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

439

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. LENTOL, AUBRY, P. RIVERA, WRIGHT, V. LOPEZ, ABBATE, ROBINSON, CYMBROWITZ, 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:

Section 1. The real property tax law is amended by adding a new section 467-g to read as follows:

S 467-G. PARTIAL TAX ABATEMENT FOR OWNERS IN CERTAIN CITIES WHO CHARGE RENTS BELOW FAIR MARKET VALUE. 1. AS USED IN THIS SECTION:

A. "ELIGIBLE HOUSEHOLD" MEANS A HOUSEHOLD (I) WHOSE GROSS INCOME DOES NOT EXCEED EIGHTY PERCENT OF THE MEDIAN INCOME LEVEL FOR THE CENSUS TRACT, AS SET BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, IN WHICH THE HOUSEHOLD RESIDES;

(II) WHOSE LEASE FOR AN ELIGIBLE UNIT PROVIDES FOR AN ANNUAL RENT WHICH IS AT LEAST THIRTY PERCENT OF THE HOUSEHOLD'S ANNUAL NET INCOME; AND

(III) HAS LIVED IN THE SAME APARTMENT FOR AT LEAST ONE YEAR.

ANY HOUSEHOLD CONTAINING A MEMBER OF THE UNIT OWNER'S IMMEDIATE FAMILY SHALL NOT QUALIFY AS AN ELIGIBLE HOUSEHOLD NOTWITHSTANDING THE FACT THAT THE OTHER CRITERIA ARE MET.

B. "ELIGIBLE UNIT" MEANS A RENTAL UNIT IN A MULTIPLE DWELLING CONTAINING NOT MORE THAN FIVE RENTAL UNITS WHICH IS SUBJECT NEITHER TO THE EMERGENCY HOUSING RENT CONTROL LAW, NOR TO THE RENT AND REHABILITATION LAW OF THE CITY OF NEW YORK ENACTED PURSUANT TO THE LOCAL EMERGENCY HOUSING RENT CONTROL LAW, NOR THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR.

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

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

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

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

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

G. "MULTIPLE DWELLING" MEANS MULTIPLE DWELLING AS DEFINED IN SUBDIVISION SEVEN OF SECTION FOUR OF THE MULTIPLE DWELLING LAW.

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

I. "NET INCOME" MEANS GROSS INCOME MINUS ALL INCOME AND SOCIAL SECURITY TAXES PAID.

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

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

2. THE GOVERNING BODY OF A CITY WITH A POPULATION OF ONE MILLION OR MORE IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT, AFTER PUBLIC HEARING, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, A LOCAL LAW, ORDINANCE, OR RESOLUTION PROVIDING FOR THE ABATEMENT OF TAXES OF SAID CITY IMPOSED ON REAL PROPERTY. THE ABATEMENT SHALL WORK AS FOLLOWS: AN OWNER SHALL BE ENTITLED TO A PARTIAL TAX ABATEMENT OF THE REAL PROPERTY TAXES ASSESSED AGAINST THE MULTIPLE DWELLING CONTAINING THE ELIGIBLE UNIT WHEN SUCH OWNER RENTS THE ELIGIBLE UNIT, FOR AT LEAST ONE ADDITIONAL YEAR, TO AN ELIGIBLE HOUSEHOLD AT LESS THAN THE FAIR MARKET RENTAL VALUE FOR THE UNIT. THE OWNER OF A MULTIPLE DWELLING DEFINED AS CLASS ONE REAL PROPERTY IN SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER SHALL RECEIVE A RETROACTIVE PARTIAL ABATEMENT EQUAL TO THE LESSER OF: (I) THE REAL PROPERTY TAXES ASSESSED AGAINST THE MULTIPLE DWELLING CONTAINING THE ELIGIBLE UNIT IN THE APPLICABLE REAL PROPERTY TAX YEAR, AND (II) FIFTY PERCENT OF THE DIFFERENCE OF THE FAIR MARKET RENTAL VALUE FOR THE ELIGIBLE UNIT AND THE ACTUAL RENT WHICH WAS COLLECTED FROM THE ELIGIBLE

HOUSEHOLD FOR THE UNIT IN THE APPLICABLE REAL PROPERTY TAX YEAR. THE OWNER OF A MULTIPLE DWELLING DEFINED AS CLASS TWO REAL PROPERTY, AS DEFINED IN SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER SHALL RECEIVE A RETROACTIVE PARTIAL ABATEMENT EQUAL TO THE LESSER OF: (I) THE REAL PROPERTY TAXES ASSESSED AGAINST THE MULTIPLE DWELLING CONTAINING THE ELIGIBLE UNIT IN THE APPLICABLE REAL PROPERTY TAX YEAR, AND (II) SIXTY PERCENT OF THE DIFFERENCE OF THE FAIR MARKET RENTAL VALUE FOR THE ELIGIBLE UNIT AND THE ACTUAL RENT WHICH WAS COLLECTED FROM THE ELIGIBLE HOUSEHOLD FOR THE UNIT IN THE APPLICABLE REAL PROPERTY TAX YEAR. THE AMOUNT OF THE ABATEMENT SHALL BE DEDUCTED FROM THE REAL PROPERTY TAXES LEVIED IN THE FOLLOWING REAL PROPERTY TAX YEAR ON THE MULTIPLE DWELLING CONTAINING THE ELIGIBLE UNIT. AFTER THE FIRST YEAR IN WHICH AN OWNER RECEIVES A TAX ABATEMENT UNDER THIS SECTION, IF THE OWNER AGREES TO RENT THE SAME UNIT TO THE SAME HOUSEHOLD FOR AN ADDITIONAL YEAR WITH A WRITTEN LEASE, AT LESS THAN THE FAIR MARKET RENTAL VALUE FOR THE UNIT, ASSUMING SUCH UNIT REMAINS AN ELIGIBLE UNIT AND SUCH HOUSEHOLD REMAINS AN ELIGIBLE HOUSEHOLD, THE AMOUNT OF THE ABATEMENT WILL BE INCREASED FOR EACH SUCH ADDITIONAL YEAR BY THREE PERCENT OF THE ANNUAL RENT FOR THE ELIGIBLE UNIT.

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

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

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

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

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

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

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

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

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

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

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

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

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

S 2. The abatement provided for in this act shall first apply to real property taxes for the real property tax year which follows immediately after the year that this act is passed, and shall apply every year thereafter.

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