STATE OF NEW YORK

5228

2019-2020 Regular Sessions

IN ASSEMBLY

February 7, 2019

Introduced by M. of A. MOSLEY -- read once and referred to the Committee on Aging

AN ACT to amend the real property tax law, in relation to the addition of preferential rent for senior citizens or persons with disabilities rent increase exemptions

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

Section 1. Paragraph e of subdivision 1, subdivision 2 and paragraphs c, d, and e of subdivision 3 of section 467-b of the real property tax law, paragraph e of subdivision 1 as amended by chapter 555 of the laws of 1977, subdivision 2 as amended by chapter 747 of the laws of 1985, paragraph (c) of subdivision 2 as added and subparagraph 3 of paragraph d and subparagraph 3 of paragraph e of subdivision 3 as amended by chapter 553 of the laws of 2015, paragraph (d) of subdivision 2 as added by chapter 343 of the laws of 2016, paragraphs c, d and e of subdivision 3 as amended by chapter 188 of the laws of 2005, are amended to read as follows:

e. "Increase in maximum rent**, preferential rent** or legal regulated rent" means any increase in the maximum rent**, preferential rent** or the legal regulated rent for the dwelling unit in question pursuant to the applicable rent control law**, rent stabilization 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 c or d of subdivision three of this section**. Preferential rent for purposes of this section shall mean the same as paragraph fourteen of subdivision c of section 26-511 of the administrative code of the city of New York**;

2. The governing body of any municipal corporation is hereby authorized and empowered to adopt, after public hearing, in accordance with

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

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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 one of the following amounts: (a) 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**, preferential rent** or legal regulated rent which causes such maximum rent**, preferential rent** or legal regulated rent to exceed one-third of the combined income of all members of the household; or

(b) where the head of the household receives 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**, preferential rent** or legal regulated rent which is not covered by the maximum allowance for shelter which such person is entitled to receive pursuant to the social services law.

(c) Provided, however, that in a city of a population of one million or more, where the head of household has been granted a rent increase exemption order that is in effect as of January first, two thousand fifteen or takes effect on or before July first, two thousand fifteen, the amount determined by paragraph (a) of this subdivision shall be an amount not in excess of the difference between the maximum rent**, preferential rent** or legal regulated rent and the amount specified in such order, as adjusted by any other provision of this section.

(d) (1) Provided, however, that in a city with a population of one million or more, a head of the household who has received a rent increase exemption order that has expired and who, upon renewal application for the period commencing immediately after such expiration, is determined to be ineligible for a rent increase exemption order because the combined income of all members of the household exceeds the maximum amount allowed by this section or the maximum rent**, preferential rent** or legal regulated rent does not exceed one-third of the combined income of all members of the household, may submit a new application during the following calendar year, and if such head of the household receives a rent increase exemption order that commences during such calendar year, the tax abatement amount for such order shall be calculated as if such prior rent increase exemption order had not expired. However, no tax abatement benefits may be provided for the period of ineligibility.

(2) No head of the household may receive more than three rent increase exemption orders calculated as if a prior rent increase exemption order had not expired, as described in subparagraph one of this paragraph.

c. 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**, legal preferential rent** or legal regulated rent chargeable for a dwelling unit of a head of the household.

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 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**, preferential 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**, preferential 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**, preferential 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 fifteen or takes effect on or before July first, two thousand fifteen.

e. 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**, preferential 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**, preferential 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**, preferential 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 fifteen or takes effect on or before July first, two thousand fifteen.

§ 2. Paragraph e of subdivision 1, subdivision 2, paragraph c of subdivision 3 and subdivisions 4, 6 and 8 of section 467-b of the real property tax law, as added by chapter 689 of the laws of 1972, subdivision 2 as amended by chapter 553 of the laws of 2015 and paragraph c of subdivision 3 as amended by chapter 188 of the laws of 2005, are amended to read as follows:

e. "Increase in **preferential rent or** maximum rent" means any increase in the **preferential rent or** maximum rent for the dwelling unit in question pursuant to the applicable **rent stabilization or** rent control law **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**. Preferential rent for purposes of this section shall mean the same as paragraph fourteen of subdivision c of section 26-511 of the administrative code of the city of New York**;

2. The governing body of any city, town or village 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 an amount not in excess of that portion of any increase in **preferential rent or** maximum rent which causes such **preferential rent or** maximum rent to exceed one-third of the combined income of all members of the household, except that in a city of a population of one million or more where the head of the household has been granted a rent increase exemption order that is in effect as of January first, two thousand fifteen or takes effect on or before July first, two thousand fifteen, such abatement of taxes shall be in an amount not in excess of the difference between the **preferential rent,** maximum rent or legal regulated rent and the amount specified in such order, as adjusted by any other provision of this section.

c. upon issuance of a tax abatement certificate as provided in subdivision four of this section, the amount of increase in **preferential or** maximum rent set forth in said certificate shall be deducted from the legal **preferential rent or** maximum rent chargeable for a dwelling unit of a head of the household.

4. The head of the household must apply each year to the appropriate rent control 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 **preferential rent or** maximum rent for the taxable period 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 city, town or village 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 city, town or village which has granted the abatement of taxes authorized by this section.

6. The portion of the increase in **preferential or** maximum rent for the taxable period set forth in a tax abatement certificate shall be deducted from the total taxes levied by or on behalf of the city, town or village 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.

8. 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 the increase in the **preferential rent or** maximum rent for a dwelling unit occupied by such head of the household, the amount of such abatement shall be deemed a rent overcharge under the applicable **rent stabilization or** rent control law **respectively**.

§ 3. Paragraphs h and i of subdivision 1 and subdivisions 3, 5, 6, 7, and 8 of section 467-c of the real property tax law, paragraph h of subdivision 1 and paragraph b of subdivision 3 as amended and paragraph i of subdivision 1 as added by chapter 420 of the laws of 1991, subdivision 3 as amended by chapter 747 of the laws of 1985, subparagraph 3 of paragraph a of subdivision 3 as added and subparagraph 3 of paragraph b

of subdivision 3 and paragraph d of subdivision 3 as amended by chapter 553 of the laws of 2015, subparagraph 4 of paragraph a of subdivision 3 as added by chapter 343 of the laws of 2016, paragraph c of subdivision 3 as added by chapter 17 of the laws of 1987, subdivision 5 as amended by chapter 538 of the laws of 1976 and subdivisions 6, 7 and 8 as added by chapter 208 of the laws of 1975, are amended to read as follows:

h. "Increase in maximum rent **or preferential rent**" means any increase in the maximum rent **or preferential rent** for the dwelling unit becoming effective on or after the eligibility date, including capital assessments and voluntary capital contributions but excluding any increase in maximum rent **or preferential rent** attributable to gas or electrical utility charges or an increase in dwelling space, services or equipment, or an exemption from the maximum rent**, preferential rent** or legal regulated rent as specified in paragraph b of subdivision three of this section, provided, however, that with respect to any dwelling unit in a dwelling which is or was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the National Housing Act, as amended, "increase in maximum rent" shall not include any increase in maximum rent attributable to capital assessments or voluntary capital contributions.

i. "Maximum rent **or preferential rent**" means the maximum rent **or preferential rent**, excluding gas and electric utility charges, which has been authorized or approved by the commissioner or the supervising agency or the legal regulated rent established for the dwelling unit pursuant to the provisions of either Article II, IV, V or XI of the private housing finance law, or the rental established for a cooperatively owned dwelling unit previously regulated pursuant to the provisions of Article II, IV, V or XI of the private housing finance law; or such approved rent for a dwelling unit in a dwelling subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the National Housing Act, as amended; or such rent established for a dwelling unit which was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the National Housing Act, as amended. **Preferential rent for purposes of this section shall mean the same as paragraph fourteen of subdivision c of section 26-511 of the administrative code of the city of New York.**

3. Any such local law or ordinance shall provide that: a. an eligible head of the household may obtain a rent increase exemption order/tax abatement certificate entitling him to an exemption from increases in the maximum rent **or preferential rent** otherwise payable in one of the following amounts:

(1) where the eligible head of the household does not receive a monthly allowance for shelter pursuant to the social services law, the amount by which increases in the maximum rent **or preferential rent** subsequent to such person's eligibility date have resulted in the maximum rent **or preferential rent** exceeding one-third of the combined income of all members of the household for the taxable period, except that in no event shall a rent increase exemption order/tax abatement certificate become effective prior to January first, nineteen hundred seventy-six; or

(2) where the eligible head of the household receives a monthly allowance for shelter pursuant to the social services law, an amount not exceeding that portion of any increase in maximum rent **or preferential rent** subsequent to such person's eligibility date which is not covered by the maximum allowance for shelter which such person is entitled to receive pursuant to the social services law.

(3) provided, however, that in a city of a population of one million or more, where the eligible head of the household has been granted a rent increase exemption order as a person with a disability as defined in paragraph m of subdivision one of this section that is in effect as of January first, two thousand fifteen or takes effect on or before July first, two thousand fifteen, the amount determined by subparagraph one of this paragraph shall be an amount not in excess of the difference between the maximum rent **or preferential rent** and the amount specified in such order, as adjusted by any other provision of this section.

(4) (a) Provided, however, that in a city with a population of one million or more, a head of the household who has received a rent increase exemption order that has expired and who, upon renewal application for the period commencing immediately after such expiration, is determined to be ineligible for a rent increase exemption order because the combined income of all members of the household exceeds the maximum amount allowed by this section or the maximum rent**, preferential rent** or legal regulated rent does not exceed one-third of the combined income of all members of the household, may submit a new application during the following calendar year, and if such head of the household receives a rent increase exemption order that commences during such calendar year, the tax abatement amount for such order shall be calculated as if such prior rent increase exemption order had not expired. However, no tax abatement benefits may be provided for the period of ineligibility.

(b) No head of the household may receive more than three rent increase exemption orders calculated as if a prior rent increase exemption order had not expired, as described in clause (a) of this subparagraph.

b. 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 this section, to the local emergency housing rent control law or to the emergency tenant protection act of nineteen seventy-four to a subsequent dwelling unit which is subject to the provisions of articles II, IV, V or XI of the private housing finance law or which is or was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the National Housing Act, as amended, and 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, subject to any terms and conditions imposed by reason of any fund created under subdivision eight of this section, and such certificate may provide that the head of the household shall be exempt from paying that portion of the maximum rent**, preferential 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**, preferential 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**, preferential 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 as a person with a disability as defined in paragraph m of subdivision one of this section that is in effect as of January

first, two thousand fifteen or takes effect on or before July first, two thousand fifteen.

c. Notwithstanding any other provision of law, when a dwelling unit subject to the provisions of article II, IV, V or XI of the private housing finance law or subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, is later reclassified by order of the commissioner, the supervising agency or any other governmental agency supervising such dwelling unit, or by operation of law to a dwelling unit subject to any of the provisions of article II, IV, V or XI of the private housing finance law, the rent stabilization law of nineteen hundred sixty-nine of the city of New York or the emergency tenant protection act of nineteen seventy-four, or when a dwelling unit subject to such rent stabilization law or such emergency tenant protection act, or subject to 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 act, is reclassified by order of the commissioner or the supervising agency or by operation of law to a dwelling unit subject to any of the aforementioned provisions of the private housing finance law or subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, a head of the household who held or holds a valid rent increase exemption order at the time of the reclassification shall be issued a rent increase exemption order under applicable law continuing the previous exemption notwithstanding the reclassification of the dwelling unit.

d. notwithstanding any other provision of law to the contrary, where a eligible head of the household holds a current, valid rent increase exemption order/tax abatement certificate and, after the effective date of this paragraph, there is a permanent decrease in income in an amount which exceeds twenty percent of such income as represented in such eligible head of household's last approved application for a rent increase exemption order/tax abatement certificate or for renewal thereof, such eligible head of the household may apply for a redetermination of the amount set forth therein. Upon application, such amount shall be redetermined so as to re-establish the ratio of adjusted rent to income which existed at the time of approval of such eligible head of the household's last application for a rent increase exemption order/tax abatement certificate or for renewal thereof; provided, however, that in no event shall the amount of the adjusted rent be redetermined to be (i) in the case of an eligible head of the household who does not receive a monthly allowance for shelter pursuant to the social services law, less than one-third of income unless such head of the household has been granted a rent increase exemption order as a person with a disability as defined in paragraph m of subdivision one of this section that is in effect as of January first, two thousand fifteen or takes effect on or before July first, two thousand fifteen; or (ii) in the case of an eligible head of the household who receives a monthly allowance for shelter pursuant to the social services law, less than the maximum allowance for shelter which such eligible head of the household is entitled to receive pursuant to law. For purposes of this paragraph, a decrease in income shall not include any decrease in income resulting from the manner in which income is calculated pursuant to any amendment to paragraph f of subdivision one of this section made on or after April first, nineteen hundred eighty-seven. For purposes of this paragraph, "adjusted rent" shall mean maximum rent **or preferential rent** less the

amount set forth in a rent increase exemption order/tax abatement certificate.

5. Any such local law or ordinance may provide that the effective date of a rent increase exemption order/tax abatement certificate shall be the date of the first increase in maximum rent **or preferential rent** becoming effective after the applicant's eligibility date except that in no event shall a rent increase exemption order/tax abatement certificate become effective prior to January first, nineteen hundred seventy-six.

6. Any such local law or ordinance may provide that upon receipt of a copy of the rent increase exemption order/tax abatement certificate, the housing company managing the dwelling unit of the eligible head of the household shall promptly accord to the eligible head of the household covered by such order/certificate the appropriate credit against the monthly maximum rent **or preferential rent** then or thereafter payable. To the extent the full amount of such credit has not been accorded for any past period since the effective date specified in the order/certificate, the housing company shall credit the total aggregate amount not so credited to the monthly maximum rent **or preferential rent** next payable or to such subsequent monthly maximum rents as the supervising agency may authorize. It shall be illegal to collect any amount for which a rent increase exemption order/tax abatement certificate provides credit or to withhold credit for any such amounts already collected, and collection or retention of any such amount for a dwelling unit occupied by such eligible head of the household shall be deemed a rent overcharge, and upon conviction therefor the housing company and its directors and any employee and any agent responsible therefor shall be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars or imprisonment not to exceed six months, or both.

7. Any such local law or ordinance may provide that in order to obtain the tax benefits to which it is entitled under this section, a housing company must file with the collecting officer charged with the duty of collecting taxes of the municipality a sworn application, in such form as such officer may prescribe, for any quarterly period in which the housing company has accorded an eligible head of the household an exemption hereunder from the payment of the maximum rent **or preferential rent**. Subject to prior or subsequent verification thereof, the collecting officer shall credit the total amount of such exemptions actually accorded to occupants of dwelling units contained in the property against the real property taxes otherwise payable with respect to the property. The housing company shall attach to such application copies of all rent increase exemption orders/tax abatement certificates issued to eligible heads of the household residing in dwelling units in such real property.

8. Any such local law or ordinance may provide that in the event that the real property of a housing company containing one or more dwelling units shall be totally exempt from local and municipal real property taxes for any fiscal year as a result of the exemptions from maximum rent **or preferential rent** credited pursuant to this section, or otherwise, such municipality may make or contract to make payments to a housing company in an amount not exceeding the amount necessary to reimburse the housing company for the total dollar amount of all exemptions from the payment of the maximum rent **or preferential rent** accorded pursuant to this section to eligible heads of the household residing in dwelling units in such real property.

A municipality may create and establish a fund in order to provide for the payments made in accordance with contracts entered into pursuant to

this subdivision. There may be paid into such fund (1) all of the rental surcharges collected by the municipality from housing companies organized and existing pursuant to Articles II, IV, V and XI of the private housing finance law and (2) any moneys appropriated or otherwise made available by the municipality for the purpose of such fund.

§ 4. This act shall take effect immediately; provided that the amendments to section 467-b of the real property tax law made by section one of this act shall be subject to the expiration and reversion of such section pursuant to section 17 of chapter 576 of the laws of 1974, as amended, when upon such date the provisions of section two of this act shall take effect.