

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

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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:

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.

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 RIALLY 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.