

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The real property tax law is amended by adding a new
2 section 485-s to read as follows:

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

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

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

14 C. "INCOME" MEANS INCOME FROM ALL SOURCES AFTER DEDUCTION OF ALL
15 INCOME AND SOCIAL SECURITY TAXES AND INCLUDES SOCIAL SECURITY AND
16 RETIREMENT BENEFITS, SUPPLEMENTAL SECURITY INCOME AND ADDITIONAL STATE
17 PAYMENTS, PUBLIC ASSISTANCE BENEFITS, INTEREST, DIVIDENDS, NET RENTAL
18 INCOME, SALARY OR EARNINGS, AND NET INCOME FROM SELF-EMPLOYMENT, BUT
19 SHALL NOT INCLUDE GIFTS OR INHERITANCES, PAYMENTS MADE TO INDIVIDUALS
20 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION, AS DEFINED IN
21 P.L. 103-286, PAYMENTS MADE IN STRICT COMPLIANCE WITH THE FEDERAL
22 "INCOME BASED REPAYMENT PLAN" OR "PAY AS YOU EARN" PLAN", OR INCREASES
23 IN BENEFITS ACCORDED PURSUANT TO THE SOCIAL SECURITY ACT OR A PUBLIC OR
24 PRIVATE PENSION PAID TO ANY MEMBER OF THE HOUSEHOLD WHICH INCREASE, IN
25 ANY GIVEN YEAR, DOES NOT EXCEED THE CONSUMER PRICE INDEX (ALL ITEMS
26 UNITED STATES CITY AVERAGE) FOR SUCH YEAR WHICH TAKE EFFECT AFTER THE
27 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.

LBD13753-01-6

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

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

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

15 F. "MEMBERS OF THE HOUSEHOLD" MEANS THE HEAD OF THE HOUSEHOLD AND ANY
16 PERSON, OTHER THAN A BONA FIDE ROOMER, BOARDER OR SUBTENANT WHO IS NOT
17 RELATED TO THE HEAD OF THE HOUSEHOLD, PERMANENTLY RESIDING IN THE DWELL-
18 ING UNIT.

19 2. THE GOVERNING BODY OF ANY MUNICIPAL CORPORATION IS HEREBY AUTHOR-
20 IZED AND EMPOWERED TO ADOPT, AFTER PUBLIC HEARING, IN ACCORDANCE WITH
21 THE PROVISIONS OF THIS SECTION, A LOCAL LAW, ORDINANCE OR RESOLUTION
22 PROVIDING FOR THE ABATEMENT OF TAXES OF SAID MUNICIPAL CORPORATION
23 IMPOSED ON REAL PROPERTY CONTAINING A DWELLING UNIT AS DEFINED HEREIN BY
24 THE FOLLOWING AMOUNT: WHERE THE HEAD OF THE HOUSEHOLD DOES NOT RECEIVE A
25 MONTHLY ALLOWANCE FOR SHELTER PURSUANT TO THE SOCIAL SERVICES LAW, AN
26 AMOUNT NOT IN EXCESS OF THAT PORTION OF ANY INCREASE IN MAXIMUM RENT OR
27 LEGAL REGULATED RENT WHICH CAUSES SUCH MAXIMUM RENT OR LEGAL REGULATED
28 RENT TO EXCEED ONE-THIRD OF THE COMBINED INCOME OF ALL MEMBERS OF THE
29 HOUSEHOLD.

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

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

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

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

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

54 (2) THE LAST AMOUNT DEDUCTED FROM THE MAXIMUM RENT OR LEGAL REGULATED
55 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

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

9 (2) APPLICATION FOR AN EXEMPTION ORDER SHALL BE MADE WITHIN NINETY
10 DAYS FROM THE DATE OF THE RENT INCREASE AND RECLASSIFICATION OR WITHIN
11 NINETY DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, WHICHEVER IS LATER,
12 AND THE RENT INCREASE EXEMPTION ORDER SHALL TAKE EFFECT AS OF THE EFFEC-
13 TIVE DATE OF THE RENT INCREASE AND RECLASSIFICATION INCLUDING ANY RETRO-
14 ACTIVE INCREMENTS PURSUANT TO SUCH RENT INCREASE.

15 4. THE HEAD OF THE HOUSEHOLD MUST APPLY EVERY TWO YEARS TO THE APPRO-
16 PRIATE RENT CONTROL AGENCY OR ADMINISTRATIVE AGENCY FOR A TAX ABATEMENT
17 CERTIFICATE ON A FORM PRESCRIBED BY SAID AGENCY. A TAX ABATEMENT CERTIF-
18 ICATE SETTING FORTH AN AMOUNT NOT IN EXCESS OF THE INCREASE IN MAXIMUM
19 RENT OR LEGAL REGULATED RENT FOR THE TAXABLE PERIOD OR SUCH OTHER AMOUNT
20 AS SHALL BE DETERMINED UNDER SUBDIVISION THREE OF THIS SECTION SHALL BE
21 ISSUED BY SAID AGENCY TO EACH HEAD OF THE HOUSEHOLD WHO IS FOUND TO BE
22 ELIGIBLE UNDER THIS SECTION ON OR BEFORE THE LAST DATE PRESCRIBED BY LAW
23 FOR THE PAYMENT OF THE TAXES OR THE FIRST INSTALLMENT THEREOF OF ANY
24 MUNICIPAL CORPORATION WHICH HAS GRANTED AN ABATEMENT OF TAXES. COPIES OF
25 SUCH CERTIFICATE SHALL BE ISSUED TO THE OWNER OF THE REAL PROPERTY
26 CONTAINING THE DWELLING UNIT OF THE HEAD OF THE HOUSEHOLD AND TO THE
27 COLLECTING OFFICER CHARGED WITH THE DUTY OF COLLECTING THE TAXES OF EACH
28 MUNICIPAL CORPORATION WHICH HAS GRANTED THE ABATEMENT OF TAXES AUTHOR-
29 IZED BY THIS SECTION.

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

38 6. UPON THE VACANCY OF A DWELLING UNIT FOR WHICH AN ABATEMENT CERTIF-
39 ICATE HAS BEEN ISSUED, THE OWNER THEREOF SHALL REMIT A PRO RATA PORTION
40 OF THE TAX ABATEMENT TO THE COLLECTING OFFICER OF THE MUNICIPAL CORPO-
41 RATION WHICH GRANTED SUCH ABATEMENT AND ANY AMOUNT DUE BY REASON OF SUCH
42 VACANCY SHALL BE A LIEN UPON THE PROPERTY ON AND AFTER THE DATE OF SUCH
43 VACANCY.

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

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

1 IN ARREARS IN THE PAYMENT OF REAL ESTATE TAXES ON ANY PROPERTY. FOR THE
2 PURPOSES OF SUCH PROVISION OF ANY SUCH LOCAL LAW, ORDINANCE OR RESOL-
3 UTION, WHERE THE OWNER IS A CORPORATION, IT SHALL BE DEEMED TO BE IN
4 ARREARS WHEN ANY OFFICER, DIRECTOR OR ANY PERSON HOLDING AN INTEREST IN
5 MORE THAN TEN PERCENT OF THE ISSUED AND OUTSTANDING STOCK OF SUCH CORPO-
6 RATION IS IN ARREARS IN THE PAYMENT OF REAL ESTATE TAXES ON ANY PROPER-
7 TY; WHERE TITLE IS HELD BY A NOMINEE, THE OWNER SHALL BE DEEMED TO BE IN
8 ARREARS WHEN THE PERSON FOR WHOSE BENEFIT SUCH TITLE IS HELD IS IN
9 ARREARS IN THE PAYMENT OF REAL ESTATE TAXES ON ANY PROPERTY.

10 S 2. The provisions of section 485-s of the real property tax law, as
11 added by section one of this act shall apply only to an individual who:
12 a. is a citizen of the United States or is a legal non-citizen;
13 b. is a legal resident of the state of New York and has resided in the
14 state of New York for at least twelve continuous months;
15 c. has earned no higher than a bachelor's degree at the time of appli-
16 cation for the tax exemption; and
17 d. is enrolled in the federal Income Based Repayment plan or the Pay
18 As You Earn plan.

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