Legislation Details (With Text)

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Type:	Introduction			**Status:**	Enacted
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Title: A Local Law to amend the administrative code of the city of New York, in relation to a rebate against real property taxes for certain owners of real property

Sponsors:

Indexes:

Attachments: 1. Summary of Int. No. 600, 2. Int. No. 600, 3. Committee Report 8/3/22, 4. Hearing Testimony 8/3/22, 5. Hearing Transcript 8/3/22, 6. Committee Report 8/11/22, 7. Hearing Transcript 8/11/22, 8. Committee Report - Stated Meeting, 9. August 11, 2022 - Stated Meeting Agenda, 10. Hearing Transcript - Stated Meeting 8-11-22, 11. Minutes of the Stated Meeting - August 11, 2022, 12. Int. No. 600 (FINAL), 13. Fiscal Impact Statement, 14. Mayor's Letter, 15. Local Law 82

Date	Ver.	Action By	Action	Result
8/3/2022	*	Committee on Finance	Hearing on P-C Item by Comm	
8/3/2022	*	Committee on Finance	P-C Item Laid Over by Comm	
8/11/2022	*	Committee on Finance	Hearing on P-C Item by Comm	
8/11/2022	*	Committee on Finance	P-C Item Approved by Comm	Pass
8/11/2022	*	City Council	Introduced by Council	
8/11/2022	*	City Council	Referred to Comm by Council	
8/11/2022	*	City Council	Approved by Council	Pass
8/11/2022	*	City Council	Sent to Mayor by Council	
8/24/2022	*	Mayor	Hearing Held by Mayor	
8/24/2022	*	Mayor	Signed Into Law by Mayor	
8/25/2022	*	City Council	Recved from Mayor by Council	

Preconsidered Int. No. 600

By The Speaker (Council Member Adams) and Council Members Brannan and Yeger

A Local Law to amend the administrative code of the city of New York, in relation to a rebate against real property taxes for certain owners of real property

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of chapter 2 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-240.2 to read as follows:

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§ 11-240.2 Rebate for owners of certain real property. 1. For the fiscal year beginning on July 1, 2021 and ending on June 30, 2022, a rebate of the annual tax of an eligible property in the amount provided in this section shall be paid to the owner of such an eligible property, provided the qualified gross income of all the owners for whom such property serves as their primary residence was $250,000 or less in tax year 2020. 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 3 of this title 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 3 of this title 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 article 4 of the real property tax law to the contrary, an owner whose property is receiving benefits pursuant to any provision of such article shall not be prohibited from receiving a rebate 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:

Annual tax. The term "annual tax" means the amount of real property tax that is imposed on a property for the fiscal year beginning on July 1, 2021, 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.

Applicant. The term “applicant" means an owner of an eligible property who, pursuant to subdivision 6 of this section, may apply for the rebate authorized by this section.

Eligible property. The term "eligible property" means a property that, beginning on or after June 15, 2022, serves as the primary residence of the owner of such property, and served as such owner's primary residence during the 90 days prior to such date.

Erroneous rebate. The term “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.

Immediate family member. The term "immediate family member" means the spouse, domestic partner, sibling or child of an owner, as documented by a record issued by a local, state, federal or foreign governmental entity.

Owner. The term "owner" means one or more natural persons who, beginning on or after June 15, 2022, 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.

Property. The term "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.

Proportionate share of the arrears of the dwelling unit. The term “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.

Qualified gross income. The term “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 $3,000 per schedule.

Substantially higher. The term "substantially higher" means more than $275,000.

3. Primary residence. To be granted a rebate pursuant to this section, an owner, other than an owner who receives a real property tax exemption pursuant to section 425 of the real property tax law or a school tax relief credit pursuant to subsection (eee) of section 606 of the tax law for such property for the fiscal year commencing on July 1, 2022, shall certify that the property serves as the primary residence of such owner. The department of finance may require that an owner submit proof of such primary residence to the department. Such proof may include but is not limited to a valid driver’s license, the most recent federal or state income tax return, or a proof of registration to vote.

4. Amount of rebate. The amount of the rebate to be provided by the commissioner of finance shall be the lesser of $150, 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 425 of the real property tax law or a school tax relief credit pursuant to subsection (eee) of section 606 of the tax law for the fiscal year commencing on the July 1, 2022 and satisfies the requirements described in subdivision 1 of this section shall not be required

to file, and shall not file, an application for the rebate authorized by this section. To the extent the commissioner of finance determines that such an owner is not entitled to the rebate authorized by 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 425 of the real property tax law or a school tax relief credit pursuant to subsection (eee) of section 606 of the tax law for the fiscal year commencing on July 1, 2022 may file an application for the rebate authorized by this section, provided that, such owner satisfies the requirements described in subdivision 1 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 law to the contrary, an application for a rebate authorized by this section shall be filed by electronic means on or before November 15, 2022, provided that, such application may be filed by electronic means after November 15, 2022 and on or before March 15, 2023 when an applicant demonstrates, to the satisfaction of the commissioner of finance, extenuating circumstances, including but not limited to the death or illness of an immediate family member, that prevented such applicant from filing an application on or before November 15, 2022. 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 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 by 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 by this section, the commissioner shall send to such

applicant a notice of denial of such application. Such notice of denial shall specify the reason for such denial and may be sent by mail or by electronic means. 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 $250,000 or less and that any other requirements relating to the granting of the rebate are satisfied.

d. Oath. The commissioner of finance shall 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 this section and 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 granted 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 425 of the real property tax law or a school tax relief credit pursuant to subsection (eee) of section 606 of the tax law for such property for the fiscal year commencing on July 1, 2022; (ii) prior to the granting of the rebate authorized by 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, provided that the commissioner of finance has been notified of any such transfer to an immediate family member in connection with the

application authorized by subdivision 6 of this section; or (iii) the property is otherwise no longer eligible for the rebate.

b. Rights of owners. Upon determining that a rebate granted pursuant to this section shall be revoked, the commissioner of finance shall send a notice so stating to the affected owner. Such notice shall be sent by mail or by electronic means no later than June 30, 2023. Granting a rebate pursuant to this section, denying a rebate pursuant to subdivision 5 of this section, denying an application for a rebate pursuant to paragraph b of subdivision 6 of this section, or revoking a rebate granted pursuant to this section shall constitute a final determination of the commissioner of finance, unless, within 90 days of the date of the notification of such denial or revocation, 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 pursuant to this section to an owner who is not required to submit an application pursuant to subdivision 5 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 July 1, 2023.

8. Restriction on rebate for married couples with two or more residences. The rebate provided 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. A deed or other instrument demonstrating ownership of an eligible property shall be recorded with the city register, the Richmond county clerk, or the automated city register information system on or before June 30, 2022.

10. Proof of residency and information regarding qualified gross income. In accordance with subdivisions 1 and 3 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, including but not limited to, an owner who received the real property tax exemption pursuant to

section 425 of the real property tax law or a school tax relief credit pursuant to subsection (eee) of section 606 of the tax law for such property for the fiscal year commencing on July 1, 2022.

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, including chapters 3 and 4 of this title. 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 by 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 $500 in addition to recovering the amount of any erroneous rebate under subdivision 12 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 $250,000 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 6 of this section shall not be subject to disclosure under article 6 of the public officers law.

§ 2. This local law takes effect immediately.