

STATE OF NEW YORK

5325

2019-2020 Regular Sessions

IN SENATE

April 25, 2019

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to an energy-related public utility mass real property central assessment program

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

1 Section 1. Paragraph (a) of subdivision 2 of section 200-a of the real
2 property tax law, as separately amended by section 2 of part J of chap-
3 ter 57 and chapter 475 of the laws of 2013, is amended to read as
4 follows:

5 (a) The power to determine the final special franchise value, special
6 franchise assessment, railroad ceiling, state equalization rate or any
7 other equalization product established pursuant to this chapter for
8 which a complaint has been filed, as provided by sections four hundred
9 eighty-nine-o, four hundred eighty-nine-ll, four hundred ninety-nine-
10 pppp, four hundred ninety-nine-bbbbb, six hundred fourteen, twelve
11 hundred ten, twelve hundred fifty-three, and twelve hundred sixty-three
12 of this chapter;

13 § 2. Paragraph (a) of subdivision 2 of section 200-a of the real prop-
14 erty tax law, as amended by section 2 of part J of chapter 57 of the
15 laws of 2013, is amended to read as follows:

16 (a) The power to determine the final special franchise value, special
17 franchise assessment, railroad ceiling, state equalization rate or any
18 other equalization product established pursuant to this chapter for
19 which a complaint has been filed, as provided by sections four hundred
20 eighty-nine-o, four hundred eighty-nine-ll, four hundred ninety-nine-
21 bbbbbb, six hundred fourteen, twelve hundred ten, twelve hundred fifty-
22 three, and twelve hundred sixty-three of this chapter;

23 § 3. Article 4 of the real property tax law is amended by adding a new
24 title 6 to read as follows:

TITLE 6

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

LBD11341-01-9

ENERGY-RELATED PUBLIC UTILITY MASS REAL PROPERTY CENTRAL
ASSESSMENT PROGRAM

Section 499-tttt. Definitions.

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mass real property.

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ty value.

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499-aaaaa. Tentative determination of assessment ceiling;
notice, complaints and hearing.

499-bbbbbb. Final determination of assessment ceiling; certif-
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499-cccc. Application of assessment ceiling; computation of
exemption.

499-ddddd. Reports to commissioner.

499-eeee. Inspection of accounts and property of public utili-
ties.

§ 499-tttt. Definitions. When used in this title:

1. "Local energy-related public utility mass real property" means
energy-related public utility mass real property.

2. "Local assessing jurisdiction" means the town, city, village or
county assessing unit that establishes the assessment rolls for such
town, city, village or county.

3. "Energy-related public utility mass real property" means real prop-
erty that is: (a) owned by an electric corporation, gas corporation,
combination gas and electric corporation, or steam corporation as such
terms are defined in section two of the public service law, and (b) used
in the storage, transmission and distribution of electricity, gas, or
steam including conduits, cables, lines, wires, poles, mains, pipes,
substations, tanks, supports and enclosures for electrical conductors
located on, above and below real property. Such term shall include all
property described in paragraph (e) of subdivision twelve of section one
hundred two of this chapter. Special franchise property as described in
subdivision seventeen of section one hundred two of this chapter and all
property described in paragraphs (a) and (b) and subparagraphs (A), (B),
(C) and (D) of paragraph (i) of subdivision twelve of section one
hundred two of this chapter shall not be considered energy-related
public utility mass real property for purposes of this title.

4. "Taxation" means an ad valorem levy or special assessment for which
energy-related public utility mass real property is otherwise liable
pursuant to this chapter.

§ 499-uuuu. Annual fee. Any costs and expenses incurred by the commis-
sioner under the energy-related public utility mass real property
central assessment pilot program shall be paid from the collection of an
annual charge upon the owners of such local energy-related public utili-
ty mass real property. The commissioner shall provide by rule for compu-
tation of such charge through the apportionment of these costs and
expenses to owners of local energy-related public utility mass real
property in relation to the total full value of the local energy-related
public utility mass real property eligible for an assessment ceiling
pursuant to this title. Prior to collecting payment of such charges, the
commissioner shall annually provide a detailed report to each owner of
local energy-related public utility mass real property identifying costs

1 related to the establishment of assessment ceilings, including, but not
2 limited to, expenditures, revenue sources and any allocations. The
3 charges established pursuant to this section shall be subject to the
4 approval of the director of the budget. Each owner of local energy-re-
5 lated public utility mass real property shall be authorized to challenge
6 any such charges pursuant to article seventy-eight of the civil practice
7 law and rules. All fees collected by the commissioner under this section
8 shall be retained by the department for the purposes outlined herein.

9 § 499-vvvv. Assessment of local energy-related public utility mass
10 real property. Subject to the provisions of section four hundred nine-
11 ty-nine-cccc of this title, the assessor in each city, town and village
12 and in each county having a department of assessment shall annually
13 assess all local energy-related public utility mass real property situ-
14 ated in such city, town, village or county, as the case may be. Where a
15 village has enacted a local law as provided in subdivision three of
16 section fourteen hundred two of this chapter, the town or county asses-
17 sor shall apportion that part of the assessment of local energy-related
18 public utility mass real property in the town or county to the village
19 for village tax purposes.

20 § 499-www. Assessment ceiling. 1. To determine the extent to which
21 local energy-related public utility mass real property shall be exempt
22 under this title, an assessment ceiling for the local energy-related
23 public utility mass real property shall be established annually by the
24 commissioner as follows:

25 (a) Determine: (i) the local energy-related public utility mass real
26 property value in accordance with the provisions of section four hundred
27 ninety-nine-yyyy of this title; and (ii) the equalization rate factor
28 for the local energy-related public utility mass real property in
29 accordance with the provisions of section four hundred ninety-nine-zzzz
30 of this title.

31 (b) Multiply the local energy-related public utility mass real proper-
32 ty value by the equalization rate factor.

33 The result shall be the assessment ceiling.

34 2. The valuation date for all local energy-related public utility mass
35 real property shall be January first of the year preceding the year in
36 which the assessment roll on which such property is to be assessed,
37 completed and filed in the office of the city or town clerk. The taxa-
38 ble status for all local energy-related public utility mass real proper-
39 ty shall be based upon its condition and ownership as of the taxable
40 status date applicable to the assessment roll on which it is to appear.

41 3. For assessment rolls with taxable status dates in the years two
42 thousand twenty-three, two thousand twenty-four, two thousand twenty-
43 five and two thousand twenty-six, the commissioner shall establish no
44 assessment ceiling that is below the lower limit or above the upper
45 limit specified in this subdivision, except that the commissioner may
46 establish assessment ceilings below such lower limit or above such upper
47 limit to take into account any change in level of assessment and/or to
48 take into account any additions or retirements to energy-related public
49 utility mass real property or litigation affecting the value or taxable
50 status of the local energy-related public utility mass real property
51 initiated prior to the effective date of this title.

52 (a) For assessment rolls with taxable status dates in two thousand
53 twenty-three, the assessment ceiling shall not be less than ninety
54 percent or more than one hundred ten percent of the assessment of such
55 local energy-related public utility mass real property appearing on the

1 municipal assessment roll with a taxable status date occurring in the
2 year two thousand twenty.

3 (b) For assessment rolls with taxable status dates in two thousand
4 twenty-four, the assessment ceiling shall not be less than seventy-five
5 percent or more than one hundred twenty-five percent of the assessment
6 of such local energy-related public utility mass real property appearing
7 on the municipal assessment roll with a taxable status date occurring in
8 the year two thousand twenty.

9 (c) For assessment rolls with taxable status dates in two thousand
10 twenty-five, the assessment ceiling shall not be less than fifty percent
11 or more than one hundred fifty percent of the assessment of such local
12 energy-related public utility mass real property appearing on the munic-
13 ipal assessment roll with a taxable status date occurring in the year
14 two thousand twenty.

15 (d) For assessment rolls with taxable status dates in two thousand
16 twenty-six, the assessment ceiling shall not be less than twenty-five
17 percent or more than one hundred seventy-five percent of the assessment
18 of such local energy-related public utility mass real property appearing
19 on the municipal assessment roll with a taxable status date occurring in
20 the year two thousand twenty.

21 § 499-xxxx. Local energy-related public utility mass real property
22 value. The commissioner shall compute the local energy-related public
23 utility mass real property value as follows:

24 1. The local reproduction cost of the energy-related public utility
25 mass real property of each energy-related public utility mass real prop-
26 erty owner in every assessing unit is the cost of reproduction, less
27 depreciation of that energy-related public utility mass real property.

28 2. In ascertaining depreciation of property under this section,
29 consideration may be given to the age, physical condition, average
30 service lives of assets and other relevant factors.

31 3. Adjustments for economic or functional obsolescence shall only be
32 made upon application by an energy-related public utility mass real
33 property owner. Every such application shall be submitted with the annu-
34 al report required by section four hundred ninety-nine-ddddd of this
35 title.

36 § 499-yyyy. Equitable ratio of assessment. The commissioner and any
37 assessing authority shall be prohibited from assessing local energy-re-
38 lated public utility mass real property at a value that has a higher
39 ratio to the full value of the local energy-related public utility mass
40 real property than the ratio of assessed value of other real property in
41 the same assessment class and jurisdiction to its full value, as
42 provided in section three hundred five of this chapter.

43 § 499-zzzz. Equalization rate. In determining assessment ceilings, the
44 commissioner shall apply the final state equalization rate for the
45 assessment roll of the local assessing jurisdiction for which the ceil-
46 ing is established. If that final rate is not available, the commission-
47 er shall apply the most recent final state equalization rate for the
48 local assessing jurisdiction, except that if a special equalization rate
49 has been established as provided in title two of article twelve of this
50 chapter, such rate shall be applied. In the case of a special assessing
51 unit as defined in section eighteen hundred one of this chapter, the
52 equalization rate to be applied shall be the applicable class equaliza-
53 tion rate.

54 § 499-aaaaa. Tentative determination of assessment ceiling; notice,
55 complaints and hearing. 1. Each year the commissioner shall make a
56 tentative determination of an assessment ceiling for all local energy-

1 related public utility mass real property. Thereafter, the commissioner
2 shall give notice, in writing or electronically, to each assessing unit
3 and each owner of local energy-related public utility mass real property
4 for which such tentative determination of an assessment ceiling shall
5 have been made, specifying the amount of such ceiling, and making avail-
6 able for inspection and copying the computations used to establish the
7 tentative assessment ceiling amount pursuant to the public officers law,
8 and setting forth the time and place where the commissioner or his or
9 her designee will meet to hear any complaint concerning such tentative
10 determination. Such notice shall be sent electronically and served in
11 writing at least forty-five days prior to the date specified for such
12 hearing.

13 2. A tentative assessment ceiling may be challenged before the commis-
14 sioner as follows:

15 (a) An owner of local energy-related public utility mass real property
16 or the local assessing jurisdiction objecting to a tentative ceiling
17 must serve a complaint upon the commissioner, in writing, and a copy
18 thereof upon the assessing unit or owner of local energy-related public
19 utility mass real property, as the case may be, at least ten days before
20 the date specified for the hearing. The complaint shall specify the
21 objections to such tentative determination. Service may be made either
22 in person or by mail.

23 (b) On or before the date specified for the hearing, an affidavit of
24 service shall be filed with the commissioner stating that service has
25 been made in accordance with the provisions of this section.

26 3. The commissioner or his or her designee shall meet at the time and
27 place specified in such notice set forth in subdivision one of this
28 section to hear complaints in relation to the tentative determination of
29 the assessment ceiling. The provisions of section five hundred twelve of
30 this chapter shall apply so far as may be practicable to a hearing under
31 this section.

32 § 499-bbbbb. Final determination of assessment ceiling; certificate.
33 1. After the hearing provided in section four hundred ninety-nine-aaaaa
34 of this title, the commissioner shall finally determine the assessment
35 ceiling for the local energy-related public utility mass real property
36 of each local energy-related public utility mass real property owner
37 situated in each assessing unit.

38 2. Notwithstanding that a complaint may not have been filed with
39 respect to a tentative determination of an assessment ceiling, the
40 commissioner shall give effect to any special equalization rate estab-
41 lished pursuant to section twelve hundred twenty-four of this chapter or
42 the final state equalization rate for the assessment roll for which the
43 ceiling is established as provided in section four hundred ninety-nine-
44 zzzz of this title prior to the date for the final determination of the
45 assessment ceiling.

46 3. No later than ten days before the last date prescribed by law for
47 the levy of taxes, the commissioner shall file a certificate setting
48 forth each assessment ceiling as finally determined with the assessor of
49 the appropriate assessing unit or the town or county assessor who
50 prepares a copy of the applicable part of the town or county assessment
51 roll for village tax purposes as provided in subdivision three of
52 section fourteen hundred two of this chapter. The commissioner shall, at
53 the same time, transmit to each owner of local energy-related public
54 utility mass real property for which such ceiling has been determined a
55 duplicate copy of such certificate.

1 4. Any final determination of an assessment ceiling by the commission-
2 er pursuant to subdivision one of this section shall be subject to judi-
3 cial challenge by an owner of local energy-related public utility mass
4 real property or a local assessing jurisdiction in a proceeding under
5 article seven of this chapter; provided however, the time to commence
6 such proceeding shall be within sixty days of the issuance of the final
7 assessment ceiling certificate and all questions of fact and law shall
8 be determined de novo. Any judicial proceeding shall be commenced in the
9 supreme court in the county of Albany. Nothing in this section shall
10 preclude a challenge of the assessed value established by a local
11 assessing jurisdiction with respect to local energy-related public util-
12 ity mass real property as otherwise provided in article seven of this
13 chapter. In any proceeding challenging an assessed value established by
14 a local assessing jurisdiction for local energy-related public utility
15 mass real property, the final certified assessment ceiling established
16 pursuant to subdivision one of this section shall not be considered by
17 the court.

18 § 499-cccc. Application of assessment ceiling; computation of
19 exemption. 1. Upon receipt of a certificate setting forth the final
20 certified assessment ceiling for local energy-related public utility
21 mass real property, the assessor shall compare the assessed valuations
22 attributable to the local energy-related public utility mass real prop-
23 erty for each owner of local energy-related public utility mass real
24 property included in the assessment ceiling. Where the owner of the
25 local energy-related public utility mass real property reports informa-
26 tion by specific property identification to the commissioner or the
27 local assessing jurisdiction has implemented a system by the commission-
28 er standardizing the identity of energy-related public utility mass real
29 property on assessment rolls, such certified assessment ceilings shall
30 be provided by the commissioner, as set forth on the local assessing
31 jurisdiction's assessment rolls. Where the assessed valuation does not
32 exceed the final certified assessment ceiling, as set forth in the
33 certificate for the local energy-related public utility mass real prop-
34 erty, the assessor need not make any adjustment in such assessed valu-
35 ation. Provided, however, the assessed valuation exceeds the final
36 certified assessment ceiling, as set forth in the certificate, such
37 local energy-related public utility mass real property shall be exempt
38 from taxation to the extent of such excess and the assessor shall forth-
39 with reduce the assessments of such local energy-related public utility
40 mass real property, so that the taxable assessed valuation of such prop-
41 erty shall not exceed the certified assessment ceiling. All certificates
42 of assessment ceilings shall be attached to the assessment roll or filed
43 therewith as provided in article fifteen-C of this chapter.

44 2. The assessor is hereby authorized and directed to make the
45 reductions, if any, provided for in this section on the assessment roll
46 of the local assessing jurisdiction in which the local energy-related
47 public utility mass real property is located, notwithstanding the fact
48 that he or she may receive the certificate of the assessment ceiling
49 after the final completion, verification and filing of such assessment
50 roll. Other local officers, including school authorities, applying such
51 final assessment roll, are hereby authorized and directed, on the basis
52 of information which shall be provided by the assessor, to make the
53 reductions provided for in this section on their respective tax rolls
54 prior to levy of tax or, if received after the tax rolls have been
55 established, to correct any tax levy of local energy-related public
56 utility mass real property to reflect such reduction. If the reduction

1 is made after the tax levy and payment of same by the owner of local
2 energy-related public utility mass real property, then such owner of
3 local energy-related public utility mass real property shall be entitled
4 to a refund in accordance with section seven hundred twenty-six of this
5 chapter.

6 3. In assessing units for which he or she is required by law to
7 prepare an assessment roll, the assessor of a county having a county
8 department of assessment shall perform all the acts prescribed for an
9 assessor by this title. Where a village has enacted a local law as
10 provided in subdivision three of section fourteen hundred two of this
11 chapter, the assessor of the town or county who prepares a copy of this
12 applicable part of the town or county assessment roll for village tax
13 purposes shall also perform the acts prescribed for assessors by this
14 title on behalf of the village.

15 § 499-ddddd. Reports to commissioner. 1. The commissioner may require
16 from an owner of a local energy-related public utility mass real prop-
17 erty an annual report that shall include such information and data that is
18 prescribed in regulation by the commissioner and is reasonable and
19 necessarily related to the establishment of a ceiling assessment by the
20 commissioner for the local energy-related public utility mass real prop-
21 erty, and which shall be in the same format and substance as required
22 for special franchise property pursuant to article six of this chapter.
23 Such reports shall be the same for similarly situated local energy-re-
24 lated public utility mass real property owners.

25 2. Every report required by or pursuant to this section shall be made
26 by a person authorized to prepare such reports and having knowledge of
27 the contents thereof, or who is authorized to obtain such information.
28 The commissioner may prepare and require the use of forms for making
29 such reports.

30 3. Any owner of local energy-related public utility mass real property
31 failing to file the annual report pursuant to this section within the
32 time specified by the commissioner shall not be entitled to judicial
33 review of an assessment ceiling that would have been the subject of such
34 report as provided in this title and shall be subject to a fine of one
35 hundred dollars for each day until such report is filed in accordance
36 with this section; provided, however, such fine shall not be applied as
37 a tax lien; and provided, further, such owner of local energy-related
38 public utility mass real property shall not be subject to any other fine
39 or penalty for a violation of this section.

40 4. In addition to the provisions of subdivision three of this section,
41 if an owner of local energy-related public utility mass real property
42 fails to furnish a report required by this section within the required
43 timeframe, the commissioner may commence a special proceeding in supreme
44 court to compel such owner to furnish such report.

45 5. If an owner of local energy-related public utility mass real prop-
46 erty fails to submit an annual report as required by this section, the
47 assessment ceiling on the next annual assessment roll shall be calcu-
48 lated using the best information available to the commissioner.

49 6. If an owner of local energy-related public utility mass real prop-
50 erty makes reasonable efforts to file an annual report, such owner shall
51 not be subject to any charge or fine pursuant to this section.

52 § 499-eeee. Inspection of accounts and property of public utilities.
53 1. The commissioner shall, upon reasonable prior notice, have access at
54 reasonable times to reasonable disclosure of accounts and records estab-
55 lished and maintained by a local energy-related public utility mass real

1 property owner relating to its local energy-related public utility mass
2 real property.

3 2. The commissioner shall, at reasonable times in the normal business
4 operations of the local energy-related public utility mass real property
5 owner, and with prior notice and appointment, and not otherwise limited
6 by federal law or regulations, have access to inspect locations where
7 the local energy-related public utility mass real property is situated.

8 § 4. (a) Within two years of the effective date of this act and bien-
9 nially thereafter, the commissioner of taxation and finance, in consul-
10 tation with owners of energy-related public utility mass real property,
11 shall examine and evaluate whether energy-related public utility mass
12 real property continues to constitute a "specialty" and, if not, such
13 commissioner shall examine and evaluate alternative valuation methodol-
14 ogies to the reproduction cost less depreciation methodology to compute
15 the value of local energy-related public utility mass real property,
16 including, but not limited to, the three valuation methodologies
17 (income, sales comparison and cost approaches), with reconciliation in
18 accordance with nationally recognized professional appraisal practice
19 standards.

20 (b) The commissioner of taxation and finance shall report to the
21 governor, the temporary president of the senate and the speaker of the
22 assembly his or her findings and recommendations, including any amend-
23 ment of statute or regulation, related to the examination and evaluation
24 pursuant to subdivision (a) of this section, no later than December
25 thirty-first of the second year of such biennial period.

26 (c) No later than January 1, 2024, the commissioner of taxation and
27 finance shall examine and evaluate whether to extend the provisions of
28 this act to other owners of energy-related public utility mass real
29 property and shall report to the governor, the temporary president of
30 the senate and the speaker of the assembly his or her findings and
31 recommendations, including any amendment of statute or regulation,
32 related to this examination and evaluation.

33 § 5. This act shall take effect on January 1, 2020 and shall apply to
34 assessment rolls with taxable status dates occurring on or after the
35 year 2023; provided, however, that the amendments to paragraph (a) of
36 subdivision 2 of section 200-a of the real property tax law made by
37 section one of this act shall not affect the expiration and reversion of
38 such section pursuant to section 4 of chapter 475 of the laws of 2013,
39 when upon such date the provisions of section two of this act shall take
40 effect.