

AN ACT to amend the real property tax law, in relation to including people with disabilities in the definition of eligible head of the household for certain tax abatement purposes

Section 1. The section heading and paragraph b of subdivision 1 of section 467-b of the real property tax law, the section heading as amended by chapter 576 of the laws of 1974 and paragraph b as amended by chapter 747 of the laws of 1985, are amended to read as follows:

Tax abatement for rent-controlled and rent regulated property occupied by senior citizens and people with disabilities

b. "Head of the household" means a person who is either: sixty-two years of age or older or is a person with a disability, and is entitled to the possession or to the use or occupancy of a dwelling unit. For purposes of this paragraph, a person with a disability shall mean any person who (1) is eligible for or receiving supplemental security income (SSI) or social security disability insurance (SSDI) benefits, or (2) is a person receiving services that are provided to persons with disabilities by the United States department of veterans affairs, United States social security administration, state office of mental retardation and developmental disabilities (OMRDD), state office of mental health (OMH), state office of alcoholism and substance abuse services (OASAS), state department of education's vocational and educational services for people with disabilities (VESID), state commission for the blind and visually handicapped (CBVH), state department of health (DOH), state office of temporary and disability assistance, state division of disability determinations, state division of veterans' affairs, or local departments of education, health, mental hygiene or social services, or (3) has been certified as having a physical or mental impairment which substantially limits one or more of his or her major life activities. A person with a disability applying for a rent increase exemption pursuant to this section shall demonstrate eligibility under this paragraph by (1) providing

documentation of current receipt of or eligibility for SSI or SSDI benefits, or (2) providing certification of an agency of the federal, state or local government as described in this paragraph that he or she is a person receiving services provided to persons with disabilities by that agency, or (3) providing certification from an authorized representative of a public health department that he or she has a physical or mental impairment which substantially limits one or more of his or her major life activities, as defined in this paragraph. As used in this paragraph, physical or mental impairment shall mean (a) any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine, or (b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disability. Major life activities shall include, but not be limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Whenever a person with a disability applying for a rent increase exemption goes to a public health department for the purpose of obtaining a disability determination and certification pursuant to this section, such applicant shall be allowed to provide the department's representative with contact information for the applicant's treating physicians. If such contact information is provided, the representative shall contact each identified treating physician as part of the representative's determination of disability, **provided, however, that any treating physician's opinion as to whether a disability exists as defined herein shall be advisory only and shall not constitute a disability determination without the concurrence of the public health representative.** Nothing contained herein regarding the definition of a person with a disability or a certification that an applicant is a person with a disability pursuant to this paragraph shall be construed as qualifying or disqualifying such applicant as a person with a disability for any purpose other than participation in the rent increase exemption program authorized by this section.

§2. The opening paragraph of paragraph e of subdivision 3 of section 467-b of the real property tax law, as added by chapter 925 of the laws of 1984, is amended to read as follows:

e. notwithstanding any other provision of law, when a dwelling unit subject to regulation under the New York city rent and rehabilitation law of the rent stabilization law of the city of New York is reclassified by order of the city rent agency subject to the other law, a head of the household who held a valid senior citizen or person with a disability rent increase exemption order at the time of such reclassification may be issued a rent increase exemption order under the appropriate law continuing the exemption he or she would have been eligible and entitled to, notwithstanding such reclassification of such dwelling unit and the tenant shall be exempt from paying the rent increase to the extent to which he or she was otherwise eligible and entitled to be exempted at the time of the increase but for the fact of such reclassification of the dwelling unit including exemption from the rent increase granted pursuant to subparagraph (m) of paragraph one of subdivision g of section ~~§51-5.0~~ 26-405 of the administrative code of the city of New York to the extent that it is not predicated upon any improvement or addition in a category as provided for in subparagraph (d), (e), (f), (g), (h) or (i) of such paragraph.

§3. Paragraph d of subdivision 1 of section 467-c of the real property tax law, as amended by chapter 366 of laws of 1995, is amended to read as follows:

d. “Eligible head of the household” means a person or his or her spouse who is sixty-two years of age or older, or is a person with a disability, and is entitled to the possession or to the use and occupancy of a dwelling unit, provided, however, with respect to a dwelling 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 “eligible head of the household” shall be limited to that person or his or her spouse who was entitled to possession or the use and occupancy of such dwelling unit at the time of termination of such mortgage, and whose income when combined with the income of all other members of the household, does not exceed six thousand five hundred dollars for the taxable period, or such other sum not less than sixty-five hundred dollars nor more than twenty thousand dollars as may be provided by local law. For purposes of this paragraph, a person with a disability shall mean any person who (1) is eligible for or receiving supplemental security income (SSI) or social security disability insurance (SSDI) benefits, or (2) is a person receiving services that are provided to persons with disabilities by the United States department of veterans affairs, United States social

security administration, state office of mental retardation and developmental disabilities (OMRDD), state office of mental health (OMH), state office of alcoholism and substance abuse services (OASAS), state department of education's vocational and educational services for people with disabilities (VESID), state commission for the blind and visually handicapped (CBVH), state department of health (DOH), state office of temporary and disability assistance, state division of disability determinations, state division of veterans' affairs, or local departments of education, health, mental hygiene or social services, or (3) has been certified as having a physical or mental impairment which substantially limits one or more of his or her major life activities. A person with a disability applying for a rent increase exemption pursuant to this section shall demonstrate eligibility under this paragraph by (1) providing documentation of current receipt of or eligibility for SSI or SSDI benefits, or (2) providing certification of an agency of the federal, state or local government as described in this paragraph that he or she is a person receiving services provided to persons with disabilities by that agency, or (3) providing certification from an authorized representative of a public health department that he or she has a physical or mental impairment which substantially limits one or more of his or her major life activities, as defined in this paragraph. As used in this paragraph, physical or mental impairment shall mean (a) any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine, or (b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disability. Major life activities shall include, but not be limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Whenever a person with a disability applying for a rent increase exemption goes to a public health department for the purpose of obtaining a disability determination and certification pursuant to this section, such applicant shall be allowed to provide the department's representative with contact information for the applicant's treating physicians. If such contact information is provided, the representative shall contact each identified treating physician as part of the

representative's determination of disability, provided, however, that any treating physician's opinion as to whether a disability exists as defined herein shall be advisory only and shall not constitute a disability determination without the concurrence of the public health representative. Nothing contained herein regarding the definition of a person with a disability or a certification that an applicant is a person with a disability pursuant to this paragraph shall be construed as qualifying or disqualifying such applicant as a person with a disability for any purpose other than participation in the rent increase exemption program authorized by this section.

§4. Notwithstanding any other provision of law to the contrary, the amendments to sections 467-b and 467-c of the real property tax law made by sections one, two, and three of this act shall not be deemed to require the applicability of the provisions of a local law, ordinance or resolution, which was in effect prior to the effective date of this act and which was adopted in accordance with such sections of law as they existed prior to the effective date of this act, to any person with a disability who was not eligible under such program when it was adopted by such municipality; provided, however, that the amendments made by this act extending the provisions of such rent increase exemption program to persons with disabilities shall be applicable to any municipality which adopts a local law, ordinance or resolution in accordance with such sections on or after the effective date of this act and such local law, ordinance or resolution shall provide benefits to persons with disabilities in accordance with this act.

§5. This act shall take effect immediately; provided that any local law, ordinance or resolution adopted pursuant to the provisions of section 467-b and 467-c of the real property tax law, as amended by this act, shall take effect no earlier than 180 days after this act shall have become a law, and provided further that the amendment to the section heading and paragraph of subdivision 1 of section 467-b of the real property tax law made by section one of this act and the amendment to the opening paragraph of paragraph e of subdivision 3 of section 467-b of the real property tax law made by section two of this act shall not affect the expiration of, and shall expire on the same date as, such provisions expire pursuant to chapter 576 of the laws of 1974, as amended.

