

STATE OF NEW YORK

2962--A

2023-2024 Regular Sessions

IN SENATE

January 26, 2023

Introduced by Sens. KAVANAGH, GOUNARDES, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to creating the Neighborhood Small Business Rent Increase Exemption

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Neighborhood Small Business 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 NEIGHBORHOOD SMALL BUSINESSES

IN A CITY OF ONE MILLION OR MORE PERSONS

9 Section 499-aaaaaa. Definitions.

10 499-bbbbbb. Authority to enact local law; real property tax
11 abatement.

12 499-cccccc. Eligibility requirements.

13 499-dddddd. Application for certificate of abatement.

14 499-eeeeee. Enforcement and administration.

15 499-ffffff. Reporting requirements; revocation of abatements.

16 499-gggggg. Tax lien; interest and penalty.

17 499-hhhhhh. Confidentiality.

18 § 499-aaaaaa. Definitions. When used in this title, the following
19 terms shall mean or include:

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

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

LBD07229-02-3

1 2. "Abatement zone." Any area of a city having a population of one
2 million or more designated by local law pursuant to this title as an
3 abatement zone. Any tax lot that is partly located inside an abatement
4 zone shall be deemed to be entirely located inside such zone.

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

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

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

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

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

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

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

25 10. "Eligibility period." The period commencing April first, two thou-
26 sand twenty-three and terminating March thirty-first, two thousand
27 forty-one.

28 11. "Eligible premises." With respect to the abatement zone defined in
29 subdivision two of this section, premises located in an eligible build-
30 ing that (a) are occupied or used for retail purposes and (b) are occu-
31 pied or used by a tenant under a lease that meets the eligibility
32 requirements of section four hundred ninety-nine-cccccc of this title.

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

35 13. "Governmental agency." The United States of America or any agency
36 or instrumentality thereof, the state of New York, the city of New York,
37 any public corporation (including a body corporate and politic created
38 pursuant to agreement or compact between the state of New York and any
39 other state), public benefit corporation, public authority or other
40 political subdivision of the state.

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

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

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

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

4 18. "Renewal tenant." A person who (a) occupies premises in an eligi-
5 ble building under a lease which expires during the eligibility period
6 and (b) executes a lease for the continued occupancy of all or part of
7 such premises or all or part of such premises and additional premises in
8 such eligible building, provided such premises are eligible premises and
9 such lease meets the eligibility requirements of section four hundred
10 ninety-nine-cccccc of this title.

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

13 20. "Retail purposes" means any activity that consists predominantly
14 of (a) the final sale of tangible personal property or services by a
15 vendor as defined in section eleven hundred one of the tax law, (b) the
16 sale of services that generally involve the physical, mental, and/or
17 spiritual care of individuals or the physical care of the personal prop-
18 erty of individuals, (c) the final sale of food and/or beverage by a
19 vendor as defined in section eleven hundred one of the tax law, includ-
20 ing the assembly, processing or packaging of goods, provided that sales
21 of such tangible personal property or services are predominantly to
22 purchasers who personally visit the facilities at which such sales are
23 made or such property and services are provided. "Retail purposes" shall
24 not include hotel uses as described in subdivision four of section four
25 hundred ninety-nine-cccccc of this article.

26 21. "Small business." A business engaged in commercial activities that
27 employs fifty or fewer persons.

28 22. "Subtenant." A person whose right to occupy and use the eligible
29 premises is not derived from a lease with the landlord.

30 23. "Tax commission." The tax commission in any city having a popu-
31 lation of one million or more.

32 24. "Tax liability." The product obtained by multiplying the billable
33 assessed value for the fiscal year in which the benefit period commences
34 by the tax rate applicable to the eligible building for such fiscal year
35 as set by the local legislative body of any city having a population of
36 one million or more.

37 25. "Tax liability per square foot." The tax liability divided by the
38 total number of square feet in the eligible building, as listed on the
39 records of the department of finance.

40 26. "Tenant." A person, including any successors in interest, who
41 executes a lease with the landlord for the right to occupy or use the
42 eligible premises and who occupies or uses the eligible premises pursu-
43 ant to such lease. Tenant shall not include any subtenant. When used in
44 this title, "tenant" includes "renewal tenant."

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

49 § 499-bbbbbb. Authority to enact local law; real property tax abate-
50 ment. 1. Any city having a population of one million or more, acting
51 through its local legislative body, is authorized and empowered to
52 determine that incentives in the form of abatement of real property
53 taxes are necessary to encourage vibrant neighborhood small business
54 activity in designated areas of such city, to enact a local law provid-
55 ing that such benefits shall be provided in the manner set forth in this

1 title, and to designate by local law the boundaries of one or more
2 abatement zones in which such benefits shall be provided.

3 2. Within an abatement zone so designated, eligible buildings contain-
4 ing eligible premises shall receive an abatement of real property
5 taxes during the benefit period as follows:

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

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

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

18 3. If, as a result of application to the tax commission or a court
19 order or action by the department of finance, the billable assessed
20 value is reduced, the department of finance shall recalculate the abate-
21 ment utilizing such reduced billable assessed value. The amount equal to
22 the difference between the abatement originally granted and the abate-
23 ment as so recalculated shall be deducted from any refund otherwise
24 payable or remission otherwise due as a result of such reduction in
25 billable assessed value, and any balance of such amount remaining unpaid
26 after making any such deduction shall be paid to the department of
27 finance within thirty days from the date of mailing by the department of
28 finance of a notice of the amount payable. Such amount payable shall
29 constitute a tax lien on the eligible building as of the date of such
30 notice and, if not paid within such thirty-day period, penalty and
31 interest at the rate applicable to delinquent taxes on such eligible
32 building shall be charged and collected on such amount from the date of
33 such notice to the date of payment.

34 4. In no event shall the abatement for the eligible premises granted
35 pursuant to this title exceed the tax liability allocable to the eligi-
36 ble premises.

37 5. Notwithstanding the provisions of any lease for occupancy of non-
38 eligible premises in an eligible building or for occupancy of eligible
39 premises for which no certificate of abatement has been issued pursuant
40 to this title, a lessee of non-eligible premises or of eligible premises
41 for which no certificate of abatement has been issued pursuant to this
42 title shall not be entitled to receive directly or indirectly a
43 reduction in either the real property taxes or any rent (including addi-
44 tional rent) payable pursuant to such lease where such reduction would
45 result from an abatement of real property taxes granted pursuant to this
46 title. A landlord of an eligible building shall not allocate, credit,
47 assign or disburse any portion of an abatement granted pursuant to this
48 title to a lessee of non-eligible premises or of eligible premises for
49 which no certificate of abatement has been issued pursuant to this
50 title. A landlord shall not be required to reduce the real property
51 taxes or any rent (including additional rent) payable by renewal tenants
52 by an amount that exceeds the full amount of the abatement granted
53 pursuant to this title, but a landlord shall be required to reduce the
54 real property taxes or any rent (including additional rent) payable by
55 renewal tenants by an amount that, in the aggregate, equals the full
56 amount of the abatement granted pursuant to this title. Such reduction

1 shall be allocated in accordance with the abatement granted for the
2 eligible premises occupied by each such tenant.

3 6. A tenant who occupies or uses eligible premises for which a certifi-
4 cate of abatement is issued pursuant to this title shall not be eligi-
5 ble to receive a second certificate of abatement for the same eligible
6 premises. A tenant who occupies or uses eligible premises for which a
7 certificate of abatement is issued pursuant to this title and who, upon
8 the expiration of the lease for such eligible premises, relocates to
9 otherwise eligible premises, shall not be eligible to receive a certifi-
10 cate of abatement for such otherwise eligible premises, except to the
11 extent that the square footage of such otherwise eligible premises
12 exceeds the square footage of all eligible premises previously occupied
13 or used by such tenant for which such tenant held a certificate of
14 abatement. If the square footage of such otherwise eligible premises
15 exceeds the square footage of all such eligible premises previously
16 occupied or used by such tenant and if there is any variation in the tax
17 liability per square foot of such otherwise eligible premises, then, for
18 purposes of determining which square footage in such otherwise eligible
19 premises is entitled to an abatement pursuant to this title, square
20 footage with the greatest tax liability per square foot, in an amount
21 equal to the square footage of all such eligible premises previously
22 occupied or used by such tenant, shall first be excluded.

23 § 499-ccccc. Eligibility requirements. 1. No abatement shall be
24 granted pursuant to this title unless:

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

29 2. No abatement shall be granted pursuant to this title if an appli-
30 cant shall fail to meet any of the requirements of this title within
31 sixty days of the rent commencement date.

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

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

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

39 (b) a statement certifying the percentage of eligible premises occu-
40 pi ed or used for retail purposes, as defined in subdivision twenty of
41 section four hundred ninety-nine-aaaaaa of this title; and

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

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

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

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

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

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

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

7 (a) the lease for the eligible premises provides that during the
8 initial lease term required by subdivision one of this section either
9 the landlord or the tenant may terminate such lease prior to the expira-
10 tion date of such required initial lease term; provided that such lease
11 may provide that either the landlord or the tenant may terminate such
12 lease if (1) the other party is in default of any of such party's obli-
13 gations under the lease, (2) the eligible premises are damaged or
14 destroyed by fire or other casualty, (3) the eligible premises are
15 rendered unusable for any reason not attributable to any act or failure
16 to act of either tenant or landlord, or (4) the eligible premises are
17 acquired by eminent domain; and

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

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

27 (a) a statement that within the seven years immediately preceding the
28 date of application for a certificate of abatement, neither the appli-
29 cant nor any person owning a substantial interest in the eligible build-
30 ing as defined in paragraph (c) of this subdivision, nor any officer,
31 director or general partner of the applicant or such person was finally
32 adjudicated by a court of competent jurisdiction to have violated
33 section two hundred thirty-five of the real property law or any section
34 of article one hundred fifty of the penal law or any similar arson law
35 of another jurisdiction with respect to any building, or was an officer,
36 director or general partner of a person at the time such person was
37 finally adjudicated to have violated such law; and

38 (b) a statement setting forth any pending charges alleging violation
39 of section two hundred thirty-five of the real property law or any
40 section of article one hundred fifty of the penal law or any similar
41 arson law of another jurisdiction with respect to any building by the
42 applicant or any person owning a substantial interest in the eligible
43 building as defined in paragraph (c) of this subdivision, or any offi-
44 cer, director or general partner of the applicant or such person, or any
45 person for whom the applicant or person owning a substantial interest in
46 the eligible building is an officer, director or general partner.

47 (c) for purposes of this subdivision and subdivision seven of section
48 four hundred ninety-nine-ffffff of this title, "substantial interest"
49 shall mean ownership and control of an interest of ten per centum or
50 more in the eligible building or in any person owning the eligible
51 building.

52 § 499-ddddddd. Application for certificate of abatement. 1. Applica-
53 tion for a certificate of abatement may be made on or after April first,
54 two thousand twenty-three and until sixty days after the end of the
55 eligibility period. Applications shall be filed with the department of

1 finance. No application may be filed prior to the date on which the
2 lease for the eligible premises is executed by the landlord and tenant.

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

6 3. In addition to any other information required by the department of
7 finance, the application for a certificate of abatement shall include an
8 abstract of the lease for the eligible premises for which an abatement
9 is being sought, which abstract is signed by the landlord and the
10 tenant. Such abstract shall include the tenant's percentage share, the
11 lease commencement date, the rent commencement date, the expiration date
12 for such lease and a description of the lease renewal clause, including
13 the annual rent increase percentage. Such application shall also include
14 (i) a statement of the number of persons who will, on the rent commence-
15 ment date, be employed in the eligible premises, (ii) a statement of the
16 location of all commercial space in the city of New York occupied by the
17 tenant prior to the execution of the lease for the eligible premises,
18 (iii) the commencement and expiration dates of all leases for eligible
19 premises, and (iv) the aggregate floor area of the eligible building.
20 Such application shall also state that the applicant agrees to comply
21 with and be subject to the rules issued from time to time by the depart-
22 ment of finance.

23 4. Within one hundred eighty days following the lease commencement
24 date, the applicant shall provide, in addition to any other information
25 required by the department of finance, evidence acceptable to the
26 department of finance of the number of employees in the eligible prem-
27 ises. The department of finance shall issue a certificate of abatement
28 upon determining that the applicant has submitted proof acceptable to
29 the department of finance that the applicant has met the requirements
30 set forth in this title.

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

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

39 § 499-eeeeee. Enforcement and administration. The department of
40 finance shall have, in addition to any other functions, powers and
41 duties which have been or may be conferred on it by law, the following
42 functions, powers and duties:

43 1. To receive and review applications for certificates of abatement
44 under this title and issue such certificates where authorized pursuant
45 to this title.

46 2. To receive all certificates of continuing eligibility required by
47 section four hundred ninety-nine-ffffff of this title.

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

51 4. To make and promulgate rules to carry out the purposes of this
52 title.

53 § 499-ffffff. Reporting requirements; revocation of abatements. 1.
54 For the duration of the applicant's benefit period, the applicant shall
55 file annually with the department of finance, on or before July first of
56 each year, a certificate of continuing eligibility confirming that the

1 eligible premises are occupied by the tenant who originally executed the
2 lease and that the eligible premises are being used for the purposes
3 described in the application. Such certificate of continuing eligibil-
4 ity shall be on a form prescribed by the department of finance and shall
5 contain such additional information as the department of finance shall
6 require. The department of finance shall have the authority to terminate
7 abatements granted pursuant to this title upon failure of an applicant
8 to file such certificate by such July first date. The burden of proof
9 shall be on the applicant to establish continuing eligibility for bene-
10 fits and the department of finance shall have the authority to require
11 that statements made in such certificate shall be made under oath.

12 2. The department of finance shall revoke any abatement granted pursu-
13 ant to this title when the tenant who originally executed the lease is
14 no longer occupying the eligible premises. Such revocation shall be
15 retroactive to the date that such tenant vacated the eligible premises
16 and the department of finance shall require the landlord to pay, with
17 interest, any taxes which become payable as a result of such revocation.
18 The landlord shall notify the department of finance within thirty days
19 following the date on which such tenant vacated the eligible premises
20 and, for failure to comply with this notification requirement, shall be
21 liable for a penalty calculated for the same period as interest is
22 calculated pursuant to the preceding sentence.

23 3. If any portion of the premises for which an abatement has been
24 granted pursuant to this title ceases to be occupied or used as eligible
25 premises or is occupied by a subtenant, the department of finance shall
26 reduce the abatement granted pursuant to this title by an amount equal
27 to the percentage of such eligible premises which has ceased to be occu-
28 pied or used as eligible premises or is occupied by a subtenant. Such
29 reduction shall be retroactive to the date that such premises ceased to
30 be occupied or used as eligible premises or was occupied by a subtenant,
31 and the department of finance shall require the landlord to pay, with
32 interest, any taxes which become payable as a result of such reduction.
33 The landlord shall notify the department of finance within thirty days
34 following the date on which the premises ceased to be occupied or used
35 as eligible premises or was occupied by a subtenant and, for failure to
36 comply with this notification requirement, shall be liable for penalty
37 calculated for the same period as interest is calculated pursuant to the
38 preceding sentence.

39 4. If, during the benefit period, any real property tax or water or
40 sewer charge or other lienable charge due and payable with respect to an
41 eligible building shall remain unpaid for at least one year following
42 the date upon which such tax or charge became due and payable, all
43 abatements granted pursuant to this title with respect to such building
44 shall be revoked, unless within thirty days from the mailing of a notice
45 of revocation by the department of finance satisfactory proof is
46 presented to the department of finance that any and all delinquent taxes
47 and charges owing with respect to such building as of the date of such
48 notice have been paid in full or are currently being paid in timely
49 installments pursuant to a written agreement with the department of
50 finance or other appropriate agency. Any revocation pursuant to this
51 subdivision shall be effective with respect to real property taxes which
52 become due and payable following the date of such revocation.

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

1 (a) the landlord or the tenant receiving abatement pursuant to this
2 title fails to comply with the requirements of this title or the rules
3 promulgated hereunder; or

4 (b) an application, certificate, report or other document submitted by
5 the applicant contains a false or misleading statement as to a material
6 fact or omits to state any material fact necessary in order to make the
7 statement therein not false or misleading, and may declare any applicant
8 who makes such false or misleading statement or omission to be ineligi-
9 ble for future abatement pursuant to this title for the same or other
10 property. In addition, the department of finance shall require the
11 applicant to pay, with penalty and interest, any abatement received
12 pursuant to this title as a result of such false or misleading statement
13 or omission of a material fact.

14 6. Notwithstanding any other provision of this title, the department
15 of finance shall deny, terminate or revoke any abatement applied for or
16 granted pursuant to this title upon a determination that the lease
17 between the landlord and the tenant does not constitute a bona fide
18 arm's length lease. In making such determination, the department of
19 finance may consider, among other factors, the relationship, if any,
20 between the landlord and the tenant and whether the business terms of
21 such lease are consistent with the business terms generally found in
22 leases for comparable space.

23 7. (a) If any person described in the statement required by paragraph
24 (b) of subdivision six of section four hundred ninety-nine-cccccc of
25 this title or paragraph (b) of this subdivision is finally adjudicated
26 by a court of competent jurisdiction to be guilty of any charge listed
27 in such statement, the department of finance shall revoke the abatement
28 granted pursuant to this title and shall require the payment, with
29 interest, of any abatement received pursuant to this title.

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

43 § 499-gggggg. Tax lien; interest and penalty. All taxes, with inter-
44 est, required to be paid retroactively pursuant to this title shall
45 constitute a tax lien as of the date it is determined such taxes and
46 interest are owed. All interest shall be calculated from the date the
47 taxes would have been due but for the abatement granted pursuant to this
48 title at the applicable rate or rates of interest imposed by such city
49 generally for non-payment of real property tax with respect to the
50 eligible building for the period in question. When a provision of this
51 title requires the payment of a penalty in addition to interest, the
52 amount of such penalty shall be equal to the amount of interest that
53 would have been payable pursuant to such provision had such interest
54 been calculated at the rate of three percent per annum.

55 § 499-hhhhhh. Confidentiality. 1. Except in accordance with a proper
56 judicial order or as otherwise provided by law, it shall be unlawful for

1 the commissioner of finance, any officer or employee of the department
2 of finance, the president or a commissioner or employee of the tax
3 commission, any person engaged or retained by such department or such
4 commission on an independent contract basis, or any person who, pursuant
5 to this title, is permitted to inspect any information submitted by an
6 applicant to the department of finance pursuant to this title or to whom
7 a copy, an abstract or a portion of any such information is furnished,
8 to divulge or make known in any manner any such information to any
9 person not authorized pursuant to this title to inspect such informa-
10 tion. The officers charged with custody of such information shall not be
11 required to produce any of it or evidence of anything contained in it in
12 any action or proceeding in any court except on behalf of the commis-
13 sioner of finance in an action or proceeding under the provisions of
14 this title, or on behalf of any party to any action or proceeding under
15 the provisions of this title when such information or facts shown there-
16 by are directly involved in such action or proceeding, in either of
17 which events the court may require the production of, and may admit in
18 evidence so much of such information or of the facts shown thereby, as
19 are pertinent to the action or proceeding and no more. Nothing herein
20 shall be construed to prohibit the inspection by the legal represen-
21 tatives of the department of finance or the tax commission of such
22 information submitted by any applicant who shall bring an action to
23 correct an assessment. Nothing herein shall be construed to prohibit
24 the delivery to an applicant or the applicant's duly authorized repre-
25 sentative of a certified copy of any information submitted by an appli-
26 cant to the department of finance pursuant to this title; or to any
27 agency or any department of any city having a population of one million
28 or more provided the same is requested for official business; nor to
29 prohibit the inspection for official business of such information by the
30 corporation counsel or other legal representatives of a city having a
31 population of one million or more or by the district attorney of any
32 county within such city; nor to prohibit the publication of statistics
33 so classified as to prevent the identification of such information or
34 particular items thereof. Information submitted by an applicant to the
35 department of finance pursuant to this title shall not be subject to
36 disclosure pursuant to article six of the public officers law.

37 2. Any violation of the provisions of subdivision one of this section
38 shall be punishable by a fine not exceeding one thousand dollars or by
39 imprisonment not exceeding one year, or both, at the discretion of the
40 court, and if the offender be an officer or employee of the department
41 of finance or of the tax commission, the offender shall be dismissed
42 from office.

43 § 3. This act shall take effect immediately.