

3702--A

Cal. No. 198

2013-2014 Regular Sessions

I N S E N A T E

February 11, 2013

Introduced by Sens. LANZA, GOLDEN, ADAMS, AVELLA, FELDER, HASSELL-THOMPSON, SAMPSON, SMITH -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the real property tax law, in relation to a rebate of real property taxes on real property seriously damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more

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. REBATE FOR OWNERS OF CERTAIN REAL PROPERTY SERIOUSLY DAMAGED
4 BY THE SEVERE STORM THAT OCCURRED ON THE TWENTY-NINTH AND THIRTIETH OF
5 OCTOBER, TWO THOUSAND TWELVE IN A CITY HAVING A POPULATION OF ONE
6 MILLION OR MORE. 1. GENERALLY. NOTWITHSTANDING ANY PROVISION OF ANY
7 GENERAL, SPECIAL OR LOCAL LAW TO THE CONTRARY, ANY CITY HAVING A POPU-
8 LATION OF ONE MILLION OR MORE IS HEREBY AUTHORIZED AND EMPOWERED TO
9 ADOPT AND AMEND LOCAL LAWS IN ACCORDANCE WITH THIS SECTION TO GRANT A
10 REBATE OF REAL PROPERTY TAXES FOR THE FISCAL YEAR BEGINNING ON THE FIRST
11 OF JULY, TWO THOUSAND TWELVE, IN THE AMOUNT PROVIDED IN THIS SECTION.
12 SUCH REBATE SHALL BE APPLIED AS A CREDIT AGAINST REAL PROPERTY TAXES OR
13 BE PAID BY THE COMMISSIONER OF FINANCE TO AN OWNER WHO OWNED ELIGIBLE
14 REAL PROPERTY AS DEFINED IN SUBDIVISION THREE OF THIS SECTION OR A
15 DWELLING UNIT IN SUCH ELIGIBLE REAL PROPERTY BOTH ON THE THIRTIETH OF
16 OCTOBER, TWO THOUSAND TWELVE AND ON THE DATE OF THE MAILING OF SUCH
17 REBATE. IF LEGAL TITLE TO ELIGIBLE REAL PROPERTY, OR OWNERSHIP OF SHARES
18 OF STOCK REPRESENTING A DWELLING UNIT, IS HELD BY ONE OR MORE TRUSTEES,
19 THE BENEFICIAL OWNER OR OWNERS SHALL BE DEEMED TO OWN THE PROPERTY OR

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

LBD08779-06-3

DWELLING UNIT FOR PURPOSES OF THIS SECTION. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, AN OWNER WHOSE PROPERTY IS RECEIVING BENEFITS PURSUANT TO ANY OTHER SECTION OF THIS ARTICLE SHALL NOT BE PROHIBITED FROM RECEIVING A REBATE PURSUANT TO THIS SECTION IF SUCH OWNER IS OTHERWISE ELIGIBLE TO RECEIVE SUCH REBATE.

2. DEFINITIONS. AS USED IN THIS SECTION:

A. "ANNUAL TAX" MEANS THE AMOUNT OF REAL PROPERTY TAX THAT IS IMPOSED ON A PROPERTY FOR THE FISCAL YEAR BEGINNING THE FIRST OF JULY, TWO THOUSAND TWELVE, DETERMINED AFTER REDUCTION FOR ANY AMOUNT FROM WHICH THE PROPERTY IS EXEMPT, OR WHICH IS ABATED, PURSUANT TO APPLICABLE LAW.

B. "ASSESSED VALUATION" MEANS THE ASSESSED VALUATION OF REAL PROPERTY THAT WAS USED TO DETERMINE THE ANNUAL TAX AS DEFINED IN PARAGRAPH A OF THIS SUBDIVISION, AND WHICH IS NOT REDUCED BY ANY EXEMPTION FROM REAL PROPERTY TAXES. FOR REAL PROPERTY CLASSIFIED AS CLASS TWO OR CLASS FOUR REAL PROPERTY AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER TO WHICH SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED FIVE OF THIS CHAPTER APPLIES, THE ASSESSED VALUATION IS THE LOWER OF THE ASSESSED VALUATION AND TRANSITIONAL ASSESSED VALUATION AS PROVIDED IN SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED FIVE OF THIS CHAPTER, AND WHICH IS NOT REDUCED BY ANY EXEMPTION FROM REAL PROPERTY TAXES.

C. "COMMISSIONER OF FINANCE" MEANS THE COMMISSIONER OF FINANCE OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE, OR HIS OR HER DESIGNEE.

D. "COOPERATIVE DEVELOPMENT" MEANS, WITH RESPECT TO PROPERTIES DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER, ALL OF THE PROPERTIES, INCLUDING THE LAND AND IMPROVEMENTS THEREON, AS TO WHICH THE LAND IS HELD BY A SINGLE COOPERATIVE CORPORATION.

E. "DEPARTMENT OF BUILDINGS" MEANS THE DEPARTMENT OF BUILDINGS OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE.

F. "DEPARTMENT OF FINANCE" MEANS THE DEPARTMENT OF FINANCE OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE.

G. "OWNER" MEANS THE OWNER OF REAL PROPERTY, OR A TENANT-STOCKHOLDER OF A DWELLING UNIT IN RESIDENTIAL REAL PROPERTY HELD IN THE COOPERATIVE FORM OF OWNERSHIP.

3. ELIGIBLE REAL PROPERTY. A. FOR PURPOSES OF THIS SECTION, "ELIGIBLE REAL PROPERTY" MEANS ANY TAX LOT THAT CONTAINED, ON THE APPLICABLE TAXABLE STATUS DATE, CLASS ONE, CLASS TWO OR CLASS FOUR REAL PROPERTY AS SUCH CLASSES OF REAL PROPERTY ARE DEFINED IN SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER, ON WHICH ANY BUILDING HAS BEEN DESIGNATED BY THE DEPARTMENT OF BUILDINGS IN ACCORDANCE WITH PARAGRAPH B OF THIS SUBDIVISION.

B. FOR PURPOSES OF THIS SECTION, A BUILDING HAS BEEN DESIGNATED BY THE DEPARTMENT OF BUILDINGS IF:

(1) DURING THE PERIOD BEGINNING THE FIRST OF NOVEMBER, TWO THOUSAND TWELVE AND ENDING THE THIRTIETH OF NOVEMBER, TWO THOUSAND TWELVE, AFTER INSPECTION BY THE DEPARTMENT OF BUILDINGS, SUCH BUILDING HAS BEEN DETERMINED TO BE SERIOUSLY DAMAGED AND UNSAFE TO ENTER OR OCCUPY OR COMPLETELY DEMOLISHED AS A RESULT OF DAMAGE CAUSED BY THE EFFECTS OF THE SEVERE STORM THAT OCCURRED ON THE TWENTY-NINTH AND THIRTIETH OF OCTOBER, TWO THOUSAND TWELVE, AND SUCH DETERMINATION HAS BEEN INDICATED BY A NOTATION ON SUCH DEPARTMENT'S RECORDS AND/OR BY THE POSTING OF A RED PLACARD WARNING ON THE BUILDING; OR

(2) DURING THE PERIOD BEGINNING THE FIRST OF NOVEMBER, TWO THOUSAND TWELVE AND ENDING THE THIRTIETH OF NOVEMBER, TWO THOUSAND TWELVE, AFTER INSPECTION BY THE DEPARTMENT OF BUILDINGS, SUCH BUILDING HAS BEEN DETER-

1 MINED TO REQUIRE REPAIRS OR TO HAVE A RESTRICTED AREA AND SUCH DETERMI-
2 NATION HAS BEEN INDICATED BY A NOTATION ON SUCH DEPARTMENT'S RECORDS
3 AND/OR BY THE POSTING OF A YELLOW STICKER ON THE BUILDING, AND DURING
4 THE PERIOD BEGINNING THE FIRST OF DECEMBER, TWO THOUSAND TWELVE AND
5 ENDING THE TWENTY-EIGHTH OF DECEMBER, TWO THOUSAND TWELVE, AFTER
6 INSPECTION BY THE DEPARTMENT OF BUILDINGS, HAS BEEN DETERMINED TO BE
7 SERIOUSLY DAMAGED AND UNSAFE TO ENTER OR OCCUPY OR COMPLETELY DEMOLISHED
8 AS A RESULT OF DAMAGE CAUSED BY THE EFFECTS OF THE SEVERE STORM THAT
9 OCCURRED ON THE TWENTY-NINTH AND THIRTIETH OF OCTOBER, TWO THOUSAND
10 TWELVE, AND SUCH DETERMINATION HAS BEEN INDICATED BY A NOTATION ON SUCH
11 DEPARTMENT'S RECORDS AND/OR BY THE POSTING OF A RED PLACARD WARNING ON
12 THE BUILDING.

13 4. AMOUNT OF REBATE. A. THE AMOUNT OF THE REBATE TO BE PAID BY THE
14 COMMISSIONER OF FINANCE FOR ELIGIBLE REAL PROPERTY PURSUANT TO SUBDIVI-
15 SION ONE OF THIS SECTION SHALL BE EQUAL TO TWO-THIRDS OF THE ANNUAL TAX,
16 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS EQUAL TO THAT
17 PORTION OF THE ASSESSED VALUATION OF THE ELIGIBLE REAL PROPERTY THAT IS
18 ATTRIBUTABLE TO THE IMPROVEMENTS ON THE PROPERTY, AND THE DENOMINATOR OF
19 WHICH IS EQUAL TO THE TOTAL ASSESSED VALUATION OF THE ELIGIBLE REAL
20 PROPERTY.

21 B. EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION, FOR RESI-
22 DENTIAL PROPERTY HELD IN THE COOPERATIVE FORM OF OWNERSHIP, THE AMOUNT
23 OF THE REBATE TO BE PAID TO THE OWNER OF A DWELLING UNIT THEREIN SHALL
24 BE EQUAL TO THAT PROPORTION OF THE AMOUNT CALCULATED UNDER PARAGRAPH A
25 OF THIS SUBDIVISION THAT IS ATTRIBUTABLE TO SUCH DWELLING UNIT, AS
26 DETERMINED BY THE PROPORTIONAL RELATIONSHIP OF THE OWNER'S SHARE OR
27 SHARES OF STOCK IN THE COOPERATIVE APARTMENT CORPORATION THAT OWNS SUCH
28 REAL PROPERTY TO THE TOTAL OUTSTANDING STOCK OF THE COOPERATIVE APART-
29 MENT CORPORATION.

30 C. ELIGIBLE REAL PROPERTY WITH NO ANNUAL TAX SHALL NOT BE ELIGIBLE FOR
31 A REBATE UNDER THIS SECTION.

32 D. THE AMOUNT OF THE REBATE OF REAL PROPERTY TAXES GRANTED PURSUANT TO
33 THIS SECTION FOR CLASS FOUR ELIGIBLE REAL PROPERTY SHALL NOT EXCEED TEN
34 THOUSAND DOLLARS.

35 5. CALCULATION OF REBATE FOR CERTAIN CLASS ONE REAL PROPERTY CONSIST-
36 ING OF ONE FAMILY HOUSE STRUCTURES SITUATED ON LAND HELD IN COOPERATIVE
37 OWNERSHIP. A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION FOUR OF THIS
38 SECTION, THE AMOUNT OF THE REBATE TO BE PAID BY THE COMMISSIONER OF
39 FINANCE TO THE OWNER OF A BUILDING THAT WAS DESIGNATED BY THE DEPARTMENT
40 OF BUILDINGS IN ACCORDANCE WITH PARAGRAPH B OF SUBDIVISION THREE OF THIS
41 SECTION, THAT IS LOCATED ON ELIGIBLE REAL PROPERTY THAT IS DESCRIBED IN
42 PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED TWO OF THIS
43 CHAPTER, SHALL BE EQUAL TO TWO-THIRDS OF THE ANNUAL TAX ON THE PROPERTY
44 OF THE COOPERATIVE DEVELOPMENT, (1) MULTIPLIED BY A FRACTION, THE NUMER-
45 ATOR OF WHICH IS EQUAL TO THAT PORTION OF THE ASSESSED VALUATION OF THE
46 ELIGIBLE REAL PROPERTY IN THE COOPERATIVE DEVELOPMENT THAT IS ATTRIBUT-
47 ABLE TO THE IMPROVEMENTS ON THE PROPERTY, AND THE DENOMINATOR OF WHICH
48 IS EQUAL TO THE TOTAL ASSESSED VALUATION OF THE ELIGIBLE REAL PROPERTY
49 IN THE COOPERATIVE DEVELOPMENT, AND (2) MULTIPLIED BY A SECOND FRACTION,
50 THE NUMERATOR OF WHICH IS EQUAL TO THE NUMBER OF BUILDINGS IN THE COOP-
51 ERATIVE DEVELOPMENT THAT HAVE BEEN DESIGNATED BY THE DEPARTMENT OF
52 BUILDINGS IN ACCORDANCE WITH PARAGRAPH B OF SUBDIVISION THREE OF THIS
53 SECTION, AND THE DENOMINATOR OF WHICH IS THE TOTAL NUMBER OF BUILDINGS
54 THAT WERE LOCATED IN THE COOPERATIVE DEVELOPMENT AS OF THE TWENTY-EIGHTH
55 DAY OF OCTOBER, TWO THOUSAND TWELVE, THEN (3) DIVIDED BY THE NUMBER OF
56 BUILDINGS IN THE COOPERATIVE DEVELOPMENT THAT HAVE BEEN DESIGNATED BY

1 THE DEPARTMENT OF BUILDINGS IN ACCORDANCE WITH PARAGRAPH B OF SUBDIVI-
2 SION THREE OF THIS SECTION.

3 B. ELIGIBLE REAL PROPERTY DESCRIBED IN THIS SUBDIVISION WITH NO ANNUAL
4 TAX SHALL NOT BE ELIGIBLE FOR A REBATE UNDER THIS SECTION.

5 6. ISSUING A REBATE. A. THE COMMISSIONER OF FINANCE SHALL:

6 (1) MAIL THE REBATE AUTHORIZED BY THIS SECTION TO THE PERSON WHOSE
7 NAME APPEARS ON THE RECORDS OF THE DEPARTMENT OF FINANCE AS THE OWNER OF
8 THE ELIGIBLE REAL PROPERTY OR DWELLING UNIT LOCATED THEREIN, AT AN
9 ADDRESS ON THE RECORDS OF THE DEPARTMENT OF FINANCE AS THE ADDRESS OF
10 SUCH OWNER, AND IF NO SUCH ADDRESS APPEARS ON THE RECORDS OF THE DEPART-
11 MENT OF FINANCE, THEN TO THE ADDRESS, IF ANY, APPEARING IN THE LATEST
12 ASSESSMENT ROLL AS THE ADDRESS OF THE OWNER OF THE ELIGIBLE REAL PROPER-
13 TY. NOTWITHSTANDING THE PREVIOUS SENTENCE, IF AN OWNER HAS NOTIFIED THE
14 UNITED STATES POSTAL SERVICE OF A FORWARDING ADDRESS FOR MAIL THAT WOULD
15 OTHERWISE HAVE BEEN SENT TO ANY OF THE ADDRESSES DESCRIBED IN THE PREVI-
16 OUS SENTENCE, THEN THE COMMISSIONER OF FINANCE MAY MAIL THE REBATE
17 AUTHORIZED BY THIS SECTION TO SUCH FORWARDING ADDRESS; OR

18 2. APPLY THE REBATE AS A CREDIT AGAINST REAL PROPERTY TAXES TO THE
19 OWNER OF THE ELIGIBLE REAL PROPERTY FOR THE FISCAL YEAR BEGINNING ON THE
20 FIRST OF JULY, TWO THOUSAND TWELVE OR FOR THE FOLLOWING FISCAL YEAR.

21 B. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH A OF THIS SUBDIVISION,
22 WITH RESPECT TO ANY REBATE TO WHICH AN OWNER OF A BUILDING THAT WAS
23 DESIGNATED BY THE DEPARTMENT OF BUILDINGS IN ACCORDANCE WITH PARAGRAPH B
24 OF SUBDIVISION THREE OF THIS SECTION THAT IS LOCATED ON ELIGIBLE REAL
25 PROPERTY THAT IS DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION ONE OF
26 SECTION EIGHTEEN HUNDRED TWO OF THIS CHAPTER IS ENTITLED UNDER THIS
27 SECTION, THE COMMISSIONER OF FINANCE SHALL EITHER:

28 (1) MAIL THE REBATE TO THE COOPERATIVE DEVELOPMENT OF WHICH THE
29 OWNER'S PROPERTY IS A PART, AT THE ADDRESS ON THE RECORDS OF THE DEPART-
30 MENT OF FINANCE AS THE ADDRESS OF THE COOPERATIVE CORPORATION THAT IS
31 THE OWNER OF THE LAND INCLUDED IN THE COOPERATIVE DEVELOPMENT, AND IF NO
32 SUCH ADDRESS APPEARS ON THE RECORDS OF THE DEPARTMENT OF FINANCE, THEN
33 TO THE ADDRESS, IF ANY, APPEARING IN THE LATEST ASSESSMENT ROLL AS THE
34 ADDRESS OF THE OWNER OF SUCH LAND. NOTWITHSTANDING THE PREVIOUS
35 SENTENCE, IF THE COOPERATIVE CORPORATION HAS NOTIFIED THE UNITED STATES
36 POSTAL SERVICE OF A FORWARDING ADDRESS FOR MAIL THAT WOULD OTHERWISE
37 HAVE BEEN SENT TO ANY OF THE ADDRESSES DESCRIBED IN THE PREVIOUS
38 SENTENCE, THEN THE COMMISSIONER OF FINANCE MAY MAIL THE REBATE AUTHOR-
39 IZED BY THIS SECTION TO SUCH FORWARDING ADDRESS; OR

40 (2) APPLY THE REBATE AS A CREDIT AGAINST REAL PROPERTY TAXES TO THE
41 COOPERATIVE DEVELOPMENT OF WHICH THE OWNER'S PROPERTY IS A PART FOR THE
42 FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOUSAND TWELVE OR FOR
43 THE FOLLOWING FISCAL YEAR.

44 7. RECOVERY OF ERRONEOUS REBATE. IF THE COMMISSIONER OF FINANCE DETER-
45 MINES (A) THAT AN OWNER WHO RECEIVED A REBATE WAS NOT ENTITLED TO A
46 REBATE UNDER THIS SECTION, OR (B) THAT A REBATE WAS PAID OR CALCULATED
47 IN ERROR UNDER THIS SECTION, THE COMMISSIONER OF FINANCE SHALL RECOVER
48 OR RECALCULATE SUCH REBATE AND THE AMOUNT OF THE REBATE OR AN AMOUNT
49 EQUAL TO THE DIFFERENCE BETWEEN THE REBATE ORIGINALLY PAID AND THE
50 AMOUNT TO WHICH THE OWNER WAS ENTITLED SHALL BE DEDUCTED FROM ANY REFUND
51 OR REBATE OTHERWISE PAYABLE TO THE OWNER, AND ANY BALANCE OF SUCH AMOUNT
52 REMAINING UNPAID SHALL BE PAID TO THE COMMISSIONER OF FINANCE NO LATER
53 THAN THE DUE AND PAYABLE DATE PROVIDED ON A NOTICE OF THE AMOUNT PAYABLE
54 MAILED BY THE COMMISSIONER OF FINANCE. SUCH AMOUNT PAYABLE SHALL CONSTI-
55 TUTE A TAX LIEN ON THE REAL PROPERTY OWNED BY SUCH OWNER AS OF THE DUE
56 AND PAYABLE DATE PROVIDED ON SUCH NOTICE, AND, IF NOT PAID BY SUCH DUE

1 AND PAYABLE DATE, INTEREST AT THE RATE APPLICABLE TO DELINQUENT REAL
2 PROPERTY TAXES ON SUCH PROPERTY SHALL BE CHARGED AND COLLECTED ON SUCH
3 AMOUNT FROM THE DUE AND PAYABLE DATE PROVIDED ON SUCH NOTICE TO THE DATE
4 OF PAYMENT, AND SUCH AMOUNT PAYABLE SHALL BE ENFORCEABLE AS A TAX LIEN
5 IN ACCORDANCE WITH PROVISIONS OF LAW RELATING TO THE ENFORCEMENT OF TAX
6 LIENS IN ANY SUCH CITY.

7 8. REBATE NOT DEEMED A REFUND. ANY REBATE AUTHORIZED BY THIS SECTION
8 TO BE PAID BY THE COMMISSIONER OF FINANCE SHALL NOT BE DEEMED TO BE A
9 REFUND OF A REAL PROPERTY TAX PAYMENT.

10 9. ADMINISTRATIVE AND JUDICIAL PROCEEDINGS. IF, IN ANY ADMINISTRATIVE
11 OR JUDICIAL PROCEEDING, THE ASSESSED VALUATION OF ELIGIBLE REAL PROPERTY
12 IS REDUCED FOR THE FISCAL YEAR BEGINNING ON THE FIRST OF JULY, TWO THOU-
13 SAND TWELVE, AND SUCH REDUCTION RESULTS IN A RETURN OF OVERPAYMENT OF
14 REAL PROPERTY TAXES PAID WITH RESPECT TO SUCH FISCAL YEAR, THE AMOUNT OF
15 SUCH OVERPAYMENT SHALL BE REDUCED BY THE AMOUNT OF ANY REBATE PAID
16 PURSUANT TO THIS SECTION. IF SUCH OVERPAYMENT IS RETURNED BEFORE A
17 REBATE IS PAID PURSUANT TO THIS SECTION, THE AMOUNT OF ANY REBATE PAID
18 PURSUANT TO THIS SECTION SHALL BE REDUCED BY THE AMOUNT OF SUCH OVERPAY-
19 MENT.

20 10. RULEMAKING. THE COMMISSIONER OF FINANCE SHALL BE AUTHORIZED TO
21 PROMULGATE RULES NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

22 S 2. Severability. If any clause, sentence, paragraph, section or part
23 of this act shall be adjudged to be unconstitutional or invalid, such
24 judgment shall not affect, impair or invalidate the remainder thereof,
25 but shall be confined in its operation to the clause, sentence, para-
26 graph, section or part thereof directly involved in the controversy in
27 which such judgment shall have been rendered, provided that if paragraph
28 d of subdivision 4 of section 467-g of the real property tax law, as
29 added by section one of this act, shall be adjudged to be invalid or
30 unconstitutional on its face or in its application to any person or
31 circumstances by a court of competent jurisdiction, then class four real
32 property shall not be eligible for a rebate pursuant to section 467-g of
33 the real property tax law, as added by section one of this act.

34 S 3. This act shall take effect immediately.