§ 467-e. Rebate for owners or tenant-stockholders of one, two or three family residences or residential property held in the condominium or cooperative form of ownership in a city having a population of one million or more. 1. Generally. Notwithstanding any provision of any general, special or local law to the contrary, any 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 real property taxes for fiscal years beginning on the first of July, two thousand three and ending on the thirtieth of June, two thousand nine in the amount of the lesser of four hundred dollars or the annual tax liability imposed on the property. No such local law may be adopted unless, as originally adopted, it authorizes such rebate to be granted in accordance with this section for three consecutive fiscal years beginning with the fiscal year beginning on the first of July, two thousand three. No such rebate shall be granted by local law for any fiscal year beginning on or after the first of July, two thousand nine, unless the council of such city, in fixing the annual tax rates for any such fiscal year, shall have uniformly reduced such rates for all classes of property in order to produce real property tax relief among such classes of property in an amount not less than, in the aggregate, the aggregate amount of rebate paid in such fiscal year. No such local law implementing the provisions of this section, as amended by the chapter of the laws of two thousand seven which added this sentence, may be adopted unless, as originally adopted, such local law authorizes such rebate to be granted in accordance with this section for three consecutive fiscal years beginning with the fiscal year beginning on the first of July, two thousand six. Any rebate authorized by local law in accordance with this section shall be paid in the fiscal year following the fiscal year for which the rebate is granted. If, with respect to the fiscal year of such city beginning on the first of July, two thousand eight and ending on the thirtieth of June, two thousand nine, an increase in average real property tax rates would otherwise be necessary in the resolution of such city council fixing real property tax rates for such fiscal year pursuant to the charter of such city, then the rebate to be paid for such fiscal year shall be reduced or eliminated as follows: where the sum to be raised by such increase is less than seven hundred fifty million dollars, then such rebate shall be reduced by

fifty cents for each dollar of increase, and where the sum to be raised by such increase is seven hundred fifty million dollars or more, then such rebate shall be eliminated. The determination of the reduction or elimination of such rebate shall be set forth in such resolution after consultation with the department of finance of such city and shall take effect upon the final adoption of such resolution. Such rebate shall be paid to an owner or tenant-stockholder who, as of the date the application provided for in subdivision four of this section is due, owns a one, two or three family residence or a dwelling unit in residential property held in the condominium or cooperative form of ownership that is the owner or tenant-stockholder's primary residence and meets all other eligibility requirements of this section. Notwithstanding anything to the contrary in sections four hundred twenty-one-a, four hundred twenty-one-b or four hundred twenty-one-g of this title, an owner or tenant-stockholder whose property is receiving benefits pursuant to such sections shall not be prohibited from receiving a rebate pursuant to this section if such owner or tenant-stockholder is otherwise eligible to receive such rebate. Tenant-stockholders of dwelling units in a cooperative apartment corporation incorporated as a mutual company pursuant to article two, four, five or eleven of the private housing finance law shall not be entitled to the rebate authorized by this section. Such rebate shall be paid by the commissioner of finance to eligible owners or tenant-stockholders in accordance with rules promulgated by the commissioner of finance.

2. Eligibility requirements. a. To qualify for the rebate pursuant to this section (1) the property must be a one, two or three family residence or residential property held in the condominium or cooperative form of ownership;

(2) the property must serve as the primary residence of one or more of the owners or tenant-stockholders thereof; and

(3) the owner must not be in arrears in the payment of real property taxes in an amount in excess of twenty-five dollars for the fiscal year for which the rebate is claimed and all prior fiscal years, and for residential property held in the cooperative form of ownership, there must be no arrears in the payment of real property taxes in an amount in

excess of an average of twenty-five dollars per dwelling unit in such cooperative apartment corporation for the fiscal year for which the rebate is claimed and all prior fiscal years.

b. If legal title to the property is held by one or more trustees, the beneficial owner or owners shall be deemed to own the property for purposes of this subdivision.

3. Definitions. As used in this section:

a. "Applicant" means the owner or owners or tenant-stockholder or tenant-stockholders of the property.

b. "Commissioner of finance" means the commissioner of finance of a city having a population of one million or more, or his or her designee.

c. "Property" means a one, two or three family residence or a dwelling unit in residential property held in the condominium or cooperative form of ownership.

4. Application procedure. a. Generally. Notwithstanding any provision of any general, special or local law to the contrary, an application for a rebate pursuant to this section for the fiscal year beginning the first of July, two thousand three, shall be made no later than the date published by the commissioner of finance in the city record and in other appropriate general notices pursuant to this subdivision, which date shall be no earlier than thirty days after the effective date of this subdivision. An application for a rebate pursuant to this section for fiscal years beginning on or after the first of July, two thousand four and ending on the thirtieth of June, two thousand six, shall be made no later than the fifteenth of March of the fiscal year for which the rebate is claimed. An application for a rebate pursuant to this section for fiscal years beginning on or after the first of July, two thousand six, shall be made no later than the first of September following the fiscal year for which the rebate is claimed. All owners or tenant-stockholders of property who primarily reside thereon must jointly file an application for the rebate on or before the application

deadline, unless such owners or tenant-stockholders currently receive a real property tax exemption pursuant to section four hundred twenty-five, four hundred fifty-eight, four hundred fifty-eight-a, four hundred fifty-nine-c or four hundred sixty-seven of this title, in which case no separate application for a rebate pursuant to this section shall be required. Such application may be filed by mail if it is enclosed in a postpaid envelope properly addressed to the commissioner of finance, deposited in a post office or official depository under the exclusive care of the United States postal service, and postmarked by the United States postal service on or before the application deadline. Each such application shall be made on a form prescribed by the commissioner of finance, which shall require the applicant to agree to notify the commissioner of finance if his, her or their primary residence changes after receiving the rebate pursuant to this section, or after filing an application for such rebate, if his, her or their primary residence changes after filing such application, but before receiving such rebate. The commissioner of finance may request that proof of primary residence be submitted with the application. No rebate pursuant to this section shall be granted unless the applicant, if required to do so by this subdivision, files an application within the time periods prescribed in this subdivision.

b. Approval or denial of application. If the commissioner of finance determines that the applicant is entitled to the rebate pursuant to this section, the commissioner shall approve the application and such owner or tenant-stockholder shall thereafter be entitled to the rebate as provided in this section. If the commissioner of finance determines that the applicant is not entitled to the rebate pursuant to this section, the commissioner shall mail to each applicant not entitled to the rebate a notice of denial of that application for the rebate for that year in accordance with rules for denial of applications to be promulgated by the commissioner of finance. The notice of denial shall specify the reason for such denial and shall be sent on a form prescribed by the commissioner of finance. Failure to mail any such notice of denial or the failure of any applicant to receive such notice shall not prevent the levy, collection and enforcement of taxes on such applicant's property.

c. Proof of residency. (1) Requests. From time to time, the commissioner of finance may request proof of residency from the owner or tenant-stockholder receiving a rebate pursuant to this section.

(2) Timing. A request for proof of residency shall be mailed at least sixty days prior to the ensuing application deadline. The owner or tenant-stockholder shall submit proof of his, her or their residency in an application to the commissioner of finance on or before the application deadline.

d. Review of submission. The burden shall be on the applicant to establish that the property is his, her or their primary residence and that any other requirements to obtain the rebate are satisfied. If the applicant submits proof of residency on or before the application deadline, and the submission demonstrates to the commissioner of finance's satisfaction that the property is the primary residence of the applicant, and if the requirements of this section are otherwise satisfied, the rebate shall be paid. Otherwise, the commissioner of finance shall discontinue the rebate and, where appropriate, shall proceed as further provided herein.

e. 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 the rules promulgated from time to time by the commissioner of finance pursuant to this section.

5. Discontinuance of rebate. a. Generally. The commissioner of finance shall discontinue any rebate paid or granted pursuant to this section if it appears that: (1) the property may not be the primary residence of

the owner or tenant-stockholder who received or applied for the rebate, (2) title to the property has been transferred to a new owner or tenant-stockholder, or (3) the property is otherwise no longer eligible for the rebate. For the purposes of this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides, and which is represented by his or her share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

b. Rights of owners and tenant-stockholders. Upon determining that a rebate paid or granted pursuant to this section should be discontinued, the commissioner of finance shall mail a notice so stating to the affected owner or tenant-stockholder at the time and in the manner to be provided in rules promulgated by the commissioner of finance. Such owner or tenant-stockholder shall be entitled to seek administrative and judicial review of such action in the manner provided by law, provided, that the burden shall be on the owner or tenant-stockholder to establish eligibility for the rebate.

6. Recovery of prior rebate. If the commissioner of finance determines that the owner or tenant-stockholder was (a) not entitled to a rebate under this section, or (b) that a rebate was paid or calculated in error under this section, then the commissioner of finance shall recover or recalculate such rebate and the amount of the rebate or an amount equal to the difference between the rebate originally paid and the amount to which the owner or tenant-stockholder was entitled shall be deducted from any refund otherwise payable, and any balance of such amount remaining unpaid shall be paid to the commissioner of finance within thirty days from the date of mailing by the commissioner of finance of a notice of the amount payable. Such amount payable shall constitute a tax lien on the property as of the date of such notice and, if not paid within such thirty-day period, penalty and interest at the rate applicable to delinquent taxes on such property shall be charged and collected on such amount from the date of such notice to the day of payment, and such amount payable shall be enforceable as a tax lien in

accordance with provisions of law relating to the enforcement of tax liens in any such city.

7. Penalty for material misstatements. a. Generally. If the commissioner of finance determines, within three years from the payment of a rebate pursuant to this section, that there was a material misstatement in an application filed pursuant to this section or in an application filed pursuant to section four hundred twenty-five of this title and that such misstatement provided the basis for the payment of a rebate under this section, the commissioner of finance shall proceed to impose a penalty tax against the property of one thousand dollars in addition to recovering the amount of any prior rebate under subdivision six 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 the property was eligible for a rebate pursuant to this section, when it was not; or

(3) the applicant claimed that the applicant owned the property, when the applicant did not.

b. Procedure. When the commissioner of finance determines that a penalty tax should be imposed, the penalty tax shall be entered on the next ensuing tentative or final assessment roll. Each owner or tenant-stockholder 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.

c. Additional consequences. A penalty tax may be imposed pursuant to this subdivision whether or not the improper rebate has been revoked in the manner provided for by this section.

8. Rulemaking. The commissioner of finance shall be authorized to promulgate rules necessary to effectuate the purposes of this section.

9. Non-disclosure. The information contained in applications or statements in connection therewith filed with the commissioner of

finance pursuant to subdivision four of this section shall not be subject to disclosure under article six of the public officers law.