

1469--A

2015-2016 Regular Sessions

I N S E N A T E

January 12, 2015

Introduced by Sen. GOLDEN -- 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, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to establishing the residential open green space tax abatement for certain properties in a city 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. Article 4 of the real property tax law is amended by adding
2 a new title 4-D to read as follows:

3 TITLE 4-D

4 RESIDENTIAL OPEN GREEN SPACE TAX ABATEMENT FOR CERTAIN PROPERTIES IN A
5 CITY OF

6 ONE MILLION OR MORE PERSONS

7 SECTION 499-AAAAA. DEFINITIONS.

8 499-BBBBB. REAL PROPERTY TAX ABATEMENT.

9 499-CCCCC. APPLICATION FOR TAX ABATEMENT.

10 499-DDDDD. CONTINUING REQUIREMENTS.

11 499-EEEEEE. REVOCATION OF TAX ABATEMENT.

12 499-FFFFFF. ENFORCEMENT AND ADMINISTRATION.

13 499-GGGGG. TAX LIEN AND INTEREST.

14 S 499-AAAAA. DEFINITIONS. WHEN USED IN THIS TITLE, THE FOLLOWING TERMS
15 SHALL HAVE THE FOLLOWING MEANINGS:

16 1. "APPLICANT" SHALL MEAN (A) WITH RESPECT TO AN ELIGIBLE BUILDING
17 HELD IN THE COOPERATIVE OR CONDOMINIUM FORM OF OWNERSHIP, THE BOARD OF
18 MANAGERS OF A CONDOMINIUM OR THE BOARD OF DIRECTORS OF A COOPERATIVE

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

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1 APARTMENT CORPORATION, OR (B) WITH RESPECT TO ANY OTHER ELIGIBLE BUILD-
2 ING, THE OWNER OF SUCH BUILDING.

3 2. "APPLICATION FOR TAX ABATEMENT" SHALL MEAN AN APPLICATION FOR A
4 RESIDENTIAL OPEN GREEN SPACE TAX ABATEMENT PURSUANT TO SECTION FOUR
5 HUNDRED NINETY-NINE-CCCCC OF THIS TITLE.

6 3. "COMPLIANCE PERIOD" SHALL MEAN THE TAX YEAR IN WHICH A TAX ABATE-
7 MENT IS TAKEN.

8 4. "DEPARTMENT OF FINANCE" SHALL MEAN THE DEPARTMENT OF FINANCE OF A
9 CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS.

10 5. "DESIGNATED AGENCY" SHALL MEAN ONE OR MORE AGENCIES OR DEPARTMENTS
11 OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS THAT ARE
12 DESIGNATED BY THE MAYOR OF SUCH CITY TO EXERCISE THE FUNCTIONS, POWERS
13 AND DUTIES OF A DESIGNATED AGENCY PURSUANT TO THIS TITLE.

14 6. "ELIGIBLE BUILDING" SHALL MEAN RESIDENTIAL REAL PROPERTY, LOCATED
15 WITHIN A CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS. NO
16 BUILDING SHALL BE ELIGIBLE FOR MORE THAN ONE TAX ABATEMENT PURSUANT TO
17 THIS TITLE.

18 7. "ELIGIBLE SPACE" SHALL MEAN THE TOTAL SPACE AVAILABLE THAT IS
19 COVERED WITH AN IMPERMEABLE SURFACE, TO SUPPORT A RESIDENTIAL OPEN GREEN
20 SPACE.

21 8. "RESIDENTIAL OPEN GREEN SPACE" SHALL MEAN THE AREA OF RESIDENTIAL
22 YARDS, ADJOINING REAR YARDS AND REAR FACADES THAT HAS BEEN ALTERED BY
23 REMOVING AN IMPERMEABLE SURFACE AND HAS BEEN COVERED WITH SOIL AND VEGE-
24 TATION.

25 S 499-BBBBB. REAL PROPERTY TAX ABATEMENT. AN ELIGIBLE BUILDING SHALL
26 RECEIVE AN ABATEMENT OF REAL PROPERTY TAXES AS PROVIDED IN THIS TITLE
27 AND THE RULES PROMULGATED HEREUNDER.

28 1. THE AMOUNT OF SUCH TAX ABATEMENT SHALL BE FOUR DOLLARS AND FIFTY
29 CENTS PER SQUARE FOOT OF RESIDENTIAL OPEN GREEN SPACE PURSUANT TO AN
30 APPROVED APPLICATION FOR TAX ABATEMENT; PROVIDED, HOWEVER, THAT THE
31 AMOUNT OF SUCH TAX ABATEMENT SHALL NOT EXCEED THE LESSER OF (A) ONE
32 HUNDRED THOUSAND DOLLARS OR (B) THE TAX LIABILITY FOR THE ELIGIBLE
33 BUILDING IN THE TAX YEAR IN WHICH THE TAX ABATEMENT IS TAKEN.

34 2. SUCH TAX ABATEMENT SHALL COMMENCE ON JULY FIRST FOLLOWING THE
35 APPROVAL OF AN APPLICATION FOR TAX ABATEMENT BY A DESIGNATED AGENCY, AND
36 SHALL NOT EXCEED ONE YEAR.

37 3. WITH RESPECT TO ANY ELIGIBLE BUILDING HELD IN THE CONDOMINIUM FORM
38 OF OWNERSHIP THAT RECEIVES A TAX ABATEMENT PURSUANT TO THIS TITLE, SUCH
39 TAX ABATEMENT BENEFITS SHALL BE APPORTIONED AMONG ALL OF THE CONDOMINIUM
40 TAX LOTS WITHIN SUCH ELIGIBLE BUILDING.

41 4. IF, AS A RESULT OF APPLICATION TO THE TAX COMMISSION OR A COURT
42 ORDER OR ACTION BY THE DEPARTMENT OF FINANCE, THE BILLABLE ASSESSED
43 VALUE FOR THE FISCAL YEAR IN WHICH THE TAX ABATEMENT IS TAKEN IS REDUCED
44 AFTER THE ASSESSMENT ROLL BECOMES FINAL, THE DEPARTMENT OF FINANCE SHALL
45 RECALCULATE THE ABATEMENT SO THAT THE ABATEMENT GRANTED SHALL NOT EXCEED
46 THE ANNUAL TAX LIABILITY AS SO REDUCED. THE AMOUNT EQUAL TO THE DIFFER-
47 ENCE BETWEEN THE ABATEMENT ORIGINALLY GRANTED AND THE ABATEMENT AS SO
48 RECALCULATED SHALL BE DEDUCTED FROM ANY REFUND OTHERWISE PAYABLE OR
49 REMISSION OTHERWISE DUE AS A RESULT OF SUCH REDUCTION IN BILLABLE
50 ASSESSED VALUE.

51 S 499-CCCCC. APPLICATION FOR TAX ABATEMENT. 1. TO OBTAIN A TAX ABATE-
52 MENT PURSUANT TO THIS TITLE, AN APPLICANT MUST FILE AN APPLICATION FOR
53 TAX ABATEMENT, WHICH MAY BE FILED ON OR AFTER JANUARY FIRST, TWO THOU-
54 SAND SEVENTEEN, AND ON OR BEFORE MARCH SIXTEENTH, TWO THOUSAND TWENTY.

1 2. SUCH APPLICATION SHALL BE FILED WITH A DESIGNATED AGENCY NO LATER
2 THAN THE MARCH FIFTEENTH BEFORE THE TAX YEAR, BEGINNING JULY FIRST, FOR
3 WHICH THE TAX ABATEMENT IS SOUGHT.

4 3. SUCH APPLICATION SHALL CONTAIN THE FOLLOWING:

5 (A) THE NAME AND ADDRESS OF THE APPLICANT AND THE LOCATION OF THE
6 RESIDENTIAL OPEN GREEN SPACE.

7 (B) PROOF THAT THE APPLICANT RECEIVED ALL REQUIRED CERTIFICATIONS,
8 PERMITS AND OTHER APPROVALS TO CONSTRUCT THE RESIDENTIAL OPEN GREEN
9 SPACE.

10 (C) AN AGREEMENT BY THE APPLICANT, WHICH INCLUDES A MAINTENANCE PLAN,
11 TO MAINTAIN THE RESIDENTIAL OPEN GREEN SPACE DURING THE COMPLIANCE PERI-
12 OD AND FOR A MINIMUM OF THREE YEARS THEREAFTER IN SUCH A MANNER THAT IT
13 CONTINUOUSLY CONSTITUTES A RESIDENTIAL OPEN GREEN SPACE WITHIN THE MEAN-
14 ING OF THIS TITLE AND THE RULES PROMULGATED HEREUNDER.

15 (D) AN AGREEMENT TO PERMIT A DESIGNATED AGENCY OR ITS DESIGNEE TO
16 INSPECT THE RESIDENTIAL OPEN GREEN SPACE AND ANY RELATED STRUCTURES AND
17 EQUIPMENT UPON REASONABLE NOTICE.

18 (E) ANY OTHER INFORMATION OR CERTIFICATIONS REQUIRED BY A DESIGNATED
19 AGENCY PURSUANT TO THIS TITLE AND THE RULES PROMULGATED HEREUNDER.

20 4. AN APPLICATION FOR TAX ABATEMENT SHALL BE IN ANY FORMAT PRESCRIBED
21 BY A DESIGNATED AGENCY, INCLUDING ELECTRONIC FORM.

22 5. AN APPLICATION FOR TAX ABATEMENT SHALL BE APPROVED BY A DESIGNATED
23 AGENCY UPON DETERMINING THAT THE APPLICANT HAS SUBMITTED PROOF ACCEPTA-
24 BLE TO SUCH AGENCY THAT THE REQUIREMENTS FOR OBTAINING A TAX ABATEMENT
25 PURSUANT TO THIS TITLE AND THE RULES PROMULGATED HEREUNDER HAVE BEEN
26 MET. THE BURDEN OF PROOF SHALL BE ON THE APPLICANT TO SHOW BY CLEAR AND
27 CONVINCING EVIDENCE THAT THE REQUIREMENTS FOR GRANTING A TAX ABATEMENT
28 HAVE BEEN SATISFIED.

29 6. UPON NOTIFICATION FROM A DESIGNATED AGENCY THAT AN APPLICATION FOR
30 TAX ABATEMENT HAS BEEN APPROVED, THE DEPARTMENT OF FINANCE SHALL APPLY
31 THE TAX ABATEMENT, PROVIDED THERE ARE NO OUTSTANDING REAL ESTATE TAXES,
32 WATER AND SEWER CHARGES, PAYMENTS IN LIEU OF TAXES OR OTHER MUNICIPAL
33 CHARGES WITH RESPECT TO THE ELIGIBLE BUILDING.

34 S 499-DDDDD. CONTINUING REQUIREMENTS. THE TAX ABATEMENT SHALL BE
35 CONDITIONED UPON:

36 1. CONTINUING COMPLIANCE DURING THE COMPLIANCE PERIOD WITH ALL APPLI-
37 CABLE PROVISIONS OF LAW, INCLUDING WITHOUT LIMITATION THE LOCAL
38 CONSTRUCTION AND FIRE CODES, MAINTAINING THE RESIDENTIAL OPEN GREEN
39 SPACE IN SUCH A MANNER THAT IT CONTINUOUSLY CONSTITUTES A RESIDENTIAL
40 OPEN GREEN SPACE WITHIN THE MEANING OF THIS TITLE AND THE RULES PROMUL-
41 GATED HEREUNDER, AND PERMITTING A DESIGNATED AGENCY OR ITS DESIGNEE TO
42 INSPECT THE RESIDENTIAL OPEN GREEN SPACE AND ANY RELATED STRUCTURES AND
43 EQUIPMENT UPON REASONABLE NOTICE; AND

44 2. REAL ESTATE TAXES, WATER AND SEWER CHARGES, PAYMENTS IN LIEU OF
45 TAXES OR OTHER MUNICIPAL CHARGES WITH RESPECT TO AN ELIGIBLE BUILDING
46 NOT HAVING BEEN DUE AND OWING DURING THE COMPLIANCE PERIOD FOR A PERIOD
47 OF SIX MONTHS OR MORE.

48 S 499-EEEEEE. REVOCATION OF TAX ABATEMENT. 1. THE DEPARTMENT OF FINANCE
49 SHALL REVOKE, IN WHOLE OR IN PART, ANY TAX ABATEMENT GRANTED PURSUANT TO
50 THIS TITLE WHENEVER A DESIGNATED AGENCY HAS DETERMINED AND NOTIFIED THE
51 DEPARTMENT OF FINANCE THAT:

52 (A) AN APPLICANT HAS FAILED TO COMPLY WITH A REQUIREMENT OF THIS TITLE
53 OR ANY RULE PROMULGATED HEREUNDER AT ANY TIME DURING THE COMPLIANCE
54 PERIOD, INCLUDING WITHOUT LIMITATION ANY OF THE CONTINUING REQUIREMENTS
55 SET FORTH IN SUBDIVISION ONE OF SECTION FOUR HUNDRED NINETY-NINE-DDDDD
56 OF THIS TITLE;

1 (B) AN ELIGIBLE BUILDING HAS NOT BEEN IN COMPLIANCE DURING ALL OR PART
2 OF THE COMPLIANCE PERIOD WITH ANY REQUIREMENT OF THIS TITLE OR ANY RULE
3 PROMULGATED HEREUNDER;

4 (C) THE RESIDENTIAL OPEN GREEN SPACE FOR WHICH A TAX ABATEMENT WAS
5 GRANTED HAS AT ANY TIME DURING THE COMPLIANCE PERIOD FAILED TO MEET ANY
6 REQUIREMENT FOR A RESIDENTIAL OPEN GREEN SPACE PURSUANT TO THIS TITLE OR
7 ANY RULE PROMULGATED HEREUNDER; OR

8 (D) AN APPLICATION, CERTIFICATION, REPORT OR OTHER DOCUMENT SUBMITTED
9 BY THE APPLICANT CONTAINS A FALSE OR MISLEADING STATEMENT AS TO A MATE-
10 RIAL FACT OR OMITS TO STATE ANY MATERIAL FACT NECESSARY IN ORDER TO MAKE
11 THE STATEMENT THEREIN NOT FALSE OR MISLEADING.

12 2. THE DEPARTMENT OF FINANCE MAY REVOKE, IN WHOLE OR IN PART, ANY TAX
13 ABATEMENT GRANTED PURSUANT TO THIS TITLE WHENEVER IT HAS DETERMINED THAT
14 AN APPLICANT HAS FAILED TO COMPLY WITH THE CONTINUING REQUIREMENT SET
15 FORTH IN SUBDIVISION TWO OF SECTION FOUR HUNDRED NINETY-NINE-DDDDD OF
16 THIS TITLE.

17 3. WHERE IT HAS BEEN DETERMINED BY A DESIGNATED AGENCY, AFTER NOTICE
18 TO AND AN OPPORTUNITY TO BE HEARD BY THE ENTITY RECEIVING THE TAX
19 REBATE, THAT A SITUATION DESCRIBED IN ANY OF THE PROVISIONS OF SUBDIVI-
20 SION ONE OF THIS SECTION HAS OCCURRED, SUCH DESIGNATED AGENCY SHALL SO
21 NOTIFY THE DEPARTMENT OF FINANCE NO LATER THAN THE NINETIETH DAY AFTER
22 THE LAST DAY OF THE COMPLIANCE PERIOD.

23 4. AN APPLICANT SHALL PAY, WITH INTEREST, SUCH PART OF ANY TAX ABATE-
24 MENT RECEIVED PURSUANT TO THIS TITLE THAT REPRESENTS THE PERIOD OF NON-
25 COMPLIANCE AS DETERMINED BY THE DESIGNATED AGENCY OR THE DEPARTMENT OF
26 FINANCE, AS THE CASE MAY BE. IN ADDITION, A DESIGNATED AGENCY MAY
27 DECLARE ANY APPLICANT INELIGIBLE FOR FUTURE TAX ABATEMENT PURSUANT TO
28 THIS TITLE IF ANY APPLICATION, CERTIFICATION, REPORT OR OTHER DOCUMENT
29 SUBMITTED BY THE APPLICANT CONTAINS A FALSE OR MISLEADING STATEMENT AS
30 TO A MATERIAL FACT OR OMITS TO STATE ANY MATERIAL FACT NECESSARY IN
31 ORDER TO MAKE THE STATEMENT THEREIN NOT FALSE OR MISLEADING.

32 S 499-FFFFF. ENFORCEMENT AND ADMINISTRATION. 1. THE DEPARTMENT OF
33 FINANCE SHALL HAVE, IN ADDITION TO ANY OTHER FUNCTIONS, POWERS AND
34 DUTIES THAT HAVE BEEN OR MAY BE CONFERRED ON IT BY LAW, THE FOLLOWING
35 FUNCTIONS, POWERS AND DUTIES TO BE EXERCISED IN ACCORDANCE WITH THIS
36 TITLE:

37 (A) TO APPLY A TAX ABATEMENT;

38 (B) TO REVOKE ALL OR PART OF ANY SUCH TAX ABATEMENT;

39 (C) TO MAKE AND PROMULGATE RULES TO CARRY OUT THE PURPOSES OF THIS
40 TITLE; AND

41 (D) ANY OTHER FUNCTION, POWER OR DUTY NECESSARILY IMPLIED BY THIS
42 TITLE.

43 2. A DESIGNATED AGENCY SHALL HAVE, IN ADDITION TO ANY OTHER FUNCTIONS,
44 POWERS AND DUTIES THAT HAVE BEEN OR MAY BE CONFERRED ON IT BY LAW, THE
45 FOLLOWING FUNCTIONS, POWERS AND DUTIES TO BE EXERCISED IN ACCORDANCE
46 WITH THIS TITLE:

47 (A) TO RECEIVE, REVIEW, APPROVE AND DENY APPLICATIONS FOR TAX ABATE-
48 MENT;

49 (B) TO INSPECT OPEN SPACES AND ANY RELATED STRUCTURES AND EQUIPMENT;

50 (C) TO PRESCRIBE FORMS AND MAKE AND PROMULGATE RULES TO CARRY OUT THE
51 PURPOSES OF THIS TITLE;

52 (D) TO MAKE THE DETERMINATIONS PROVIDED FOR IN SECTIONS FOUR HUNDRED
53 NINETY-NINE-CCCC AND FOUR HUNDRED NINETY-NINE-EEEE OF THIS TITLE AND
54 TO NOTIFY THE DEPARTMENT OF FINANCE OF SUCH DETERMINATIONS; AND

55 (E) ANY OTHER FUNCTION, POWER OR DUTY NECESSARILY IMPLIED BY THIS
56 TITLE.

1 3. A DESIGNATED AGENCY MAY PROVIDE FOR REASONABLE ADMINISTRATIVE
2 CHARGES OR FEES NECESSARY TO DEFRAID EXPENSES OF ADMINISTERING THE TAX
3 ABATEMENT PROGRAM ESTABLISHED BY THIS TITLE.

4 4. A DESIGNATED AGENCY AND THE DEPARTMENT OF FINANCE SHALL ESTABLISH
5 PROCEDURES THAT ARE NECESSARY OR APPROPRIATE FOR (A) THE TIMELY NOTIFI-
6 CATION TO THE DEPARTMENT OF FINANCE BY A DESIGNATED AGENCY OF AN
7 APPROVAL OF AN APPLICATION FOR TAX ABATEMENT OR OF ANY NONCOMPLIANCE
8 PURSUANT TO SECTION FOUR HUNDRED NINETY-NINE-EEEEEE OF THIS TITLE AND (B)
9 ANY OTHER INTERAGENCY COORDINATION TO FACILITATE THE PURPOSES OF THIS
10 TITLE.

11 S 499-GGGGG. TAX LIEN AND INTEREST. ALL TAXES, WITH INTEREST, REQUIRED
12 TO BE PAID RETROACTIVELY PURSUANT TO THIS TITLE SHALL CONSTITUTE A TAX
13 LIEN AS OF THE DATE IT IS DETERMINED SUCH TAXES AND INTEREST ARE OWED.
14 ALL INTEREST SHALL BE CALCULATED FROM THE DATE THE TAXES WOULD HAVE BEEN
15 DUE BUT FOR THE TAX ABATEMENT GRANTED PURSUANT TO THIS TITLE AT THE
16 APPLICABLE RATE OR RATES OF INTEREST IMPOSED GENERALLY FOR NON-PAYMENT
17 OF REAL PROPERTY TAX WITH RESPECT TO THE ELIGIBLE BUILDING FOR THE PERI-
18 OD IN QUESTION.

19 S 2. This act shall take effect immediately.