

STATE OF NEW YORK

8748

IN SENATE

May 10, 2018

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the real property tax law, in relation to creating the Mom and Pop Rent Increase Exemption

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "Mom and
2 Pop Rent Increase Exemption".

3 § 2. Article 4 of the real property tax law is amended by adding a new
4 title 7 to read as follows:

TITLE 7

TAX ABATEMENT FOR LIMITING RENT INCREASES ON SMALL BUSINESSES

IN A CITY OF ONE MILLION OR MORE PERSONS

Section 499-fffff. Definitions.

9 499-gggggg. Real property tax abatement.

10 499-hhhhhh. Eligibility requirements.

11 499-iiiii. Application for certificate of abatement.

12 499-jjjjj. Enforcement and administration.

13 499-kkkkk. Reporting requirements; revocation of abatements.

14 499-lllll. Tax lien; interest and penalty.

15 499-mmmmm. Confidentiality.

16 § 499-fffff. Definitions. When used in this title, the following terms
17 shall mean or include:

18 1. "Abatement base." The lesser of (i) two dollars and fifty cents of
19 the tax liability per square foot or (ii) fifty per centum of the tax
20 liability per square foot.

21 2. "Abatement zone." Any area of a city having a population of one
22 million or more. Any tax lot that is partly located inside an abatement
23 zone shall be deemed to be entirely located inside such zone.

24 3. "Aggregate floor area." The sum of the gross areas of the several
25 floors of a building, measured from the exterior faces of exterior walls
26 or from the center lines of walls separating two buildings.

27 4. "Applicant." The landlord and the tenant.

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

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1 5. "Benefit period." The period commencing with the first day of the
2 month immediately following the rent commencement date and terminating
3 no later than one hundred twenty months thereafter.

4 6. "Billable assessed value." The lesser of the taxable transitional
5 or the taxable actual assessed value of the eligible building and the
6 land on which the eligible building is located for the fiscal year in
7 which the benefit period commences.

8 7. "Commercial activities." The buying, selling or otherwise providing
9 of goods or services by a small business.

10 8. "Department of finance." The department of finance of any city
11 having a population of one million or more.

12 9. "Eligible building." With respect to the abatement zone defined in
13 subdivision two of this section, a non-residential or mixed-use building
14 which shall not include any building owned by a governmental agency.
15 Each condominium unit in a building that meets the requirements of this
16 subdivision shall be considered a separate eligible building.

17 10. "Eligibility period." The period commencing April first, two thou-
18 sand eighteen and terminating March thirty-first, two thousand twenty-
19 eight.

20 11. "Eligible premises." With respect to the abatement zone defined in
21 subdivision two of this section, premises located in an eligible build-
22 ing that (a) are occupied or used for commercial activities and (b) are
23 occupied or used by a tenant under a lease that meets the eligibility
24 requirements of section four hundred ninety-nine-hhhhh of this title.

25 12. "Fiscal year." The fiscal year of any city having a population of
26 one million or more.

27 13. "Governmental agency." The United States of America or any agency
28 or instrumentality thereof, the state of New York, the city of New York,
29 any public corporation (including a body corporate and politic created
30 pursuant to agreement or compact between the state of New York and any
31 other state), public benefit corporation, public authority or other
32 political subdivision of the state.

33 14. "Landlord." Any person who (a) controls all non-residential
34 portions of an eligible building, including, without limitation, the
35 record owner, the lessee under a ground lease, any mortgagee in
36 possession or any receiver, and (b) who grants the right to use or occu-
37 py eligible premises to any tenant, provided that landlord shall not
38 include any lessee who at any time during the lease term occupied or
39 used or occupies or uses any part of the non-residential portions of
40 such eligible building, other than premises occupied or used by such
41 lessee to provide rental or management services to such building.

42 15. "Lease commencement date." The date set forth in the lease on
43 which the term of the lease commences.

44 16. "Mixed-use building." A building used for both residential and
45 commercial activities, provided that more than twenty-five per centum of
46 the aggregate floor area of such building is used or held out for use as
47 commercial, community facility or accessory use space.

48 17. "Person." An individual, corporation, limited liability company,
49 partnership, association, agency, trust, estate, foreign or domestic
50 government or subdivision thereof, or other entity.

51 18. "Renewal tenant." A person who (a) occupies premises in an eligi-
52 ble building under a lease which expires during the eligibility period
53 and (b) executes a lease for the continued occupancy of all or part of
54 such premises or all or part of such premises and additional premises in
55 such eligible building, provided such premises are eligible premises and

1 such lease meets the eligibility requirements of section four hundred
2 ninety-nine-hhhhh of this title.

3 19. "Rent commencement date." The date set forth in the lease on which
4 the obligation to pay basic fixed rent shall commence.

5 20. "Small business." A business engaged in commercial activities that
6 employs fifty or fewer persons.

7 21. "Subtenant." A person whose right to occupy and use the eligible
8 premises is not derived from a lease with the landlord.

9 22. "Tax commission." The tax commission in any city having a popu-
10 lation of one million or more.

11 23. "Tax liability." The product obtained by multiplying the billable
12 assessed value for the fiscal year in which the benefit period commences
13 by the tax rate applicable to the eligible building for such fiscal year
14 as set by the local legislative body of any city having a population of
15 one million or more.

16 24. "Tax liability per square foot." The tax liability divided by the
17 total number of square feet in the eligible building, as listed on the
18 records of the department of finance.

19 25. "Tenant." A person, including any successors in interest, who
20 executes a lease with the landlord for the right to occupy or use the
21 eligible premises and who occupies or uses the eligible premises pursu-
22 ant to such lease. Tenant shall not include any subtenant. When used in
23 this title, "tenant" includes "renewal tenant."

24 26. "Tenant's percentage share." The percentage of the eligible
25 building's aggregate floor area allocated to the eligible premises,
26 which shall be presumed to be such percentage as set forth in the lease
27 for the eligible premises.

28 § 499-ggggg. Real property tax abatement. 1. Within a city having a
29 population of one million or more, eligible buildings containing eligi-
30 ble premises shall receive an abatement of real property taxes during
31 the benefit period as follows:

32 (a) for each of the first five years of the benefit period, the abate-
33 ment shall be equal to the product obtained by (i) multiplying the
34 tenant's percentage share by the number of square feet in the eligible
35 building, as listed on the records of the department of finance and (ii)
36 multiplying the product obtained in subparagraph (i) of this paragraph
37 by the abatement base;

38 (b) for the sixth, seventh, and eighth year of the benefit period, the
39 abatement shall be equal to two-thirds of the abatement in the first
40 year of the benefit period; and

41 (c) for the ninth and tenth year of the benefit period, the abatement
42 shall be equal to one-third of the abatement in the first year of the
43 benefit period.

44 2. If, as a result of application to the tax commission or a court
45 order or action by the department of finance, the billable assessed
46 value is reduced, the department of finance shall recalculate the abate-
47 ment utilizing such reduced billable assessed value. The amount equal to
48 the difference between the abatement originally granted and the abate-
49 ment as so recalculated shall be deducted from any refund otherwise
50 payable or remission otherwise due as a result of such reduction in
51 billable assessed value, and any balance of such amount remaining unpaid
52 after making any such deduction shall be paid to the department of
53 finance within thirty days from the date of mailing by the department of
54 finance of a notice of the amount payable. Such amount payable shall
55 constitute a tax lien on the eligible building as of the date of such
56 notice and, if not paid within such thirty-day period, penalty and

1 interest at the rate applicable to delinquent taxes on such eligible
2 building shall be charged and collected on such amount from the date of
3 such notice to the date of payment.

4 3. In no event shall the abatement for the eligible premises granted
5 pursuant to this title exceed the tax liability allocable to the eligi-
6 ble premises.

7 4. Notwithstanding the provisions of any lease for occupancy of non-
8 eligible premises in an eligible building or for occupancy of eligible
9 premises for which no certificate of abatement has been issued pursuant
10 to this title, a lessee of non-eligible premises or of eligible premises
11 for which no certificate of abatement has been issued pursuant to this
12 title shall not be entitled to receive directly or indirectly a
13 reduction in either the real property taxes or any rent (including addi-
14 tional rent) payable pursuant to such lease where such reduction would
15 result from an abatement of real property taxes granted pursuant to this
16 title. A landlord of an eligible building shall not allocate, credit,
17 assign or disburse any portion of an abatement granted pursuant to this
18 title to a lessee of non-eligible premises or of eligible premises for
19 which no certificate of abatement has been issued pursuant to this
20 title. A landlord shall not be required to reduce the real property
21 taxes or any rent (including additional rent) payable by renewal tenants
22 by an amount that exceeds the full amount of the abatement granted
23 pursuant to this title, but a landlord shall be required to reduce the
24 real property taxes or any rent (including additional rent) payable by
25 renewal tenants by an amount that, in the aggregate, equals the full
26 amount of the abatement granted pursuant to this title. Such reduction
27 shall be allocated in accordance with the abatement granted for the
28 eligible premises occupied by each such tenant.

29 5. A tenant who occupies or uses eligible premises for which a certif-
30 icate of abatement is issued pursuant to this title shall not be eligi-
31 ble to receive a second certificate of abatement for the same eligible
32 premises. A tenant who occupies or uses eligible premises for which a
33 certificate of abatement is issued pursuant to this title and who, upon
34 the expiration of the lease for such eligible premises, relocates to
35 otherwise eligible premises, shall not be eligible to receive a certif-
36 icate of abatement for such otherwise eligible premises, except to the
37 extent that the square footage of such otherwise eligible premises
38 exceeds the square footage of all eligible premises previously occupied
39 or used by such tenant for which such tenant held a certificate of
40 abatement. If the square footage of such otherwise eligible premises
41 exceeds the square footage of all such eligible premises previously
42 occupied or used by such tenant and if there is any variation in the tax
43 liability per square foot of such otherwise eligible premises, then, for
44 purposes of determining which square footage in such otherwise eligible
45 premises is entitled to an abatement pursuant to this title, square
46 footage with the greatest tax liability per square foot, in an amount
47 equal to the square footage of all such eligible premises previously
48 occupied or used by such tenant, shall first be excluded.

49 § 499-hhhh. Eligibility requirements. 1. No abatement shall be grant-
50 ed pursuant to this title unless:

51 (a) the landlord enters into a ten year lease for eligible premises
52 with a tenant and (b) such landlord includes within such lease with a
53 tenant a renewal clause that limits a rent increase to no more than
54 three percent annually.

2. No abatement shall be granted pursuant to this title if an applicant shall fail to meet any of the requirements of this title within sixty days of the rent commencement date.

3. For purposes of this title, the expiration date of a lease shall be determined by the expiration date set forth in such lease, without giving effect to any rights of the landlord or the tenant to terminate such lease prior to the expiration date set forth therein.

4. The lease for the eligible premises shall contain the following provisions:

(a) a statement of the tenant's percentage share;

(b) a statement certifying the percentage of eligible premises occupied or used for commercial activities, as defined in subdivision seven of section four hundred ninety-nine-fffff of this title; and

(c) a statement informing the tenant in at least twelve-point type that:

(1) an application for abatement of real property taxes pursuant to this title will be made for the premises;

(2) the rent, including amounts payable by the tenant for real property taxes, will accurately reflect any abatement of real property taxes granted pursuant to this title for the premises;

(3) a renewal of the lease will not increase rent by more than three percent annually pursuant to the lease agreement;

(4) all abatements granted with respect to a building pursuant to this title will be revoked if, during the benefit period, real estate taxes or water or sewer charges or other lienable charges are unpaid for more than one year, unless such delinquent amounts are paid as provided in subdivision four of section four hundred ninety-nine-kkkkk of this title; and

(5) all benefits granted with respect to eligible premises will be reduced if, during the benefit period, the aggregate floor area of such eligible premises occupied or used for commercial activities, as defined in subdivision seven of section four hundred ninety-nine-fffff of this title, is reduced.

5. No abatement shall be granted pursuant to this title if:

(a) the lease for the eligible premises provides that during the initial lease term required by subdivision one of this section either the landlord or the tenant may terminate such lease prior to the expiration date of such required initial lease term; provided that such lease may provide that either the landlord or the tenant may terminate such lease if (1) the other party is in default of any of such party's obligations under the lease, (2) the eligible premises are damaged or destroyed by fire or other casualty, (3) the eligible premises are rendered unusable for any reason not attributable to any act or failure to act of either tenant or landlord, or (4) the eligible premises are acquired by eminent domain; and

(b) there are real property taxes, water or sewer charges or other lienable charges currently due and owing on the eligible building which is the subject of an application for abatement pursuant to this title, unless such real property taxes or charges are currently being paid in timely installments pursuant to a written agreement with the department of finance or other appropriate agency.

6. No abatement shall be granted pursuant to this title unless the applicant shall file, together with the application, an affidavit setting forth the following information:

(a) a statement that within the seven years immediately preceding the date of application for a certificate of abatement, neither the appli-

1 cant nor any person owning a substantial interest in the eligible build-
2 ing as defined in paragraph (c) of this subdivision, nor any officer,
3 director or general partner of the applicant or such person was finally
4 adjudicated by a court of competent jurisdiction to have violated
5 section two hundred thirty-five of the real property law or any section
6 of article one hundred fifty of the penal law or any similar arson law
7 of another jurisdiction with respect to any building, or was an officer,
8 director or general partner of a person at the time such person was
9 finally adjudicated to have violated such law; and

10 (b) a statement setting forth any pending charges alleging violation
11 of section two hundred thirty-five of the real property law or any
12 section of article one hundred fifty of the penal law or any similar
13 arson law of another jurisdiction with respect to any building by the
14 applicant or any person owning a substantial interest in the eligible
15 building as defined in paragraph (c) of this subdivision, or any offi-
16 cer, director or general partner of the applicant or such person, or any
17 person for whom the applicant or person owning a substantial interest in
18 the eligible building is an officer, director or general partner.

19 (c) for purposes of this subdivision and subdivision seven of section
20 four hundred ninety-nine-kkkkk of this title, "substantial interest"
21 shall mean ownership and control of an interest of ten per centum or
22 more in the eligible building or in any person owning the eligible
23 building.

24 § 499-iiii. Application for certificate of abatement. 1. Application
25 for a certificate of abatement may be made on or after April first, two
26 thousand eighteen and until sixty days after the end of the eligibility
27 period. Applications shall be filed with the department of finance. No
28 application may be filed prior to the date on which the lease for the
29 eligible premises is executed by the landlord and tenant.

30 2. No abatement pursuant to this title shall be granted unless the
31 applicant files an application for a certificate of abatement within
32 sixty days following the lease commencement date.

33 3. In addition to any other information required by the department of
34 finance, the application for a certificate of abatement shall include an
35 abstract of the lease for the eligible premises for which an abatement
36 is being sought, which abstract is signed by the landlord and the
37 tenant. Such abstract shall include the tenant's percentage share, the
38 lease commencement date, the rent commencement date, the expiration date
39 for such lease and a description of the lease renewal clause, including
40 the annual rent increase percentage. Such application shall also include
41 (i) a statement of the number of persons who will, on the rent commence-
42 ment date, be employed in the eligible premises, (ii) a statement of the
43 location of all commercial space in the city of New York occupied by the
44 tenant prior to the execution of the lease for the eligible premises,
45 (iii) the commencement and expiration dates of all leases for eligible
46 premises, and (iv) the aggregate floor area of the eligible building.
47 Such application shall also state that the applicant agrees to comply
48 with and be subject to the rules issued from time to time by the depart-
49 ment of finance.

50 4. Within one hundred eighty days following the lease commencement
51 date, the applicant shall provide, in addition to any other information
52 required by the department of finance, evidence acceptable to the
53 department of finance of the number of employees in the eligible prem-
54 ises. The department of finance shall issue a certificate of abatement
55 upon determining that the applicant has submitted proof acceptable to

1 the department of finance that the applicant has met the requirements
2 set forth in this title.

3 5. The burden of proof shall be on the applicant to show by clear and
4 convincing evidence that the requirements for granting a certificate of
5 abatement have been satisfied. The department of finance shall have the
6 authority to require that statements in connection with such application
7 be made under oath.

8 6. The department of finance may provide by rule for reasonable admin-
9 istrative charges or fees necessary to defray expenses in administering
10 the abatement program provided by this title.

11 § 499-jjjjj. Enforcement and administration. The department of finance
12 shall have, in addition to any other functions, powers and duties which
13 have been or may be conferred on it by law, the following functions,
14 powers and duties:

15 1. To receive and review applications for certificates of abatement
16 under this title and issue such certificates where authorized pursuant
17 to this title.

18 2. To receive all certificates of continuing eligibility required by
19 section four hundred ninety-nine-kkkkk of this title.

20 3. To collect all real property taxes, with interest and penalty, due
21 and owing as a result of reduction, termination or revocation of any
22 abatement granted pursuant to this title.

23 4. To make and promulgate rules to carry out the purposes of this
24 title.

25 § 499-kkkkk. Reporting requirements; revocation of abatements. 1. For
26 the duration of the applicant's benefit period, the applicant shall file
27 annually with the department of finance, on or before July first of each
28 year, a certificate of continuing eligibility confirming that the eligi-
29 ble premises are occupied by the tenant who originally executed the
30 lease and that the eligible premises are being used for the purposes
31 described in the application. Such certificate of continuing eligibil-
32 ity shall be on a form prescribed by the department of finance and shall
33 contain such additional information as the department of finance shall
34 require. The department of finance shall have the authority to terminate
35 abatements granted pursuant to this title upon failure of an applicant
36 to file such certificate by such July first date. The burden of proof
37 shall be on the applicant to establish continuing eligibility for bene-
38 fits and the department of finance shall have the authority to require
39 that statements made in such certificate shall be made under oath.

40 2. The department of finance shall revoke any abatement granted pursu-
41 ant to this title when the tenant who originally executed the lease is
42 no longer occupying the eligible premises. Such revocation shall be
43 retroactive to the date that such tenant vacated the eligible premises
44 and the department of finance shall require the landlord to pay, with
45 interest, any taxes which become payable as a result of such revocation.
46 The landlord shall notify the department of finance within thirty days
47 following the date on which such tenant vacated the eligible premises
48 and, for failure to comply with this notification requirement, shall be
49 liable for penalty calculated for the same period as interest is calcu-
50 lated pursuant to the preceding sentence.

51 3. If any portion of the premises for which an abatement has been
52 granted pursuant to this title ceases to be occupied or used as eligible
53 premises or is occupied by a subtenant, the department of finance shall
54 reduce the abatement granted pursuant to this title by an amount equal
55 to the percentage of such eligible premises which has ceased to be occu-
56 pi ed or used as eligible premises or is occupied by a subtenant. Such

1 reduction shall be retroactive to the date that such premises ceased to
2 be occupied or used as eligible premises or was occupied by a subtenant,
3 and the department of finance shall require the landlord to pay, with
4 interest, any taxes which become payable as a result of such reduction.
5 The landlord shall notify the department of finance within thirty days
6 following the date on which the premises ceased to be occupied or used
7 as eligible premises or was occupied by a subtenant and, for failure to
8 comply with this notification requirement, shall be liable for penalty
9 calculated for the same period as interest is calculated pursuant to the
10 preceding sentence.

11 4. If, during the benefit period, any real property tax or water or
12 sewer charge or other lienable charge due and payable with respect to an
13 eligible building shall remain unpaid for at least one year following
14 the date upon which such tax or charge became due and payable, all
15 abatements granted pursuant to this title with respect to such building
16 shall be revoked, unless within thirty days from the mailing of a notice
17 of revocation by the department of finance satisfactory proof is
18 presented to the department of finance that any and all delinquent taxes
19 and charges owing with respect to such building as of the date of such
20 notice have been paid in full or are currently being paid in timely
21 installments pursuant to a written agreement with the department of
22 finance or other appropriate agency. Any revocation pursuant to this
23 subdivision shall be effective with respect to real property taxes which
24 become due and payable following the date of such revocation.

25 5. The department of finance may deny, reduce, suspend, terminate or
26 revoke any abatement granted pursuant to this title whenever:

27 (a) the landlord or the tenant receiving abatement pursuant to this
28 title fails to comply with the requirements of this title or the rules
29 promulgated hereunder; or

30 (b) an application, certificate, report or other document submitted by
31 the applicant contains a false or misleading statement as to a material
32 fact or omits to state any material fact necessary in order to make the
33 statement therein not false or misleading, and may declare any applicant
34 who makes such false or misleading statement or omission to be ineligi-
35 ble for future abatement pursuant to this title for the same or other
36 property. In addition, the department of finance shall require the
37 applicant to pay, with penalty and interest, any abatement received
38 pursuant to this title as a result of such false or misleading statement
39 or omission of a material fact.

40 6. Notwithstanding any other provision of this title, the department
41 of finance shall deny, terminate or revoke any abatement applied for or
42 granted pursuant to this title upon a determination that the lease
43 between the landlord and the tenant does not constitute a bona fide
44 arm's length lease. In making such determination, the department of
45 finance may consider, among other factors, the relationship, if any,
46 between the landlord and the tenant and whether the business terms of
47 such lease are consistent with the business terms generally found in
48 leases for comparable space.

49 7. (a) If any person described in the statement required by paragraph
50 (b) of subdivision six of section four hundred ninety-nine-hhhh of this
51 title or paragraph (b) of this subdivision is finally adjudicated by a
52 court of competent jurisdiction to be guilty of any charge listed in
53 such statement, the department of finance shall revoke the abatement
54 granted pursuant to this title and shall require the payment, with
55 interest, of any abatement received pursuant to this title.

(b) The applicant shall, on the certificate of continuing eligibility, state whether any charges alleging violation by the applicant or any person owning a substantial interest in the eligible building, or any officer, director or general partner of the applicant or person owning a substantial interest in the eligible building, or any person for whom the applicant or person owning a substantial interest in the eligible building is an officer, director or general partner, of section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another jurisdiction, are pending. For purposes of this paragraph, "substantial interest" shall have the same meaning as set forth in paragraph (c) of subdivision six of section four hundred ninety-nine-hhhhh of this title.

§ 499-lllll. Tax lien; interest and penalty. All taxes, with interest, required to be paid retroactively pursuant to this title shall constitute a tax lien as of the date it is determined such taxes and interest are owed. All interest shall be calculated from the date the taxes would have been due but for the abatement granted pursuant to this title at the applicable rate or rates of interest imposed by such city generally for non-payment of real property tax with respect to the eligible building for the period in question. When a provision of this title requires the payment of a penalty in addition to interest, the amount of such penalty shall be equal to the amount of interest that would have been payable pursuant to such provision had such interest been calculated at the rate of three percent per annum.

§ 499-mmmmm. Confidentiality. 1. Except in accordance with a proper judicial order or as otherwise provided by law, it shall be unlawful for the commissioner of finance, any officer or employee of the department of finance, the president or a commissioner or employee of the tax commission, any person engaged or retained by such department or such commission on an independent contract basis, or any person who, pursuant to this title, is permitted to inspect any information submitted by an applicant to the department of finance pursuant to this title or to whom a copy, an abstract or a portion of any such information is furnished, to divulge or make known in any manner any such information to any person not authorized pursuant to this title to inspect such information. The officers charged with custody of such information shall not be required to produce any of it or evidence of anything contained in it in any action or proceeding in any court except on behalf of the commissioner of finance in an action or proceeding under the provisions of this title, or on behalf of any party to any action or proceeding under the provisions of this title when such information or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence so much of such information or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the inspection by the legal representatives of the department of finance or the tax commission of such information submitted by any applicant who shall bring an action to correct an assessment. Nothing herein shall be construed to prohibit the delivery to an applicant or the applicant's duly authorized representative of a certified copy of any information submitted by an applicant to the department of finance pursuant to this title; or to any agency or any department of any city having a population of one million or more provided the same is requested for official business; nor to prohibit the inspection for official business of such information by the corporation counsel or other legal representatives of a city having a

1 population of one million or more or by the district attorney of any
2 county within such city; nor to prohibit the publication of statistics
3 so classified as to prevent the identification of such information or
4 particular items thereof. Information submitted by an applicant to the
5 department of finance pursuant to this title shall not be subject to
6 disclosure pursuant to article six of the public officers law.

7 2. Any violation of the provisions of subdivision one of this section
8 shall be punishable by a fine not exceeding one thousand dollars or by
9 imprisonment not exceeding one year, or both, at the discretion of the
10 court, and if the offender be an officer or employee of the department
11 of finance or of the tax commission, the offender shall be dismissed
12 from office.

13 § 3. This act shall take effect immediately.