

# STATE OF NEW YORK

1879

2017-2018 Regular Sessions

## IN ASSEMBLY

January 13, 2017

Introduced by M. of A. LENTOL, AUBRY, ABBATE, CYMBROWITZ, ORTIZ -- 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-k to read as follows:

3 § 467-k. 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.

22 c. "Fair market rental value" means the fair market rent set for the  
23 city by the United States department of housing and urban development;  
24 such rent may be adjusted, at the discretion of the supervising agency,

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

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1 by, among other things, examining real property tax rolls to more accu-  
2 rately reflect the fair market rents in particular neighborhoods.

3 d. "Gross income" means income from all sources and includes social  
4 security and retirement benefits, supplemental security income and addi-  
5 tional state payments, public assistance benefits, interest, dividends,  
6 net rental income, salary or earnings, and net income from self-employ-  
7 ment, but shall not include income from gifts, alimony, annuities, child  
8 support, inheritances, payments made to individuals because of their  
9 status as victims of Nazi persecution, as defined in P.L. 103-286, or  
10 increases in benefits accorded pursuant to the social security act or a  
11 public or private pension paid to any member of the household, which  
12 increase, in any given year, does not exceed the consumer price index  
13 (all items United States city average) for such year which takes effect  
14 after the date of eligibility of the head of the household receiving  
15 benefits hereunder, whether received by the head of the household or any  
16 other member of the household.

17 e. "Head of the household" means a person who is entitled to the  
18 possession or the use or occupancy of a dwelling unit.

19 f. "Household" means the head of the household and any person, other  
20 than a bona fide roomer, boarder, or subtenant who is not related to the  
21 head of the household, permanently residing in the dwelling unit.

22 g. "Multiple dwelling" means multiple dwelling as defined in subdivi-  
23 sion seven of section four of the multiple dwelling law.

24 h. "Owner's immediate family" means any or all of the following  
25 relations to the owner of an eligible unit: husband, wife, son, daugh-  
26 ter, stepson, stepdaughter, father, mother, father-in-law, mother-in-  
27 law, grandmother, or grandfather.

28 i. "Net income" means gross income minus all income and social securi-  
29 ty taxes paid.

30 j. "Real property tax year" means the twelve-month period for which  
31 real property taxes are charged; in the city of New York the real prop-  
32 erty tax year is July first through June thirtieth of the next calendar  
33 year.

34 k. "Supervising agency" means the comptroller in a municipality having  
35 a comptroller; in a municipality having no comptroller, the chief fiscal  
36 officer of such municipality; except that in the city of New York it  
37 shall be the department of housing preservation and development.

38 2. The governing body of a city with a population of one million or  
39 more is hereby authorized and empowered to adopt, after public hearing,  
40 in accordance with the provisions of this section, a local law, ordi-  
41 nance, or resolution providing for the abatement of taxes of said city  
42 imposed on real property. The abatement shall work as follows: an owner  
43 shall be entitled to a partial tax abatement of the real property taxes  
44 assessed against the multiple dwelling containing the eligible unit when  
45 such owner rents the eligible unit, for at least one additional year, to  
46 an eligible household at less than the fair market rental value for the  
47 unit. The owner of a multiple dwelling defined as class one real proper-  
48 ty in section eighteen hundred two of this chapter shall receive a  
49 retroactive partial abatement equal to the lesser of: (i) the real prop-  
50 erty taxes assessed against the multiple dwelling containing the eligi-  
51 ble unit in the applicable real property tax year, and (ii) fifty  
52 percent of the difference of the fair market rental value for the eligi-  
53 ble unit and the actual rent which was collected from the eligible  
54 household for the unit in the applicable real property tax year. The  
55 owner of a multiple dwelling defined as class two real property, as  
56 defined in section eighteen hundred two of this chapter shall receive a

1 retroactive partial abatement equal to the lesser of: (i) the real prop-  
2 erty taxes assessed against the multiple dwelling containing the eligi-  
3 ble unit in the applicable real property tax year, and (ii) sixty  
4 percent of the difference of the fair market rental value for the eligi-  
5 ble unit and the actual rent which was collected from the eligible  
6 household for the unit in the applicable real property tax year. The  
7 amount of the abatement shall be deducted from the real property taxes  
8 levied in the following real property tax year on the multiple dwelling  
9 containing the eligible unit. After the first year in which an owner  
10 receives a tax abatement under this section, if the owner agrees to rent  
11 the same unit to the same household for an additional year with a writ-  
12 ten lease, at less than the fair market rental value for the unit,  
13 assuming such unit remains an eligible unit and such household remains  
14 an eligible household, the amount of the abatement will be increased for  
15 each such additional year by three percent of the annual rent for the  
16 eligible unit.

17 3. a. An application for abatement pursuant to this section for any  
18 real property tax year shall be submitted to the supervising agency by  
19 the owner of the eligible unit for each real property tax year for which  
20 the abatement is sought.

21 b. The supervising agency shall determine the form and content of the  
22 application and the information it will contain. Such application shall  
23 require at a minimum that any owner seeking an abatement pursuant to  
24 this section must certify that, for the year the abatement is being  
25 sought, the unit was an eligible unit and the household residing in the  
26 eligible unit was an eligible household. In addition, the supervising  
27 agency is authorized to and shall collect the following information from  
28 units for which an abatement is sought, without limitation:

29 (i) the names and social security or tax identification numbers of all  
30 household members in the unit eighteen years or older;

31 (ii) for each household member in the unit eighteen years or older,  
32 the total annual gross and net income of such household member as  
33 reported on the household member's most recent income tax return;

34 (iii) the amount of monthly rent charged for the unit and the amount  
35 of rent actually paid for one year preceding the application; and

36 (iv) the number of rental units in the multiple dwelling and the  
37 monthly rent charged in each unit, whether or not an eligible unit, in  
38 the year preceding the year of the application.

39 In collecting the information described in subparagraphs (i) through  
40 (iv) of this paragraph, and any other information relating to the tax  
41 abatement described in this section, the supervising agency shall be  
42 permitted, where records are not available, to accept sworn affidavits  
43 and other certifications that the information provided is correct.

44 c. The supervising agency shall inform in writing any owner who  
45 applies for the abatement provided for in this section of the amount of  
46 such abatement no later than three months after receiving a sufficiently  
47 completed application.

48 4. The supervising agency is authorized and directed to promulgate  
49 rules and regulations necessary to effectuate the provisions of this  
50 section.

51 5. Notwithstanding any other provision of this section, the supervis-  
52 ing agency shall deny, terminate or revoke any abatement applied for or  
53 granted pursuant to this section upon a determination that the rent  
54 certified by the owner as the rent paid by an eligible unit was mate-  
55 rially different than the rent actually paid by the eligible household  
56 for such unit and that the owner of the unit who certified the incorrect

1 rent did so primarily for the purpose of receiving an abatement under  
2 this section. In making such determination, the supervising agency may  
3 consider, among other factors, whether the rent certified by the owner  
4 as the rent charged is consistent with the rent charged in comparable  
5 dwelling units.

6 6. Except in accordance with proper judicial order or as otherwise  
7 provided by law, neither the supervising agency nor an employee thereof,  
8 nor any person who, pursuant to this subdivision, is authorized to  
9 inspect the application or statements in connection therewith required  
10 by this section, shall disclose or make known the contents of any such  
11 application or statements. Except as provided in this subdivision the  
12 officers charged with the custody of any such application or statements  
13 shall not be required to produce them in any action or proceeding in any  
14 court or before any administrative tribunal, but any such application or  
15 statements may be produced on behalf of the department of finance.  
16 Nothing in this subdivision shall be construed to prohibit the delivery  
17 of a certified copy of any such application or statements to the United  
18 States of America or any department thereof, the state of New York or  
19 any department thereof, or a city having a population of one million or  
20 more or any department thereof, provided any such application or state-  
21 ments are required for official business; nor to prohibit the inspection  
22 for official business of any such application or statements by the tax  
23 commission of a city having a population of one million or more, or by  
24 the corporation counsel or other legal representative of a city having a  
25 population of one million or more, or by any person engaged or retained  
26 by the department of finance on an independent contract basis; nor to  
27 prohibit the publication of statistics so classified as to prevent the  
28 identification of any particular application or statements.

29 7. The information contained in applications or statements in  
30 connection therewith, filed with the supervising agency pursuant to  
31 subdivision three of this section shall not be subject to disclosure  
32 under article six of the public officers law.

33 § 2. The abatement provided for in this act shall first apply to real  
34 property taxes for the real property tax year which follows immediately  
35 after the year that this act is passed, and shall apply every year ther-  
36 eafter.

37 § 3. This act shall take effect on the first of January next succeed-  
38 ing the date on which it shall have become a law and shall apply to  
39 assessment rolls prepared on the basis of taxable status dates occurring  
40 on or after such effective date.