERM OF THE LEASE COMMENCES.

42 14. "MIXED-USE BUILDING". A BUILDING USED FOR BOTH RESIDENTIAL AND
43 COMMERCIAL PURPOSES, PROVIDED THAT MORE THAN TWENTY-FIVE PER CENTUM OF
44 THE AGGREGATE FLOOR AREA OF SUCH BUILDING IS USED OR HELD OUT FOR USE AS
45 COMMERCIAL, COMMUNITY FACILITY OR ACCESSORY USE SPACE.

46 15. "PERSON". AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY COMPANY,
47 PARTNERSHIP, ASSOCIATION, AGENCY, TRUST, ESTATE, FOREIGN OR DOMESTIC
48 GOVERNMENT OR SUBDIVISION THEREOF, OR OTHER ENTITY.

49 16. "TAX LIABILITY". THE PRODUCT OBTAINED BY MULTIPLYING THE BILLABLE
50 ASSESSED VALUE FOR THE FISCAL YEAR IN WHICH THE BENEFIT PERIOD COMMENCES
51 BY THE TAX RATE APPLICABLE TO THE ELIGIBLE BUILDING FOR SUCH FISCAL YEAR
52 AS SET BY THE LOCAL LEGISLATIVE BODY OF ANY CITY HAVING A POPULATION OF
53 ONE MILLION OR MORE.

54 17. "TAX LIABILITY PER SQUARE FOOT". THE TAX LIABILITY DIVIDED BY THE
55 TOTAL NUMBER OF SQUARE FEET IN THE ELIGIBLE BUILDING, AS LISTED ON THE
56 RECORDS OF THE DEPARTMENT OF FINANCE.

1 18. "TENANT". A PERSON (INCLUDING ANY SUCCESSORS IN INTEREST) WHO
2 EXECUTES A LEASE WITH THE LANDLORD FOR THE RIGHT TO OCCUPY OR USE THE
3 ELIGIBLE PREMISES AND WHO OCCUPIES OR USES THE ELIGIBLE PREMISES PURSU-
4 ANT TO SUCH LEASE. TENANT SHALL NOT INCLUDE ANY SUBTENANT.

5 19. "TENANT'S PERCENTAGE SHARE". THE PERCENTAGE OF THE ELIGIBLE
6 BUILDING'S AGGREGATE FLOOR AREA ALLOCATED TO THE ELIGIBLE PREMISES,
7 WHICH SHALL BE PRESUMED TO BE SUCH PERCENTAGE AS SET FORTH IN THE LEASE
8 FOR THE ELIGIBLE PREMISES; PROVIDED THAT WHERE THE ELIGIBLE PREMISES
9 INCLUDES EXPANSION PREMISES, THE "TENANT'S PERCENTAGE SHARE" SHALL BE
10 CALCULATED ON THE BASIS OF THE PERCENTAGE OF THE ELIGIBLE BUILDING'S
11 AGGREGATE FLOOR AREA ALLOCATED SOLELY TO THE EXPANSION PREMISES.

12 20. "RENEWAL TENANT". A PERSON WHO HAS AN EXISTING LEASE WITH THE
13 LANDLORD AND RENEGOTIATES OR RENEWS SUCH LEASE WITH THE LANDLORD FOR THE
14 RIGHT TO OCCUPY OR USE THE ELIGIBLE PREMISES.

15 S 496-A. REAL PROPERTY TAX ABATEMENT. 1. WITHIN A CITY HAVING A POPU-
16 LATION OF ONE MILLION OR MORE, ELIGIBLE BUILDINGS CONTAINING ELIGIBLE
17 PREMISES SHALL RECEIVE AN ABATEMENT OF REAL PROPERTY TAXES DURING THE
18 BENEFIT PERIOD AS FOLLOWS:

19 (A) FOR EACH OF THE FIRST THREE YEARS OF THE BENEFIT PERIOD, THE
20 ABATEMENT SHALL BE EQUAL TO THE PRODUCT OBTAINED BY:

21 (1) MULTIPLYING THE TENANT'S PERCENTAGE SHARE BY THE NUMBER OF SQUARE
22 FEET IN THE ELIGIBLE BUILDING, AS LISTED ON THE RECORDS OF THE DEPART-
23 MENT OF FINANCE AND

24 (2) MULTIPLYING THE PRODUCT OBTAINED IN SUBPARAGRAPH ONE OF THIS PARA-
25 GRAPH BY THE ABATEMENT BASE;

26 (B) FOR THE FOURTH YEAR OF THE BENEFIT PERIOD, THE ABATEMENT SHALL BE
27 EQUAL TO TWO-THIRDS OF THE ABATEMENT IN THE FIRST YEAR OF THE BENEFIT
28 PERIOD; AND

29 (C) FOR THE FIFTH YEAR OF THE BENEFIT PERIOD, THE ABATEMENT SHALL BE
30 EQUAL TO ONE-THIRD OF THE ABATEMENT IN THE FIRST YEAR OF THE BENEFIT
31 PERIOD.

32 2. IF, AS A RESULT OF APPLICATION TO THE TAX COMMISSION OR A COURT
33 ORDER OR ACTION BY THE DEPARTMENT OF FINANCE, THE BILLABLE ASSESSED
34 VALUE IS REDUCED, THE DEPARTMENT OF FINANCE SHALL RECALCULATE THE ABATE-
35 MENT UTILIZING SUCH REDUCED BILLABLE ASSESSED VALUE. THE AMOUNT EQUAL TO
36 THE DIFFERENCE BETWEEN THE ABATEMENT ORIGINALLY GRANTED AND THE ABATE-
37 MENT AS SO RECALCULATED SHALL BE DEDUCTED FROM ANY REFUND OTHERWISE
38 PAYABLE OR REMISSION OTHERWISE DUE AS A RESULT OF SUCH REDUCTION IN
39 BILLABLE ASSESSED VALUE, AND ANY BALANCE OF SUCH AMOUNT REMAINING UNPAID
40 AFTER MAKING ANY SUCH DEDUCTION SHALL BE PAID TO THE DEPARTMENT OF
41 FINANCE WITHIN THIRTY DAYS FROM THE DATE OF MAILING BY THE DEPARTMENT OF
42 FINANCE OF A NOTICE OF THE AMOUNT PAYABLE. SUCH AMOUNT PAYABLE SHALL
43 CONSTITUTE A TAX LIEN ON THE ELIGIBLE BUILDING AS OF THE DATE OF SUCH
44 NOTICE AND, IF NOT PAID WITHIN SUCH THIRTY-DAY PERIOD, PENALTY AND
45 INTEREST AT THE RATE APPLICABLE TO DELINQUENT TAXES ON SUCH ELIGIBLE
46 BUILDING SHALL BE CHARGED AND COLLECTED ON SUCH AMOUNT FROM THE DATE OF
47 SUCH NOTICE TO THE DATE OF PAYMENT.

48 3. IN NO EVENT SHALL THE ABATEMENT FOR THE ELIGIBLE PREMISES GRANTED
49 PURSUANT TO THIS TITLE EXCEED THE TAX LIABILITY ALLOCABLE TO THE ELIGI-
50 BLE PREMISES.

51 4. NOTWITHSTANDING THE PROVISIONS OF ANY LEASE FOR OCCUPANCY OF
52 NON-ELIGIBLE PREMISES IN AN ELIGIBLE BUILDING OR FOR OCCUPANCY OF ELIGI-
53 BLE PREMISES FOR WHICH NO CERTIFICATE OF ABATEMENT HAS BEEN ISSUED
54 PURSUANT TO THIS TITLE, A LESSEE OF NON-ELIGIBLE PREMISES OR OF ELIGIBLE
55 PREMISES FOR WHICH NO CERTIFICATE OF ABATEMENT HAS BEEN ISSUED PURSUANT
56 TO THIS TITLE SHALL NOT BE ENTITLED TO RECEIVE DIRECTLY OR INDIRECTLY A

1 REDUCTION IN EITHER THE REAL PROPERTY TAXES OR ANY RENT (INCLUDING ADDI-
2 TIONAL RENT) PAYABLE PURSUANT TO SUCH LEASE WHERE SUCH REDUCTION WOULD
3 RESULT FROM AN ABATEMENT OF REAL PROPERTY TAXES GRANTED PURSUANT TO THIS
4 TITLE. A LANDLORD OF AN ELIGIBLE BUILDING SHALL NOT ALLOCATE, CREDIT,
5 ASSIGN OR DISBURSE ANY PORTION OF AN ABATEMENT GRANTED PURSUANT TO THIS
6 TITLE TO A LESSEE OF NON-ELIGIBLE PREMISES OR OF ELIGIBLE PREMISES FOR
7 WHICH NO CERTIFICATE OF ABATEMENT HAS BEEN ISSUED PURSUANT TO THIS
8 TITLE. A LANDLORD SHALL NOT BE REQUIRED TO REDUCE THE REAL PROPERTY
9 TAXES OR ANY RENT (INCLUDING ADDITIONAL RENT) PAYABLE BY EXPANSION
10 TENANTS, NEW TENANTS AND RENEWAL TENANTS BY AN AMOUNT THAT EXCEEDS THE
11 FULL AMOUNT OF THE ABATEMENT GRANTED PURSUANT TO THIS TITLE, BUT A LAND-
12 LORD SHALL BE REQUIRED TO REDUCE THE REAL PROPERTY TAXES OR ANY RENT
13 (INCLUDING ADDITIONAL RENT) PAYABLE BY EXPANSION TENANTS, NEW TENANTS
14 AND RENEWAL TENANTS BY AN AMOUNT THAT, IN THE AGGREGATE, EQUALS THE FULL
15 AMOUNT OF THE ABATEMENT GRANTED PURSUANT TO THIS TITLE. SUCH REDUCTION
16 SHALL BE ALLOCATED IN ACCORDANCE WITH THE ABATEMENT GRANTED FOR THE
17 ELIGIBLE PREMISES OCCUPIED BY EACH SUCH TENANT.

18 S 496-B. CREDIT TO TENANT. THE ABATEMENT IN REAL PROPERTY TAXES
19 GRANTED BY THIS TITLE FOR THE PREMISES SHALL BE CREDITED BY THE LANDLORD
20 AGAINST THE PROPORTIONAL AMOUNT OF TAXES CHARGEABLE TO A TENANT IN THE
21 FORM OF RENT.

22 S 496-C. ELIGIBILITY REQUIREMENTS. 1. NO ABATEMENT SHALL BE GRANTED
23 PURSUANT TO THIS TITLE UNLESS THE LANDLORD IS PARTY TO A LEASE FOR
24 ELIGIBLE PREMISES WITH A TENANT OR RENEWAL TENANT, THE TERM OF WHICH IS
25 FOR A PERIOD OF AT LEAST FIVE YEARS, AND THE TENANT OR RENEWAL TENANT:

26 (A) HAS BEEN CONDUCTING BUSINESS OPERATIONS AND ENGAGING PRIMARILY IN
27 RETAIL ACTIVITIES, ENTERTAINMENT, OR RESTAURANT SERVICES AT THE ELIGIBLE
28 PREMISES DURING THE FIVE CONSECUTIVE YEARS PRIOR TO THE RENT COMMENCE-
29 MENT DATE;

30 (B) WILL BE ENGAGED PRIMARILY IN RETAIL ACTIVITIES, ENTERTAINMENT, OR
31 RESTAURANT SERVICES AT SUCH ELIGIBLE PREMISES; AND

32 (C) WHO HAS FEWER THAN ONE HUNDRED TWENTY-FIVE EMPLOYEES IN THE
33 INITIAL TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

34 2. NO ABATEMENT SHALL BE GRANTED PURSUANT TO THIS TITLE IF AN APPLI-
35 CANT SHALL FAIL TO MEET ANY OF THE REQUIREMENTS OF THIS TITLE WITHIN
36 SIXTY DAYS OF THE RENT COMMENCEMENT DATE.

37 3. FOR PURPOSES OF THIS TITLE, THE EXPIRATION DATE OF A LEASE SHALL BE
38 DETERMINED BY THE EXPIRATION DATE SET FORTH IN SUCH LEASE, WITHOUT
39 GIVING EFFECT TO ANY RIGHTS OF THE LANDLORD OR THE TENANT TO TERMINATE
40 SUCH LEASE PRIOR TO THE EXPIRATION DATE SET FORTH IN SUCH LEASE.

41 4. THE LEASE FOR THE ELIGIBLE PREMISES OR AN AMENDMENT THERETO SHALL
42 CONTAIN THE FOLLOWING PROVISIONS:

43 (A) A STATEMENT OF THE TENANT'S PERCENTAGE SHARE;

44 (B) A STATEMENT INFORMING THE TENANT IN AT LEAST TWELVE-POINT TYPE
45 THAT:

46 (1) AN APPLICATION FOR ABATEMENT OF REAL PROPERTY TAXES PURSUANT TO
47 THIS TITLE WILL BE MADE FOR THE PREMISES;

48 (2) THE RENT, INCLUDING AMOUNTS PAYABLE BY THE TENANT OR RENEWAL
49 TENANT FOR REAL PROPERTY TAXES, WILL ACCURATELY REFLECT ANY ABATEMENT OF
50 REAL PROPERTY TAXES GRANTED PURSUANT TO THIS TITLE FOR THE PREMISES; AND

51 (3) ALL ABATEMENTS GRANTED WITH RESPECT TO A BUILDING PURSUANT TO THIS
52 TITLE WILL BE REVOKED IF, DURING THE BENEFIT PERIOD, REAL ESTATE TAXES
53 OR WATER OR SEWER CHARGES OR OTHER LIENABLE CHARGES ARE UNPAID FOR MORE
54 THAN ONE YEAR, UNLESS SUCH DELINQUENT AMOUNTS ARE PAID AS PROVIDED IN
55 SUBDIVISION FOUR OF SECTION FOUR HUNDRED NINETY-SIX-F OF THIS TITLE.

56 5. NO ABATEMENT SHALL BE GRANTED PURSUANT TO THIS TITLE IF:

(A) THE LEASE FOR THE ELIGIBLE PREMISES PROVIDES THAT DURING THE CURRENT LEASE TERM REQUIRED BY SUBDIVISION ONE OF THIS SECTION EITHER THE LANDLORD OR THE TENANT OR RENEWAL TENANT MAY TERMINATE SUCH LEASE PRIOR TO THE EXPIRATION DATE OF SUCH LEASE TERM; PROVIDED THAT SUCH LEASE MAY PROVIDE THAT EITHER THE LANDLORD OR THE TENANT MAY TERMINATE SUCH LEASE IF:

(1) THE OTHER PARTY IS IN DEFAULT OF ANY OF SUCH PARTY'S OBLIGATIONS UNDER THE LEASE,

(2) THE ELIGIBLE PREMISES ARE DAMAGED OR DESTROYED BY FIRE OR OTHER CASUALTY,

(3) THE ELIGIBLE PREMISES ARE RENDERED UNUSABLE FOR ANY REASON NOT ATTRIBUTABLE TO ANY ACT OR FAILURE TO ACT OF EITHER TENANT OR LANDLORD, OR

(4) THE ELIGIBLE PREMISES ARE ACQUIRED BY EMINENT DOMAIN; AND

(B) THERE ARE REAL PROPERTY TAXES, WATER OR SEWER CHARGES OR OTHER LIENABLE CHARGES CURRENTLY DUE AND OWING ON THE ELIGIBLE BUILDING WHICH IS THE SUBJECT OF AN APPLICATION FOR ABATEMENT PURSUANT TO THIS TITLE, UNLESS SUCH REAL PROPERTY TAXES OR CHARGES ARE CURRENTLY BEING PAID IN TIMELY INSTALLMENTS PURSUANT TO A WRITTEN AGREEMENT WITH THE DEPARTMENT OF FINANCE OR OTHER APPROPRIATE AGENCY.

6. NO ABATEMENT SHALL BE GRANTED PURSUANT TO THIS TITLE UNLESS THE APPLICANT SHALL FILE, TOGETHER WITH THE APPLICATION, AN AFFIDAVIT SETTING FORTH THE FOLLOWING INFORMATION:

(A) A STATEMENT THAT WITHIN THE SEVEN YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION FOR A CERTIFICATE OF ABATEMENT, NEITHER THE APPLICANT NOR ANY PERSON OWNING A SUBSTANTIAL INTEREST IN THE ELIGIBLE BUILDING AS DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION, NOR ANY OFFICER, DIRECTOR OR GENERAL PARTNER OF THE APPLICANT OR SUCH PERSON WAS FINALLY ADJUDICATED BY A COURT OF COMPETENT JURISDICTION TO HAVE VIOLATED SECTION TWO HUNDRED THIRTY-FIVE OF THE REAL PROPERTY LAW OR ANY SECTION OF ARTICLE ONE HUNDRED FIFTY OF THE PENAL LAW OR ANY SIMILAR ARSON LAW OF ANOTHER JURISDICTION WITH RESPECT TO ANY BUILDING, OR WAS AN OFFICER, DIRECTOR OR GENERAL PARTNER OF A PERSON AT THE TIME SUCH PERSON WAS FINALLY ADJUDICATED TO HAVE VIOLATED ANY SUCH LAW; AND

(B) A STATEMENT SETTING FORTH ANY PENDING CHARGES ALLEGING VIOLATION OF SECTION TWO HUNDRED THIRTY-FIVE OF THE REAL PROPERTY LAW OR ANY SECTION OF ARTICLE ONE HUNDRED FIFTY OF THE PENAL LAW OR ANY SIMILAR ARSON LAW OF ANOTHER JURISDICTION WITH RESPECT TO ANY BUILDING BY THE APPLICANT OR ANY PERSON OWNING A SUBSTANTIAL INTEREST IN THE ELIGIBLE BUILDING AS DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION, OR ANY OFFICER, DIRECTOR OR GENERAL PARTNER OF THE APPLICANT OR SUCH PERSON, OR ANY PERSON FOR WHOM THE APPLICANT OR PERSON OWNING A SUBSTANTIAL INTEREST IN THE ELIGIBLE BUILDING IS AN OFFICER, DIRECTOR OR GENERAL PARTNER.

(C) FOR PURPOSES OF THIS SUBDIVISION AND SUBDIVISION SEVEN OF SECTION FOUR HUNDRED NINETY-SIX-F OF THIS TITLE, "SUBSTANTIAL INTEREST" SHALL MEAN OWNERSHIP AND CONTROL OF AN INTEREST OF TEN PER CENTUM OR MORE IN THE ELIGIBLE BUILDING OR IN ANY PERSON OWNING THE ELIGIBLE BUILDING.

S 496-D. APPLICATION FOR CERTIFICATE OF ABATEMENT. 1. APPLICATION FOR A CERTIFICATE OF ABATEMENT MAY BE MADE ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN AND UNTIL SIXTY DAYS AFTER THE END OF THE ELIGIBILITY PERIOD, AND SHALL BE FILED WITH THE DEPARTMENT OF FINANCE. NO APPLICATION MAY BE FILED PRIOR TO THE DATE ON WHICH THE LEASE FOR THE ELIGIBLE PREMISES IS EXECUTED BY THE LANDLORD AND TENANT.

2. NO ABATEMENT PURSUANT TO THIS TITLE SHALL BE GRANTED UNLESS THE APPLICANT FILES AN APPLICATION FOR A CERTIFICATE OF ABATEMENT WITHIN

SIXTY DAYS FOLLOWING THE LEASE COMMENCEMENT DATE OR WITHIN SIXTY DAYS FOLLOWING THE EFFECTIVE DATE OF THIS TITLE, WHICHEVER IS LATER.

3. IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT OF FINANCE, THE APPLICATION FOR A CERTIFICATE OF ABATEMENT SHALL INCLUDE AN ABSTRACT OF THE LEASE FOR THE ELIGIBLE PREMISES FOR WHICH AN ABATEMENT IS BEING SOUGHT WHICH ABSTRACT IS SIGNED BY THE LANDLORD AND THE TENANT. SUCH ABSTRACT SHALL INCLUDE THE TENANT'S PERCENTAGE SHARE, THE LEASE COMMENCEMENT DATE, THE EXPIRATION DATE FOR SUCH LEASE AND A DESCRIPTION OF THE IMPROVEMENTS TO BE MADE TO THE ELIGIBLE PREMISES AND THE COMMON AREAS OF THE ELIGIBLE BUILDING, INCLUDING THE ESTIMATED VALUE OF SUCH IMPROVEMENTS. SUCH APPLICATION SHALL ALSO INCLUDE:

(A) A STATEMENT OF THE NUMBER OF PERSONS WHO WERE, ON THE RENT COMMENCEMENT DATE, EMPLOYED IN THE ELIGIBLE PREMISES,

(B) A STATEMENT OF THE LOCATION OF ALL COMMERCIAL OR RETAIL SPACE IN THE CITY OF NEW YORK OCCUPIED BY THE TENANT PRIOR TO THE EXECUTION OF THE LEASE FOR THE ELIGIBLE PREMISES,

(C) THE COMMENCEMENT AND EXPIRATION DATES OF ALL LEASES FOR PREMISES IN THE ABATEMENT ZONE USED OR OCCUPIED AS OFFICE OR RETAIL SPACE, AND

(D) THE AGGREGATE FLOOR AREA OF THE ELIGIBLE BUILDING. SUCH APPLICATION SHALL ALSO STATE THAT THE APPLICANT AGREES TO COMPLY WITH AND BE SUBJECT TO THE RULES ISSUED FROM TIME TO TIME BY THE DEPARTMENT OF FINANCE.

4. THE APPLICANT SHALL PROVIDE, IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT OF FINANCE, EVIDENCE ACCEPTABLE TO THE DEPARTMENT OF FINANCE REGARDING THE NUMBER OF EMPLOYEES IN THE ELIGIBLE PREMISES. THE DEPARTMENT OF FINANCE SHALL ISSUE A CERTIFICATE OF ABATEMENT UPON DETERMINING THAT THE APPLICANT HAS SUBMITTED PROOF ACCEPTABLE TO THE DEPARTMENT OF FINANCE THAT THE APPLICANT HAS MET THE REQUIREMENTS SET FORTH IN THIS TITLE.

5. THE BURDEN OF PROOF SHALL BE ON THE APPLICANT TO SHOW BY CLEAR AND CONVINCING EVIDENCE THAT THE REQUIREMENTS FOR GRANTING A CERTIFICATE OF ABATEMENT HAVE BEEN SATISFIED. THE DEPARTMENT OF FINANCE SHALL HAVE THE AUTHORITY TO REQUIRE THAT STATEMENTS IN CONNECTION WITH SUCH APPLICATION BE MADE UNDER OATH.

6. THE DEPARTMENT OF FINANCE MAY PROVIDE BY RULE FOR REASONABLE ADMINISTRATIVE CHARGES OR FEES NECESSARY TO DEFRAY EXPENSES IN ADMINISTERING THE ABATEMENT PROGRAM PROVIDED BY THIS TITLE.

S 496-E. ENFORCEMENT AND ADMINISTRATION. THE DEPARTMENT OF FINANCE SHALL HAVE, IN ADDITION TO ANY OTHER FUNCTIONS, POWERS AND DUTIES WHICH HAVE BEEN OR MAY BE CONFERRED ON IT BY LAW, THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

1. TO RECEIVE AND REVIEW APPLICATIONS FOR CERTIFICATES OF ABATEMENT UNDER THIS TITLE AND ISSUE SUCH CERTIFICATES WHERE AUTHORIZED PURSUANT TO THIS TITLE.

2. TO RECEIVE EVIDENCE OF PREMISES AND BUILDING ELIGIBILITY.

3. TO RECEIVE ALL CERTIFICATES OF CONTINUING ELIGIBILITY REQUIRED BY SECTION FOUR HUNDRED NINETY-SIX-F OF THIS TITLE.

4. TO COLLECT ALL REAL PROPERTY TAXES, WITH INTEREST AND PENALTY, DUE AND OWING AS A RESULT OF REDUCTION, TERMINATION OR REVOCATION OF ANY ABATEMENT GRANTED PURSUANT TO THIS TITLE.

5. TO MAKE AND PROMULGATE RULES TO CARRY OUT THE PURPOSES OF THIS TITLE.

S 496-F. REPORTING REQUIREMENTS; REVOCATION OF ABATEMENTS. 1. FOR THE DURATION OF THE APPLICANT'S BENEFIT PERIOD, THE APPLICANT SHALL FILE ANNUALLY WITH THE DEPARTMENT OF FINANCE, ON OR BEFORE JULY FIRST OF EACH YEAR, A CERTIFICATE OF CONTINUING ELIGIBILITY CONFIRMING THAT THE ELIGI-

1 BLE PREMISES ARE OCCUPIED BY THE TENANT WHO ORIGINALLY EXECUTED THE
2 LEASE AND THAT THE ELIGIBLE PREMISES ARE BEING USED FOR THE PURPOSES
3 DESCRIBED IN THE APPLICATION. SUCH CERTIFICATE OF CONTINUING ELIGIBILITY
4 SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT OF FINANCE AND SHALL
5 CONTAIN SUCH ADDITIONAL INFORMATION AS THE DEPARTMENT OF FINANCE SHALL
6 REQUIRE. THE DEPARTMENT OF FINANCE SHALL HAVE THE AUTHORITY TO DETERMINE
7 THE ABATEMENTS GRANTED PURSUANT TO THIS TITLE UPON FAILURE OF AN APPLI-
8 CANT TO FILE SUCH CERTIFICATE BY SUCH DATE. THE BURDEN OF PROOF SHALL BE
9 ON THE APPLICANT TO ESTABLISH CONTINUING ELIGIBILITY FOR BENEFITS AND
10 THE DEPARTMENT OF FINANCE SHALL HAVE THE AUTHORITY TO REQUIRE THAT
11 STATEMENTS MADE IN SUCH CERTIFICATE SHALL BE MADE UNDER OATH.

12 2. THE DEPARTMENT OF FINANCE SHALL REVOKE ANY ABATEMENT GRANTED PURSU-
13 ANT TO THIS TITLE WHEN THE TENANT WHO ORIGINALLY EXECUTED THE LEASE IS
14 NO LONGER OCCUPYING THE ELIGIBLE PREMISES. SUCH REVOCATION SHALL BE
15 RETROACTIVE TO THE DATE THAT SUCH TENANT VACATED THE ELIGIBLE PREMISES
16 AND THE DEPARTMENT OF FINANCE SHALL REQUIRE THE LANDLORD TO PAY, WITH
17 INTEREST, ANY TAXES WHICH BECOME PAYABLE AS A RESULT OF SUCH REVOCATION.
18 THE LANDLORD SHALL NOTIFY THE DEPARTMENT OF FINANCE WITHIN THIRTY DAYS
19 FOLLOWING THE DATE ON WHICH SUCH TENANT VACATED THE ELIGIBLE PREMISES
20 AND, FOR FAILURE TO COMPLY WITH THIS NOTIFICATION REQUIREMENT, SHALL BE
21 LIABLE FOR PENALTY CALCULATED FOR THE SAME PERIOD AS INTEREST IS CALCU-
22 LATED PURSUANT TO THE PRECEDING SENTENCE.

23 3. IF ANY PORTION OF THE PREMISES FOR WHICH AN ABATEMENT HAS BEEN
24 GRANTED PURSUANT TO THIS TITLE CEASES TO BE OCCUPIED OR USED AS ELIGIBLE
25 PREMISES OR IS OCCUPIED BY A SUBTENANT, THE DEPARTMENT OF FINANCE SHALL
26 REDUCE THE ABATEMENT GRANTED PURSUANT TO THIS TITLE BY AN AMOUNT EQUAL
27 TO THE PERCENTAGE OF SUCH ELIGIBLE PREMISES WHICH HAS CEASED TO BE OCCU-
28 PIED OR USED AS ELIGIBLE PREMISES OR IS OCCUPIED BY A SUBTENANT. SUCH
29 REDUCTION SHALL BE RETROACTIVE TO THE DATE THAT SUCH PREMISES CEASED TO
30 BE OCCUPIED OR USED AS ELIGIBLE PREMISES OR WAS OCCUPIED BY A SUBTENANT,
31 AND THE DEPARTMENT OF FINANCE SHALL REQUIRE THE LANDLORD TO PAY, WITH
32 INTEREST, ANY TAXES WHICH BECOME PAYABLE AS A RESULT OF SUCH REDUCTION.
33 THE LANDLORD SHALL NOTIFY THE DEPARTMENT OF FINANCE WITHIN THIRTY DAYS
34 FOLLOWING THE DATE ON WHICH THE PREMISES CEASED TO BE OCCUPIED OR USED
35 AS ELIGIBLE PREMISES OR WAS OCCUPIED BY A SUBTENANT AND, FOR FAILURE TO
36 COMPLY WITH THIS NOTIFICATION REQUIREMENT, SHALL BE LIABLE FOR PENALTY
37 CALCULATED FOR THE SAME PERIOD AS INTEREST IS CALCULATED PURSUANT TO
38 THIS SUBDIVISION.

39 4. IF, DURING THE BENEFIT PERIOD, ANY REAL PROPERTY TAX OR WATER OR
40 SEWER CHARGE OR OTHER LIENABLE CHARGE DUE AND PAYABLE WITH RESPECT TO AN
41 ELIGIBLE BUILDING SHALL REMAIN UNPAID FOR AT LEAST ONE YEAR FOLLOWING
42 THE DATE UPON WHICH SUCH TAX OR CHARGE BECAME DUE AND PAYABLE, ALL
43 ABATEMENTS GRANTED PURSUANT TO THIS TITLE WITH RESPECT TO SUCH BUILDING
44 SHALL BE REVOKED, UNLESS WITHIN THIRTY DAYS FROM THE MAILING OF A NOTICE
45 OF REVOCATION BY THE DEPARTMENT OF FINANCE SATISFACTORY PROOF IS
46 PRESENTED TO THE DEPARTMENT OF FINANCE THAT ANY AND ALL DELINQUENT TAXES
47 AND CHARGES OWING WITH RESPECT TO SUCH BUILDING AS OF THE DATE OF SUCH
48 NOTICE HAVE BEEN PAID IN FULL OR ARE CURRENTLY BEING PAID IN TIMELY
49 INSTALLMENTS PURSUANT TO A WRITTEN AGREEMENT WITH THE DEPARTMENT OF
50 FINANCE OR OTHER APPROPRIATE AGENCY. ANY REVOCATION PURSUANT TO THIS
51 SUBDIVISION SHALL BE EFFECTIVE WITH RESPECT TO REAL PROPERTY TAXES WHICH
52 BECOME DUE AND PAYABLE FOLLOWING THE DATE OF SUCH REVOCATION.

53 5. THE DEPARTMENT OF FINANCE MAY DENY, REDUCE, SUSPEND, TERMINATE OR
54 REVOKE ANY ABATEMENT GRANTED PURSUANT TO THIS TITLE WHENEVER:

1 (A) THE LANDLORD OR THE TENANT RECEIVING ABATEMENT PURSUANT TO THIS
2 TITLE FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE OR THE RULES
3 PROMULGATED HEREUNDER; OR

4 (B) AN APPLICATION, CERTIFICATE, REPORT OR OTHER DOCUMENT SUBMITTED BY
5 THE APPLICANT CONTAINS A FALSE OR MISLEADING STATEMENT AS TO A MATERIAL
6 FACT OR OMITS TO STATE ANY MATERIAL FACT NECESSARY IN ORDER TO MAKE THE
7 STATEMENT THEREIN NOT FALSE OR MISLEADING, AND MAY DECLARE ANY APPLICANT
8 WHO MAKES SUCH FALSE OR MISLEADING STATEMENT OR OMISSION TO BE INELIGI-
9 BLE FOR FUTURE ABATEMENT PURSUANT TO THIS TITLE FOR THE SAME OR OTHER
10 PROPERTY. IN ADDITION, THE DEPARTMENT OF FINANCE SHALL REQUIRE THE
11 APPLICANT TO PAY, WITH PENALTY AND INTEREST, ANY ABATEMENT RECEIVED
12 PURSUANT TO THIS TITLE AS A RESULT OF SUCH FALSE OR MISLEADING STATEMENT
13 OR OMISSION OF A MATERIAL FACT.

14 6. NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE DEPARTMENT
15 OF FINANCE SHALL DENY, TERMINATE OR REVOKE ANY ABATEMENT APPLIED FOR OR
16 GRANTED PURSUANT TO THIS TITLE UPON A DETERMINATION THAT THE LEASE
17 BETWEEN THE LANDLORD AND THE TENANT WAS ENTERED INTO PRIMARILY FOR THE
18 PURPOSE OF RECEIVING AN ABATEMENT UNDER THIS TITLE. IN MAKING SUCH
19 DETERMINATION, THE DEPARTMENT OF FINANCE MAY CONSIDER, AMONG OTHER
20 FACTORS, THE RELATIONSHIP, IF ANY, BETWEEN THE LANDLORD AND THE TENANT
21 AND WHETHER THE BUSINESS TERMS OF SUCH LEASE ARE CONSISTENT WITH THE
22 BUSINESS TERMS GENERALLY FOUND IN LEASES FOR COMPARABLE SPACE.

23 7. (A) IF ANY PERSON DESCRIBED IN THE STATEMENT REQUIRED BY PARAGRAPH
24 (B) OF SUBDIVISION SIX OF SECTION FOUR HUNDRED NINETY-SIX-C OF THIS
25 TITLE OR PARAGRAPH (B) OF THIS SUBDIVISION IS FINALLY ADJUDICATED BY A
26 COURT OF COMPETENT JURISDICTION TO BE GUILTY OF ANY CHARGE LISTED IN
27 SUCH STATEMENT, THE DEPARTMENT OF FINANCE SHALL REVOKE THE ABATEMENT
28 GRANTED PURSUANT TO THIS TITLE AND SHALL REQUIRE THE PAYMENT, WITH
29 INTEREST, OF ANY ABATEMENT RECEIVED PURSUANT TO THIS TITLE.

30 (B) THE APPLICANT SHALL, ON THE CERTIFICATE OF CONTINUING ELIGIBILITY,
31 STATE WHETHER ANY CHARGES ALLEGING VIOLATION BY THE APPLICANT OR ANY
32 PERSON OWNING A SUBSTANTIAL INTEREST IN THE ELIGIBLE BUILDING, OR ANY
33 OFFICER, DIRECTOR OR GENERAL PARTNER OF THE APPLICANT OR PERSON OWNING A
34 SUBSTANTIAL INTEREST IN THE ELIGIBLE BUILDING, OR ANY PERSON FOR WHOM
35 THE APPLICANT OR PERSON OWNING A SUBSTANTIAL INTEREST IN THE ELIGIBLE
36 BUILDING IS AN OFFICER, DIRECTOR OR GENERAL PARTNER, OF SECTION TWO
37 HUNDRED THIRTY-FIVE OF THE REAL PROPERTY LAW OR ANY SECTION OF ARTICLE
38 ONE HUNDRED FIFTY OF THE PENAL LAW OR ANY SIMILAR ARSON LAW OF ANOTHER
39 JURISDICTION, ARE PENDING. FOR PURPOSES OF THIS PARAGRAPH, "SUBSTANTIAL
40 INTEREST" SHALL HAVE THE SAME MEANING AS SET FORTH IN PARAGRAPH (C) OF
41 SUBDIVISION SIX OF SECTION FOUR HUNDRED NINETY-SIX-C OF THIS TITLE.

42 S 496-G. TAX LIEN; INTEREST AND PENALTY. ALL TAXES, WITH INTEREST,
43 REQUIRED TO BE PAID RETROACTIVELY PURSUANT TO THIS TITLE SHALL CONSTI-
44 TUTE A TAX LIEN AS OF THE DATE IT IS DETERMINED SUCH TAXES AND INTEREST
45 ARE OWED. ALL INTEREST SHALL BE CALCULATED FROM THE DATE THE TAXES WOULD
46 HAVE BEEN DUE BUT FOR THE ABATEMENT GRANTED PURSUANT TO THIS TITLE AT
47 THE APPLICABLE RATE OR RATES OF INTEREST IMPOSED BY SUCH CITY GENERALLY
48 FOR NON-PAYMENT OF REAL PROPERTY TAX WITH RESPECT TO THE ELIGIBLE BUILD-
49 ING FOR THE PERIOD IN QUESTION. WHEN A PROVISION OF THIS TITLE REQUIRES
50 THE PAYMENT OF A PENALTY IN ADDITION TO INTEREST, THE AMOUNT OF SUCH
51 PENALTY SHALL BE EQUAL TO THE AMOUNT OF INTEREST THAT WOULD HAVE BEEN
52 PAYABLE PURSUANT TO SUCH PROVISION HAD SUCH INTEREST BEEN CALCULATED AT
53 THE RATE OF THREE PERCENT PER ANNUM.

54 S 496-H. CONFIDENTIALITY. 1. EXCEPT IN ACCORDANCE WITH A PROPER JUDI-
55 CIAL ORDER OR AS OTHERWISE PROVIDED BY LAW, IT SHALL BE UNLAWFUL FOR THE
56 COMMISSIONER OF FINANCE, ANY OFFICER OR EMPLOYEE OF THE DEPARTMENT OF

1 FINANCE, THE PRESIDENT OR A COMMISSIONER OR EMPLOYEE OF THE TAX COMMIS-
2 SION, ANY PERSON ENGAGED OR RETAINED BY SUCH DEPARTMENT OR SUCH COMMIS-
3 SION ON AN INDEPENDENT CONTRACT BASIS, OR ANY PERSON WHO, PURSUANT TO
4 THIS TITLE, IS PERMITTED TO INSPECT ANY INFORMATION SUBMITTED BY AN
5 APPLICANT TO THE DEPARTMENT OF FINANCE PURSUANT TO THIS TITLE OR TO WHOM
6 A COPY, AN ABSTRACT OR A PORTION OF ANY SUCH INFORMATION IS FURNISHED,
7 TO DIVULGE OR MAKE KNOWN IN ANY MANNER ANY SUCH INFORMATION TO ANY
8 PERSON NOT AUTHORIZED PURSUANT TO THIS TITLE TO INSPECT SUCH INFORMA-
9 TION. THE OFFICERS CHARGED WITH CUSTODY OF SUCH INFORMATION SHALL NOT BE
10 REQUIRED TO PRODUCE ANY OF IT OR EVIDENCE OF ANYTHING CONTAINED IN IT IN
11 ANY ACTION OR PROCEEDING IN ANY COURT EXCEPT ON BEHALF OF THE COMMIS-
12 SIONER OF FINANCE IN AN ACTION OR PROCEEDING UNDER THE PROVISIONS OF
13 THIS TITLE, OR ON BEHALF OF ANY PARTY TO ANY ACTION OR PROCEEDING UNDER
14 THE PROVISIONS OF THIS TITLE WHEN SUCH INFORMATION OR FACTS SHOWN THERE-
15 BY ARE DIRECTLY INVOLVED IN SUCH ACTION OR PROCEEDING, IN EITHER OF
16 WHICH EVENTS THE COURT MAY REQUIRE THE PRODUCTION OF, AND MAY ADMIT IN
17 EVIDENCE SO MUCH OF SUCH INFORMATION OR OF THE FACTS SHOWN THEREBY, AS
18 ARE PERTINENT TO THE ACTION OR PROCEEDING AND NO MORE. NOTHING HEREIN
19 SHALL BE CONSTRUED TO PROHIBIT THE INSPECTION BY THE LEGAL REPRESENT-
20 TATIVES OF THE DEPARTMENT OF FINANCE OR THE TAX COMMISSION OF SUCH
21 INFORMATION SUBMITTED BY ANY APPLICANT WHO SHALL BRING AN ACTION TO
22 CORRECT AN ASSESSMENT. NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT
23 THE DELIVERY TO AN APPLICANT OR THE APPLICANT'S DULY AUTHORIZED REPRESENTATIVE OF A CERTIFIED COPY OF ANY INFORMATION SUBMITTED BY AN APPLICANT TO THE DEPARTMENT OF FINANCE PURSUANT TO THIS TITLE; OR TO ANY AGENCY OR ANY DEPARTMENT OF ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE PROVIDED THE SAME IS REQUESTED FOR OFFICIAL BUSINESS; NOR TO PROHIBIT THE INSPECTION FOR OFFICIAL BUSINESS OF SUCH INFORMATION BY THE CORPORATION COUNSEL OR OTHER LEGAL REPRESENTATIVES OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE OR BY THE DISTRICT ATTORNEY OF ANY COUNTY WITHIN SUCH CITY; NOR TO PROHIBIT THE PUBLICATION OF STATISTICS SO CLASSIFIED AS TO PREVENT THE IDENTIFICATION OF SUCH INFORMATION OR PARTICULAR ITEMS THEREOF. INFORMATION SUBMITTED BY AN APPLICANT TO THE DEPARTMENT OF FINANCE PURSUANT TO THIS TITLE SHALL NOT BE SUBJECT TO DISCLOSURE PURSUANT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

36 2. ANY VIOLATION OF THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION
37 SHALL BE PUNISHED BY A FINE NOT EXCEEDING ONE THOUSAND DOLLARS OR BY
38 IMPRISONMENT NOT EXCEEDING ONE YEAR, OR BOTH, AT THE DISCRETION OF THE
39 COURT, AND IF THE OFFENDER BE AN OFFICER OR EMPLOYEE OF THE DEPARTMENT
40 OF FINANCE OR OF THE TAX COMMISSION, THE OFFENDER SHALL BE DISMISSED
41 FROM OFFICE.

42 S 2. This act shall take effect immediately, provided that this act
43 shall be deemed to have been in full force and effect on and after January 1, 2010. Any actions, including the promulgation of rules, necessary to carry out the purposes of this act may be taken before the date this act shall have become a law, provided that such rules shall not take effect before the effective date of this act, and provided further that such rules, if necessary to carry out the purposes of this act, may be made retroactive to and deemed to have been in full force and effect on and after January 1, 2010.