

STATE OF NEW YORK

5325--A

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 -- 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 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-bbbbbb, 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;

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

LBD11341-02-9

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

TITLE 6

**ENERGY-RELATED PUBLIC UTILITY MASS REAL PROPERTY CENTRAL
ASSESSMENT PROGRAM**

Section 499-tttt. Definitions.

499-uuuu. Annual fee.

**499-vvvv. Assessment of local energy-related public utility
mass real property.**

499-www. Assessment ceiling.

**499-xxxx. Local energy-related public utility mass real prop-
erty value.**

499-yyyy. Equitable ratio of assessment.

499-zzzz. Equalization rate.

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

**499-bbbbb. Final determination of assessment ceiling; certif-
icate.**

**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**

1 public utility mass real property eligible for an assessment ceiling
2 pursuant to this title. Prior to collecting payment of such charges, the
3 commissioner shall annually provide a detailed report to each owner of
4 local energy-related public utility mass real property identifying costs
5 related to the establishment of assessment ceilings, including, but not
6 limited to, expenditures, revenue sources and any allocations. The
7 charges established pursuant to this section shall be subject to the
8 approval of the director of the budget. Each owner of local energy-re-
9 lated public utility mass real property shall be authorized to challenge
10 any such charges pursuant to article seventy-eight of the civil practice
11 law and rules. All fees collected by the commissioner under this section
12 shall be retained by the department for the purposes outlined herein.

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

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

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

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

37 The result shall be the assessment ceiling.

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

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

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

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

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

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

25 § 499-xxxx. Local energy-related public utility mass real property
26 value. The commissioner shall compute the local energy-related public
27 utility mass real property value as follows:

28 1. The local reproduction cost of the energy-related public utility
29 mass real property of each energy-related public utility mass real prop-
30 erty owner in every assessing unit is the cost of reproduction, less
31 depreciation of that energy-related public utility mass real property.

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

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

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

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

1 equalization rate to be applied shall be the applicable class equaliza-
2 tion rate.

3 § 499-aaaaa. Tentative determination of assessment ceiling; notice,
4 complaints and hearing. 1. Each year the commissioner shall make a
5 tentative determination of an assessment ceiling for all local energy-
6 related public utility mass real property. Thereafter, the commissioner
7 shall give notice, in writing or electronically, to each assessing unit
8 and each owner of local energy-related public utility mass real property
9 for which such tentative determination of an assessment ceiling shall
10 have been made, specifying the amount of such ceiling, and making avail-
11 able for inspection and copying the computations used to establish the
12 tentative assessment ceiling amount pursuant to the public officers law,
13 and setting forth the time and place where the commissioner or his or
14 her designee will meet to hear any complaint concerning such tentative
15 determination. Such notice shall be sent electronically and served in
16 writing at least forty-five days prior to the date specified for such
17 hearing.

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

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

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

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

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

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

51 3. No later than ten days before the last date prescribed by law for
52 the levy of taxes, the commissioner shall file a certificate setting
53 forth each assessment ceiling as finally determined with the assessor of
54 the appropriate assessing unit or the town or county assessor who
55 prepares a copy of the applicable part of the town or county assessment
56 roll for village tax purposes as provided in subdivision three of

1 section fourteen hundred two of this chapter. The commissioner shall, at
2 the same time, transmit to each owner of local energy-related public
3 utility mass real property for which such ceiling has been determined a
4 duplicate copy of such certificate.

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

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

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

1 reductions provided for in this section on their respective tax rolls
2 prior to levy of tax or, if received after the tax rolls have been
3 established, to correct any tax levy of local energy-related public
4 utility mass real property to reflect such reduction. If the reduction
5 is made after the tax levy and payment of same by the owner of local
6 energy-related public utility mass real property, then such owner of
7 local energy-related public utility mass real property shall be entitled
8 to a refund in accordance with section seven hundred twenty-six of this
9 chapter.

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

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

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

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

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

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

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

1 § 499-eeee. Inspection of accounts and property of public utilities.
2 1. The commissioner shall, upon reasonable prior notice, have access at
3 reasonable times to reasonable disclosure of accounts and records estab-
4 lished and maintained by a local energy-related public utility mass real
5 property owner relating to its local energy-related public utility mass
6 real property.

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

12 § 4. (a) Within three years of the effective date of this act and
13 biennially thereafter, the commissioner of taxation and finance, in
14 consultation with owners of energy-related public utility mass real
15 property, shall examine and evaluate whether energy-related public util-
16 ity mass real property continues to constitute a "specialty" and, if
17 not, such commissioner shall examine and evaluate alternative valuation
18 methodologies to the reproduction cost less depreciation methodology to
19 compute the value of local energy-related public utility mass real prop-
20 erty, including, but not limited to, the three valuation methodologies
21 (income, sales comparison and cost approaches), with reconciliation in
22 accordance with nationally recognized professional appraisal practice
23 standards.

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

30 § 5. This act shall take effect on January 1, 2021 and shall apply to
31 assessment rolls with taxable status dates occurring on or after the
32 year 2024; provided, however, that the amendments to paragraph (a) of
33 subdivision 2 of section 200-a of the real property tax law made by
34 section one of this act shall not affect the expiration and reversion of
35 such section pursuant to section 4 of chapter 475 of the laws of 2013,
36 when upon such date the provisions of section two of this act shall take
37 effect.