STATE OF NEW YORK

10440

IN ASSEMBLY

May 23, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Braunstein) -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to a rebate against real property taxes for certain owners of real property in the city of New York for the fiscal year commencing on the first of July, two thousand twenty-one

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 467-l to read as follows:

§ 467-l. Rebate for owners of certain real property in the city of New York. 1. Generally. Notwithstanding any provision of any general, special or local law to the contrary, a city having a population of one million or more is hereby authorized and empowered to adopt and amend local laws in accordance with this section to grant a rebate of the annual tax of an eligible property, in the amount provided in this section, for the fiscal year beginning on the first of July, two thousand twenty-one and ending on the thirtieth of June, two thousand twenty-two to the owner of such eligible property, provided the qualified gross income of all the owners for whom such property serves as their primary residence was two hundred fifty thousand dollars or less in tax year two thousand twenty. Where the eligible property, other than an eligible property that is a dwelling unit in residential property held in the cooperative form of ownership, is in arrears in the payment of real property taxes, assessments, and any other charges that are made a lien subject to the provisions of chapter three of title eleven of the administrative code of the city of New York other than water rents, sewer rents and sewer surcharges, such rebate shall be applied to any such unpaid real property taxes, assessments, and other charges on the account of such eligible property. Where the eligible property is a dwelling unit in residential property held in the cooperative form of ownership and such residential property is in arrears in the payment of real property taxes, assessments, and any other charges that are made a lien subject to the provisions of chapter three of title eleven of the

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

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administrative code of the city of New York other than water rents, sewer rents and sewer surcharges, such rebate shall be applied to any unpaid real property taxes, assessments, and other charges on the account of such residential property in an amount equal to the proportionate share of the arrears of the dwelling unit. Notwithstanding any provision of this article to the contrary, an owner whose property is receiving benefits pursuant to any other section of this article shall not be prohibited from receiving a rebate authorized pursuant to this section if such owner is otherwise eligible to receive such rebate.

2. Definitions. As used in this section the following terms shall have the following meanings:

a. "Annual tax" means the amount of real property tax that is imposed on a property for the fiscal year beginning on the first of July, two thousand twenty-one, determined after reduction for any amount for which such property is exempt, or which is abated, pursuant to applicable law, provided that, for a property that is a dwelling unit in residential property held in the cooperative form of ownership, "annual tax" means the amount of real property tax that is imposed on such residential property divided by the number of units within such residential property, including dwelling units and units used primarily for professional or commercial purposes, determined after reduction for any amount for which such property that is a dwelling unit is exempt, or which is abated, pursuant to applicable law.

b. "Applicant" means an owner of an eligible property who, pursuant to subdivision six of this section, may apply for the rebate authorized pursuant to this section.

c. "Commissioner of finance" means the commissioner of finance of a city having a population of one million or more, or such commissioner's designee.

d. "Eligible property" means a property that, beginning on or after June fifteenth, two thousand twenty-two, serves as the primary residence of the owner of such property, and served as such owner's primary residence during the ninety days prior to such date.

e. "Erroneous rebate" means:

(i) a rebate that was granted to an owner who was not entitled to a rebate under this section; or

(ii) a rebate that was granted or calculated in error under this section.

f. "Owner" means one or more natural persons who, beginning on or after June fifteenth, two thousand twenty-two, either:

(i) owns a property in fee simple absolute or as a tenant in common, a joint tenant or a tenant by the entirety;

(ii) is a tenant-stockholder of a cooperative apartment corporation who resides in a portion of real property owned by such cooperative apartment corporation, to the extent represented by their share or shares of stock in such corporation as determined by their proportional relationship to the total outstanding stock of such corporation, including such stock owned by such corporation; or

(iii) owns a present interest in a property under a life estate or who is a beneficial owner under a trust.

g. "Immediate family member" means an owner's spouse, domestic partner, sibling or child.

h. "Property" means a one, two, or three family residence or a dwelling unit in residential property held in the cooperative or condominium form of ownership. "Property" shall not include any vacant land.

i. "Proportionate share of the arrears of the dwelling unit" is the quotient of the amount of unpaid real property taxes, assessments, and other charges of a residential property held in the cooperative form of ownership divided by the number of units therein, including dwelling units and units used primarily for professional or commercial purposes.

j. "Qualified gross income" means the adjusted gross income for the taxable year as reported for federal income tax purposes, or which would be reported as adjusted gross income if a federal income tax return were required to be filed. In computing qualified gross income, the net amount of loss reported on Federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule.

k. "Substantially higher" means no more than two hundred seventy-five thousand dollars.

3. Primary residence. Any local law adopted pursuant to this section shall establish a process by which an owner of a property shall demonstrate primary residence, provided that such local law shall not require such demonstration from an owner who receives a real property tax exemption pursuant to section four hundred twenty-five of this title or a school tax relief credit pursuant to subsection (eee) of section six hundred six of the tax law for such property for the fiscal year commencing on the first of July, two thousand twenty-two.

4. Amount of rebate. The amount of the rebate to be provided by the commissioner of finance shall be the lesser of one hundred fifty dollars or the annual tax imposed on the property.

5. Qualification for rebate for recipients of STAR credit or exemption. The owner of an eligible property who receives a real property tax exemption pursuant to section four hundred twenty-five of this title or a school tax relief credit pursuant to subsection (eee) of section six hundred six of the tax law for the fiscal year commencing on the first of July, two thousand twenty-two and satisfies the requirements described in subdivision one of this section shall not be required to file, and shall not file, an application for the rebate authorized pursuant to this section. To the extent the commissioner of finance determines that such an owner is not entitled to the rebate authorized pursuant to this section, the commissioner shall send to such owner a notice of denial of the rebate.

6. Qualification for rebate for owners of an eligible property who are not recipients of STAR credit or exemption. a. Generally. The owner of an eligible property who does not receive a real property tax exemption pursuant to section four hundred twenty-five of this title or a school tax relief credit pursuant to subsection (eee) of section six hundred six of the tax law for the fiscal year commencing on the first of July, two thousand twenty-two may file an application for the rebate authorized pursuant to this section, provided that, such owner satisfies the requirements described in subdivision one of this section, and provided, further, that for an eligible property that serves as the primary residence of more than one owner, all such owners shall jointly file an application for such rebate. Notwithstanding any provision of any general, special or local law to the contrary, an application for a rebate authorized pursuant to this section shall be filed by electronic means on or before the date or dates established in the local law adopted pursuant to this section. Upon a showing by an applicant that filing an application by electronic means is not practicable for reasons including but not limited to lack of access to, or ability to use, the technology needed to file by electronic means, the commissioner of finance may grant a waiver of the requirement to file such application by electronic

means. No rebate shall be granted pursuant to this section unless the owner files such application within the time period or time periods prescribed by the local law adopted pursuant to this section. No more than one application shall be submitted for an eligible property.

b. Approval or denial of application. If the commissioner of finance determines that an applicant is entitled to the rebate authorized pursuant to this section, the commissioner shall approve such application, notify such applicant of such approval, and grant such rebate to such applicant. If the commissioner of finance determines that an applicant is not entitled to the rebate authorized pursuant to this section, the commissioner shall send to each such applicant a notice of denial of such application. Such notice of denial shall specify the reason for such denial and shall be sent in a manner to be provided in local laws or in rules promulgated by the commissioner of finance. Failure to send any such notice of denial or the failure of any applicant to receive such notice shall not affect such denial and shall not prevent the levy, collection and enforcement of taxes on the property of such applicant.

c. Review of submission. The burden shall be on the applicant to establish that the property is the primary residence of such applicant, that the qualified gross income of all the owners for whom such property serves as their primary residence is two hundred fifty thousand dollars or less and that any other requirements relating to the granting of the rebate are satisfied.

d. Oath. The commissioner of finance shall have the authority to require that statements made in connection with any application filed pursuant to this section be made under oath. Such application shall contain the following declaration: "I certify that all information contained in this application is true and correct to the best of my knowledge and belief. I understand that willful making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render this application null and void." Such application shall also state that the applicant agrees to comply with and be subject to any rules promulgated by the commissioner of finance pursuant to this section.

7. Denial and revocation of rebate. a. Generally. The commissioner of finance shall deny an application for a rebate or revoke any rebate authorized pursuant to this section if it appears that: (i) the property does not serve as the primary residence of the owner who has applied for such rebate or who received the real property tax exemption pursuant to section four hundred twenty-five of this title or a school tax relief credit pursuant to subsection (eee) of section six hundred six of the tax law for such property for the fiscal year commencing on the first of July, two thousand twenty-two, (ii) prior to the granting of the rebate authorized pursuant to this section, title to the property has been transferred to a new owner other than to an immediate family member for whom the property serves as the primary residence until, at a minimum, the date on which such rebate is granted, or (iii) the property is otherwise no longer eligible for the rebate.

b. Rights of owners. Upon determining that a rebate authorized pursuant to this section shall be revoked, the commissioner of finance shall send a notice so stating to the affected owner at the time and in the manner to be provided in the local law adopted pursuant to this section. Granting a rebate authorized pursuant to this section, denying a rebate pursuant to subdivision five of this section, denying an application for a rebate pursuant to paragraph b of subdivision six of this section, or

revoking a rebate granted pursuant to this section shall constitute a final determination of the commissioner of finance, unless, within ninety days, the owner seeks administrative review by the commissioner of finance of such determination, provided that the burden shall be on the owner to establish eligibility for the rebate. The failure to grant a rebate authorized pursuant to this section to an owner who is not required to submit an application pursuant to subdivision five of this section and who does not receive a notice of denial pursuant to such subdivision shall constitute a final determination by the commissioner of finance unless such owner seeks administrative review by such commissioner of such determination no later than the first of July, two thousand twenty-three.

8. Restriction on rebate for married couples with two or more residences. The rebate authorized by this section shall be granted on no more than one property owned by a married couple, unless such spouses are living apart due to legal separation.

9. Record of ownership of an eligible property. Any local law adopted pursuant to this section shall require that ownership of an eligible property be recorded with the city register, the Richmond county clerk, or the automated city register information system by the thirtieth of June, two thousand twenty-two.

10. Proof of residency and information regarding qualified gross income. In accordance with subdivisions one and three of this section, the commissioner of finance may request proof of residency and information relating to qualified gross income from any owner seeking to receive a rebate authorized pursuant to this section.

11. Rebate returned for re-issuance. The commissioner of finance may provide a credit against the annual tax of an eligible property in the amount of the rebate when an owner of an eligible property requests that a check in the amount of the rebate be re-issued to such owner, except that no such credit shall be provided later than two years from the date the rebate is granted.

12. Recovery of erroneous rebate. a. If the commissioner of finance determines that an owner received an erroneous rebate, the commissioner of finance shall recover such erroneous rebate, within six years of the granting of such rebate, by deducting the amount of such erroneous rebate from any refund otherwise payable to the owner of such property, and any balance of the amount of such erroneous rebate remaining unpaid shall constitute a tax lien on the property of such owner as of the due and payable date provided on the tax bill mailed by the commissioner of finance containing such amount. If such amount is not paid by such due and payable date, interest at the rate applicable to delinquent real property taxes on such property shall be charged and collected on such amount from the due and payable date provided on such notice to the date of payment. Such tax lien shall be enforceable in accordance with the provisions of law relating to the enforcement of tax liens in any such city. No lien created pursuant to this section shall be enforced against a subsequent purchaser for value in good faith, provided that the purchase occurred prior to the date the amount of the erroneous rebate was entered on the statement of account for such property. Such authority shall supplement any other authority of the commissioner of finance to enforce payment of the erroneous rebate by the owner of such property.

b. To the extent a rebate was granted or calculated in error under this section, the amount of the erroneous rebate shall be equal to the

difference between the amount of the rebate originally granted and the amount to which the owner was entitled.

13. Penalty for material misstatements. a. Generally. If the commissioner of finance determines, within three years from the granting of a rebate authorized pursuant to this section, that there was a material misstatement in an application filed pursuant to this section and that such misstatement provided the basis for the granting of a rebate under this section, the commissioner of finance shall proceed to impose a penalty tax against the property of five hundred dollars in addition to recovering the amount of any erroneous rebate under subdivision twelve of this section. An application shall be deemed to contain a material misstatement for this purpose when either:

(1) the applicant claimed the property was his, her or their primary residence, when it was not;

(2) the applicant claimed that the applicant owned the property, when the applicant did not; or

(3) the applicant claimed that the qualified gross income of all the owners for whom such property serves as their primary residence was two hundred fifty thousand dollars or less, when the qualified gross income of such owners was a substantially higher amount.

b. Procedure. When the commissioner of finance determines that a penalty tax shall be imposed, the penalty tax shall be entered on the next ensuing tentative or final assessment roll. Each owner shall be given notice of the possible imposition of a penalty tax, and shall be entitled to seek administrative and judicial review of such action in the manner provided by law.

14. Non-disclosure. The information contained in applications filed with the commissioner of finance pursuant to subdivision six of this section shall not be subject to disclosure under article six of the public officers law.

§ 2. This act shall take effect immediately; provided, however, if this act shall have become a law after June 1, 2022, it shall take effect immediately and shall be deemed to have been in full force and effect on and after June 1, 2022.