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

10336

I N A S S E M B L Y

May 23, 2016

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

AN ACT to amend the real property tax law, in relation to establishing a tax abatement for rent-controlled and rent regulated property occupied by persons with student debt

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 485-s to read as follows:

S 485-S. TAX ABATEMENT FOR RENT-CONTROLLED AND RENT REGULATED PROPERTY OCCUPIED BY PERSONS WITH STUDENT DEBT. 1. DEFINITIONS. AS USED IN THIS SECTION:

A. "DWELLING UNIT" MEANS THAT PART OF A DWELLING IN WHICH A HEAD OF THE HOUSEHOLD RESIDES AND WHICH IS SUBJECT TO EITHER THE EMERGENCY HOUSING RENT CONTROL LAW OR TO THE RENT AND REHABILITATION LAW OF THE CITY OF NEW YORK ENACTED PURSUANT TO THE LOCAL EMERGENCY HOUSING RENT CONTROL LAW, OR TO THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR;

B. "HEAD OF THE HOUSEHOLD" MEANS A PERSON (I) WHO IS TWENTY-ONE YEARS OF AGE OR OLDER, AND (II) IS ENTITLED TO THE POSSESSION OR TO THE USE OR OCCUPANCY OF A DWELLING UNIT;

C. "INCOME" MEANS INCOME FROM ALL SOURCES AFTER DEDUCTION OF ALL INCOME AND SOCIAL SECURITY TAXES 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 GIFTS OR INHERITANCES, PAYMENTS MADE TO INDIVIDUALS BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION, AS DEFINED IN P.L. 103-286, PAYMENTS MADE IN STRICT COMPLIANCE WITH THE FEDERAL "INCOME BASED REPAYMENT PLAN" OR "PAY AS YOU EARN" PLAN", 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 TAKE EFFECT AFTER THE DATE OF ELIGIBILITY OF HEAD OF THE HOUSEHOLD RECEIVING BENEFITS HERE-

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

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UNDER WHETHER RECEIVED BY THE HEAD OF THE HOUSEHOLD OR ANY OTHER MEMBER OF THE HOUSEHOLD;

D. "INCOME TAX YEAR" MEANS A TWELVE MONTH PERIOD FOR WHICH THE HEAD OF THE HOUSEHOLD FILED A FEDERAL PERSONAL INCOME TAX RETURN, OR IF NO SUCH RETURN IS FILED, THE CALENDAR YEAR;

E. "INCREASE IN MAXIMUM RENT OR LEGAL REGULATED RENT" MEANS ANY INCREASE IN THE MAXIMUM RENT OR THE LEGAL REGULATED RENT FOR THE DWELLING UNIT IN QUESTION PURSUANT TO THE APPLICABLE RENT CONTROL LAW OR TO THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, RESPECTIVELY, OR SUCH CLASSES OF INCREASE THEREUNDER AS MAY BE SPECIFIED IN A LOCAL LAW, ORDINANCE OR RESOLUTION ENACTED PURSUANT TO THIS SECTION, OVER SUCH BASE PERIOD RENT AS SHALL BE PROVIDED THEREIN OR AN EXEMPTION FROM THE MAXIMUM RENT OR LEGAL REGULATED RENT AS SPECIFIED IN PARAGRAPH B OR C OF SUBDIVISION THREE OF THIS SECTION;

F. "MEMBERS OF THE 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.

2. THE GOVERNING BODY OF ANY MUNICIPAL CORPORATION 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 MUNICIPAL CORPORATION IMPOSED ON REAL PROPERTY CONTAINING A DWELLING UNIT AS DEFINED HEREIN BY THE FOLLOWING AMOUNT: WHERE THE HEAD OF THE HOUSEHOLD DOES NOT RECEIVE A MONTHLY ALLOWANCE FOR SHELTER PURSUANT TO THE SOCIAL SERVICES LAW, AN AMOUNT NOT IN EXCESS OF THAT PORTION OF ANY INCREASE IN MAXIMUM RENT OR LEGAL REGULATED RENT WHICH CAUSES SUCH MAXIMUM RENT OR LEGAL REGULATED RENT TO EXCEED ONE-THIRD OF THE COMBINED INCOME OF ALL MEMBERS OF THE HOUSEHOLD.

3. ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION SHALL PROVIDE THAT:

A. FOR A DWELLING UNIT WHERE THE HEAD OF THE HOUSEHOLD IS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER, NO TAX ABATEMENT SHALL BE GRANTED IF THE COMBINED INCOME OF ALL MEMBERS OF THE HOUSEHOLD FOR THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE DATE OF MAKING APPLICATION EXCEEDS EIGHTY THOUSAND DOLLARS BEGINNING JULY FIRST, TWO THOUSAND SEVENTEEN, AS MAY BE PROVIDED BY THE LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED PURSUANT TO THIS SECTION.

B. UPON ISSUANCE OF A TAX ABATEMENT CERTIFICATE AS PROVIDED IN SUBDIVISION FOUR OF THIS SECTION, THE AMOUNT SET FORTH IN SAID CERTIFICATE SHALL BE DEDUCTED FROM THE LEGAL MAXIMUM RENT OR LEGAL REGULATED RENT CHARGEABLE FOR A DWELLING UNIT OF A HEAD OF THE HOUSEHOLD.

C. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A HEAD OF THE HOUSEHOLD TO WHOM A THEN CURRENT, VALID TAX ABATEMENT CERTIFICATE HAS BEEN ISSUED MOVES HIS PRINCIPAL RESIDENCE FROM ONE DWELLING UNIT TO A SUBSEQUENT DWELLING UNIT LOCATED WITHIN THE SAME MUNICIPAL CORPORATION, THE HEAD OF THE HOUSEHOLD MAY APPLY FOR A TAX ABATEMENT CERTIFICATE RELATING TO THE SUBSEQUENT DWELLING UNIT, AND SUCH CERTIFICATE MAY PROVIDE THAT THE HEAD OF THE HOUSEHOLD SHALL BE EXEMPT FROM PAYING THAT PORTION OF THE MAXIMUM RENT OR LEGAL REGULATED RENT FOR THE SUBSEQUENT DWELLING UNIT WHICH IS THE LEAST OF THE FOLLOWING:

(1) THE AMOUNT BY WHICH THE RENT FOR THE SUBSEQUENT DWELLING UNIT EXCEEDS THE LAST RENT, AS REDUCED, WHICH THE HEAD OF THE HOUSEHOLD WAS REQUIRED TO ACTUALLY PAY IN THE ORIGINAL DWELLING UNIT;

(2) THE LAST AMOUNT DEDUCTED FROM THE MAXIMUM RENT OR LEGAL REGULATED RENT PURSUANT TO THIS SECTION IN THE ORIGINAL DWELLING UNIT; OR

(3) WHERE THE HEAD OF THE HOUSEHOLD DOES NOT RECEIVE A MONTHLY ALLOWANCE FOR SHELTER PURSUANT TO THE SOCIAL SERVICES LAW, THE AMOUNT BY WHICH THE MAXIMUM RENT OR LEGAL REGULATED RENT OF THE SUBSEQUENT DWELLING UNIT EXCEEDS ONE-THIRD OF THE COMBINED INCOME OF ALL MEMBERS OF THE HOUSEHOLD, EXCEPT THAT THIS SUBPARAGRAPH SHALL NOT APPLY TO A HEAD OF THE HOUSEHOLD WHO HAS BEEN GRANTED A RENT INCREASE EXEMPTION ORDER THAT IS IN EFFECT AS OF JANUARY FIRST, TWO THOUSAND SEVENTEEN OR TAKES EFFECT ON OR BEFORE JULY FIRST, TWO THOUSAND SEVENTEEN.

D. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A HEAD OF THE HOUSEHOLD TO WHOM A THEN CURRENT, VALID TAX ABATEMENT CERTIFICATE HAS BEEN ISSUED MOVES HIS PRINCIPAL RESIDENCE FROM ONE DWELLING UNIT SUBJECT TO THE PROVISIONS OF ARTICLES II, IV, V OR XI OF THE PRIVATE HOUSING FINANCE LAW TO A SUBSEQUENT DWELLING UNIT SUBJECT TO EITHER THE LOCAL EMERGENCY HOUSING RENT CONTROL LAW OR TO THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR WHICH IS LOCATED WITHIN THE SAME MUNICIPAL CORPORATION, THE HEAD OF THE HOUSEHOLD MAY APPLY FOR A TAX ABATEMENT CERTIFICATE RELATING TO THE SUBSEQUENT DWELLING UNIT, AND SUCH CERTIFICATE MAY PROVIDE THAT THE HEAD OF THE HOUSEHOLD SHALL BE EXEMPT FROM PAYING THAT PORTION OF THE MAXIMUM RENT OR LEGAL REGULATED RENT FOR THE SUBSEQUENT DWELLING UNIT WHICH IS THE LEAST OF THE FOLLOWING:

(1) THE AMOUNT BY WHICH THE RENT FOR THE SUBSEQUENT DWELLING UNIT EXCEEDS THE LAST RENT, AS SO REDUCED, WHICH THE HEAD OF THE HOUSEHOLD WAS REQUIRED TO ACTUALLY PAY IN THE ORIGINAL DWELLING UNIT;

(2) THE MOST RECENT AMOUNT SO DEDUCTED FROM THE MAXIMUM RENT OR LEGAL REGULATED RENT IN THE ORIGINAL DWELLING UNIT; OR

(3) WHERE THE HEAD OF THE HOUSEHOLD DOES NOT RECEIVE A MONTHLY ALLOWANCE FOR SHELTER PURSUANT TO THE SOCIAL SERVICES LAW, THE AMOUNT BY WHICH THE MAXIMUM RENT OR LEGAL REGULATED RENT OF THE SUBSEQUENT DWELLING UNIT EXCEEDS ONE-THIRD OF THE COMBINED INCOME OF ALL MEMBERS OF THE HOUSEHOLD, EXCEPT THAT THIS SUBPARAGRAPH SHALL NOT APPLY TO A HEAD OF THE HOUSEHOLD WHO HAS BEEN GRANTED A RENT INCREASE EXEMPTION ORDER THAT IS IN EFFECT AS OF JANUARY FIRST, TWO THOUSAND SEVENTEEN OR TAKES EFFECT ON OR BEFORE JULY FIRST, TWO THOUSAND SEVENTEEN.

E. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A DWELLING UNIT SUBJECT TO REGULATION UNDER THE NEW YORK CITY RENT AND REHABILITATION LAW OR THE RENT STABILIZATION LAW OF THE CITY OF NEW YORK IS RECLASSIFIED BY ORDER OF THE CITY RENT AGENCY SUBJECT TO THE OTHER LAW, A HEAD OF THE HOUSEHOLD WHO HELD A VALID EDUCATION RENT INCREASE EXEMPTION ORDER AT THE TIME OF SUCH RECLASSIFICATION MAY BE ISSUED A RENT INCREASE EXEMPTION ORDER UNDER THE APPROPRIATE LAW CONTINUING THE EXEMPTION HE OR SHE WOULD HAVE BEEN ELIGIBLE AND ENTITLED TO, NOTWITHSTANDING SUCH RECLASSIFICATION OF SUCH DWELLING UNIT AND THE TENANT SHALL BE EXEMPT FROM PAYING THE RENT INCREASE TO THE EXTENT TO WHICH HE OR SHE WAS OTHERWISE ELIGIBLE AND ENTITLED TO BE EXEMPTED AT THE TIME OF THE INCREASE BUT FOR THE FACT OF SUCH RECLASSIFICATION OF THE DWELLING UNIT INCLUDING EXEMPTION FROM THE RENT INCREASE GRANTED PURSUANT TO SUBPARAGRAPH (M) OF PARAGRAPH ONE OF SUBDIVISION G OF SECTION 26-405 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK TO THE EXTENT THAT IT IS NOT PREDICATED UPON ANY IMPROVEMENT OR ADDITION IN A CATEGORY AS PROVIDED FOR IN SUBPARAGRAPH (D), (E), (F), (G), (H) OR (I) OF SUCH PARAGRAPH.

(1) A HEAD OF THE HOUSEHOLD WHO IS OTHERWISE ELIGIBLE FOR EXEMPTION AT THE TIME OF THE RENT INCREASE AND RESIDES IN A DWELLING UNIT SUBJECT TO REGULATION UNDER THE EMERGENCY HOUSING RENT CONTROL LAW OR THE RENT STABILIZATION LAW OF THE CITY OF NEW YORK WHICH HAS BEEN RECLASSIFIED UNDER THE OTHER LAW, MAY BE ISSUED A RENT INCREASE EXEMPTION ORDER UNDER THE APPROPRIATE LAW EXEMPTING THE TENANT FROM PAYING THE RENT INCREASE

TO THE EXTENT TO WHICH HE OR SHE WOULD HAVE BEEN ELIGIBLE AND ENTITLED TO BE EXEMPTED BUT FOR THE FACT OF RECLASSIFICATION OF THE DWELLING UNITS INCLUDING EXEMPTION FROM THE RENT INCREASE GRANTED PURSUANT TO SUBPARAGRAPH (M) OF PARAGRAPH ONE OF SUBDIVISION G OF SECTION 26-405 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK TO THE EXTENT THAT IT IS NOT PREDICATED UPON ANY IMPROVEMENT OR ADDITION IN A CATEGORY AS PROVIDED FOR IN SUBPARAGRAPH (D), (E), (F), (G), (H) OR (I) OF SUCH PARAGRAPH.

(2) APPLICATION FOR AN EXEMPTION ORDER SHALL BE MADE WITHIN NINETY DAYS FROM THE DATE OF THE RENT INCREASE AND RECLASSIFICATION OR WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, WHICHEVER IS LATER, AND THE RENT INCREASE EXEMPTION ORDER SHALL TAKE EFFECT AS OF THE EFFECTIVE DATE OF THE RENT INCREASE AND RECLASSIFICATION INCLUDING ANY RETROACTIVE INCREMENTS PURSUANT TO SUCH RENT INCREASE.

4. THE HEAD OF THE HOUSEHOLD MUST APPLY EVERY TWO YEARS TO THE APPROPRIATE RENT CONTROL AGENCY OR ADMINISTRATIVE AGENCY FOR A TAX ABATEMENT CERTIFICATE ON A FORM PRESCRIBED BY SAID AGENCY. A TAX ABATEMENT CERTIFICATE SETTING FORTH AN AMOUNT NOT IN EXCESS OF THE INCREASE IN MAXIMUM RENT OR LEGAL REGULATED RENT FOR THE TAXABLE PERIOD OR SUCH OTHER AMOUNT AS SHALL BE DETERMINED UNDER SUBDIVISION THREE OF THIS SECTION SHALL BE ISSUED BY SAID AGENCY TO EACH HEAD OF THE HOUSEHOLD WHO IS FOUND TO BE ELIGIBLE UNDER THIS SECTION ON OR BEFORE THE LAST DATE PRESCRIBED BY LAW FOR THE PAYMENT OF THE TAXES OR THE FIRST INSTALLMENT THEREOF OF ANY MUNICIPAL CORPORATION WHICH HAS GRANTED AN ABATEMENT OF TAXES. COPIES OF SUCH CERTIFICATE SHALL BE ISSUED TO THE OWNER OF THE REAL PROPERTY CONTAINING THE DWELLING UNIT OF THE HEAD OF THE HOUSEHOLD AND TO THE COLLECTING OFFICER CHARGED WITH THE DUTY OF COLLECTING THE TAXES OF EACH MUNICIPAL CORPORATION WHICH HAS GRANTED THE ABATEMENT OF TAXES AUTHORIZED BY THIS SECTION.

5. THE AMOUNT SET FORTH IN A TAX ABATEMENT CERTIFICATE SHALL BE DEDUCTED FROM THE TOTAL TAXES LEVIED BY OR ON BEHALF OF THE MUNICIPAL CORPORATION WHICH HAS GRANTED SUCH ABATEMENT ON REAL PROPERTY CONTAINING THE DWELLING UNIT OF A HEAD OF THE HOUSEHOLD TO WHOM THE CERTIFICATE HAS BEEN ISSUED. IN THE EVENT THAT BOTH A TOWN AND A VILLAGE INCLUDED THEREIN GRANT SUCH ABATEMENT, SUCH DEDUCTION FOR PROPERTIES LOCATED IN THE VILLAGE SHALL BE MADE FIRST FROM TAXES LEVIED BY OR ON BEHALF OF THE VILLAGE AND ANY EXCESS THEREOF SHALL BE DEDUCTED FROM TOWN TAXES.

6. UPON THE VACANCY OF A DWELLING UNIT FOR WHICH AN ABATEMENT CERTIFICATE HAS BEEN ISSUED, THE OWNER THEREOF SHALL REMIT A PRO RATA PORTION OF THE TAX ABATEMENT TO THE COLLECTING OFFICER OF THE MUNICIPAL CORPORATION WHICH GRANTED SUCH ABATEMENT AND ANY AMOUNT DUE BY REASON OF SUCH VACANCY SHALL BE A LIEN UPON THE PROPERTY ON AND AFTER THE DATE OF SUCH VACANCY.

7. WHERE A TAX ABATEMENT CERTIFICATE HAS BEEN ISSUED TO A HEAD OF THE HOUSEHOLD AS AUTHORIZED BY A LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED PURSUANT TO THIS SECTION AND THE LANDLORD COLLECTS OR ATTEMPTS TO COLLECT ALL OR PART OF THE AMOUNT COVERED BY SUCH TAX ABATEMENT CERTIFICATE, THE AMOUNT OF SUCH ABATEMENT SHALL BE DEEMED A RENT OVERCHARGE UNDER THE APPLICABLE RENT CONTROL OR RENT REGULATION LAW.

8. IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION MAY PROVIDE THAT IN THE EVENT THE TAX ABATEMENT CERTIFICATE AUTHORIZES AN AMOUNT OF DEDUCTION IN EXCESS OF THE REAL ESTATE QUARTERLY INSTALLMENT, THEN THE BALANCE MAY BE APPLIED TO ANY SUBSEQUENT INSTALLMENT UNTIL EXHAUSTED, PROVIDED THAT, AT THE REQUEST OF THE OWNER, SUCH BALANCE SHALL BE PAID TO THE OWNER IN LIEU OF BEING APPLIED TO ANY SUBSEQUENT INSTALLMENT, EXCEPT WHERE THE OWNER IS

IN ARREARS IN THE PAYMENT OF REAL ESTATE TAXES ON ANY PROPERTY. FOR THE PURPOSES OF SUCH PROVISION OF ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION, WHERE THE OWNER IS A CORPORATION, IT SHALL BE DEEMED TO BE IN ARREARS WHEN ANY OFFICER, DIRECTOR OR ANY PERSON HOLDING AN INTEREST IN MORE THAN TEN PERCENT OF THE ISSUED AND OUTSTANDING STOCK OF SUCH CORPORATION IS IN ARREARS IN THE PAYMENT OF REAL ESTATE TAXES ON ANY PROPERTY; WHERE TITLE IS HELD BY A NOMINEE, THE OWNER SHALL BE DEEMED TO BE IN ARREARS WHEN THE PERSON FOR WHOSE BENEFIT SUCH TITLE IS HELD IS IN ARREARS IN THE PAYMENT OF REAL ESTATE TAXES ON ANY PROPERTY.

S 2. The provisions of section 485-s of the real property tax law, as added by section one of this act shall apply only to an individual who:

a. is a citizen of the United States or is a legal non-citizen;

b. is a legal resident of the state of New York and has resided in the state of New York for at least twelve continuous months;

c. has earned no higher than a bachelor's degree at the time of application for the tax exemption; and

d. is enrolled in the federal Income Based Repayment plan or the Pay As You Earn plan.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.