

STATE OF NEW YORK

911

2023-2024 Regular Sessions

IN ASSEMBLY

January 11, 2023

Introduced by M. of A. BRAUNSTEIN -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to authorizing a tax exemption and a tax abatement for alterations and improvements to multiple dwellings for purposes of preserving habitability in affordable housing

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

1 Section 1. Section 489 of the real property tax law is amended by
2 adding a new subdivision 21 to read as follows:

3 21. Affordable housing rehabilitation program. (a) Definitions. For
4 the purposes of this subdivision:

5 (1) "Affordable rent" shall mean the maximum rent within the marketing
6 band that is allowed for an affordable rental unit as such rent is
7 established by the local housing agency.

8 (2) "Affordable rental unit" shall mean a dwelling unit in an eligible
9 rental building that:

10 (A) is affordable to individuals or families whose household income
11 does not exceed eighty percent of the area median income, adjusted for
12 family size; and

13 (B) upon each subsequent rental following a vacancy during the
14 restriction period, is rented at or below the applicable affordable rent
15 and occupied by an individual or family whose household income does not
16 exceed eighty percent of the area median income, adjusted for family
17 size, at the time that such household initially occupies such dwelling
18 unit, provided that nothing in this subdivision shall prohibit occupancy
19 by individuals or families whose household income is less than eighty
20 percent of the area median income, adjusted for family size, nor prohib-
21 it the owner from requiring occupancy by individuals or families with
22 such lower household income.

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

LBD01617-01-3

1 (3) "Certificate of eligibility and reasonable cost" shall mean a
2 document issued by the local housing agency that establishes that a
3 property is eligible for rehabilitation program benefits and sets forth
4 the certified reasonable cost of the eligible construction for which
5 such benefits shall be received.

6 (4) "Certified reasonable cost schedule" shall mean a table providing
7 maximum dollar limits for specified alterations and improvements, estab-
8 lished, and updated as necessary, by the local housing agency.

9 (5) "Checklist" shall mean a document that the local housing agency
10 issues requesting additional information or documentation that is neces-
11 sary for further assessment of an application for a certificate of
12 eligibility and reasonable cost where such application contained all
13 information and documentation required at the initial filing.

14 (6) "Commencement date" shall mean, with respect to eligible
15 construction, the date on which any physical operation undertaken for
16 the purpose of performing such eligible construction lawfully begins.

17 (7) "Completion date" shall mean, with respect to eligible
18 construction, the date on which:

19 (A) every physical operation undertaken for the purpose of all eligi-
20 ble construction has concluded; and

21 (B) all such eligible construction has been completed to a reasonable
22 and customary standard that renders such eligible construction capable
23 of use for the purpose for which such eligible construction was
24 intended.

25 (8) "Dwelling unit" shall mean any residential accommodation in a
26 class A multiple dwelling that:

27 (A) is arranged, designed, used or intended for use by one or more
28 persons living together and maintaining a common household;

29 (B) contains at least one room; and

30 (C) contains within such accommodation lawful sanitary and kitchen
31 facilities reserved for its occupants.

32 (9) "Eligible building" shall mean an eligible rental building, an
33 eligible homeownership building, or an eligible regulated homeownership
34 building, provided that such building contains three or more dwelling
35 units.

36 (10) "Eligible construction" shall mean alterations or improvements to
37 an eligible building that:

38 (A) are specifically identified on the certified reasonable cost sche-
39 dule;

40 (B) meet the minimum scope of work threshold;

41 (C) have a completion date that is after June twenty-ninth, two thou-
42 sand twenty-three and prior to June thirtieth, two thousand twenty-seven
43 and that is not more than thirty months after their commencement date;
44 and

45 (D) are not attributable to any increased cubic content in such eligi-
46 ble building.

47 (11) "Eligible homeownership building" shall mean an existing building
48 that:

49 (A) is a class A multiple dwelling operated as condominium or cooper-
50 ative housing;

51 (B) is not operating in whole or in part as a hotel; and

52 (C) has an average assessed valuation, including the valuation of the
53 land, that as of the commencement date does not exceed the homeownership
54 average assessed valuation limitation.

1 (12) "Eligible regulated homeownership building" shall mean an exist-
2 ing building that is a class A multiple dwelling owned and operated by
3 either:

4 (A) a mutual company that continues to be organized and operated as a
5 mutual company and that has entered into and recorded a mutual company
6 regulatory agreement; or

7 (B) a mutual redevelopment company that continues to be organized and
8 operated as a mutual redevelopment company and that has entered into and
9 recorded a mutual redevelopment company regulatory agreement.

10 (13) "Eligible rental building" shall mean an existing building that:

11 (A) is a class A multiple dwelling in which all of the dwelling units
12 are operated as rental housing;

13 (B) is not operating in whole or in part as a hotel; and

14 (C) satisfies one of the following conditions:

15 (i) not less than fifty percent of the dwelling units in such building
16 are affordable rental units;

17 (ii) such building is owned and operated by a limited-profit housing
18 company; or

19 (iii) such building is the recipient of substantial governmental
20 assistance.

21 (14) "Existing building" shall mean an enclosed structure which:

22 (A) is permanently affixed to the land;

23 (B) has one or more floors and a roof;

24 (C) is bounded by walls;

25 (D) has at least one principal entrance utilized for day-to-day pedes-
26 trian ingress and egress;

27 (E) has a certificate of occupancy or equivalent document that is in
28 effect prior to the commencement date; and

29 (F) exclusive of the land, has an assessed valuation of more than one
30 thousand dollars for the fiscal year immediately preceding the commence-
31 ment date.

32 (15) "Homeownership average assessed valuation limitation" shall mean
33 an average assessed valuation of forty-five thousand dollars per dwell-
34 ing unit.

35 (16) "Limited-profit housing company" shall have the same meaning as
36 "company" set forth in section twelve of the private housing finance
37 law.

38 (17) "Market rental unit" shall mean a dwelling unit in an eligible
39 rental building other than an affordable rental unit.

40 (18) "Marketing band" shall mean maximum rent amounts ranging from
41 twenty percent of eighty percent of the area median income, adjusted for
42 family size, to thirty percent of eighty percent of the area median
43 income, adjusted for family size.

44 (19) "Minimum scope of work threshold" shall mean a total amount of
45 certified reasonable cost established by rules and regulations of the
46 local housing agency, provided that such amount shall be no less than
47 one thousand five hundred dollars for each dwelling unit in existence on
48 the completion date.

49 (20) "Multiple dwelling" shall have the meaning set forth in section
50 four of the multiple dwelling law.

51 (21) "Mutual company" shall have the meaning set forth in section
52 twelve of the private housing finance law.

53 (22) "Mutual company regulatory agreement" shall mean a binding and
54 irrevocable agreement between a mutual company and the commissioner of
55 housing, the mutual company supervising agency, the New York city hous-
56 ing development corporation, or the New York state housing finance agen-

1 cy prohibiting the dissolution or reconstitution of such mutual company
2 pursuant to section thirty-five of the private housing finance law for
3 not less than fifteen years from the commencement of rehabilitation
4 program benefits for the existing building owned and operated by such
5 mutual company.

6 (23) "Mutual company supervising agency" shall have the same meaning,
7 with respect to any mutual company, as "supervising agency" set forth in
8 section two of the private housing finance law.

9 (24) "Mutual redevelopment company" shall have the same meaning as
10 "mutual" when applied to a redevelopment company as set forth in section
11 one hundred two of the private housing finance law.

12 (25) "Mutual redevelopment company regulatory agreement" shall mean a
13 binding and irrevocable agreement between a mutual redevelopment company
14 and the commissioner of housing, the redevelopment company supervising
15 agency, the New York city housing development corporation, or the New
16 York state housing finance agency prohibiting the dissolution or recon-
17 stitution of such mutual redevelopment company pursuant to section one
18 hundred twenty-three of the private housing finance law until the earli-
19 er of: (A) fifteen years from the commencement of rehabilitation program
20 benefits for the existing building owned and operated by such mutual
21 redevelopment company; or (B) the expiration of any tax exemption grant-
22 ed to such mutual redevelopment company pursuant to section one hundred
23 twenty-five of the private housing finance law.

24 (26) "Redevelopment company" shall have the meaning set forth in
25 section one hundred two of the private housing finance law.

26 (27) "Redevelopment company supervising agency" shall have the same
27 meaning, with respect to any redevelopment company, as "supervising
28 agency" set forth in section one hundred two of the private housing
29 finance law.

30 (28) "Rehabilitation program benefits" shall mean exemption from or
31 abatement of real property taxes pursuant to this subdivision.

32 (29) "Rent regulation" shall mean, collectively, the emergency housing
33 rent control law, any local law enacted pursuant to the local emergency
34 housing rent control act, the rent stabilization law of nineteen hundred
35 sixty-nine, the rent stabilization code, and the emergency tenant
36 protection act of nineteen seventy-four, all as in effect as of the
37 effective date of the chapter of the laws of two thousand twenty-two
38 that added this subdivision, or as any such statute is amended thereaft-
39 er, together with any successor statutes or regulations addressing
40 substantially the same subject matter.

41 (30) "Restriction period" shall mean, notwithstanding any termination
42 or revocation of rehabilitation program benefits prior to the period
43 described in clause (A) or (B), the following:

44 (A) the period commencing on the restrictive declaration date and
45 expiring on the fifteenth anniversary thereof, or such additional period
46 of time as may be imposed pursuant to clause (A) of subparagraph six of
47 paragraph (f) of this subdivision; or

48 (B) for an exemption granted pursuant to clause (B) of subparagraph
49 one of paragraph (b) of this subdivision, the period commencing upon the
50 restrictive declaration date and expiring on the date of the expiration
51 of such exemption, or such additional period of time as may be imposed
52 pursuant to clause (A) of subparagraph six of paragraph (f) of this
53 subdivision.

54 (31) "Restrictive declaration" shall mean the document executed by all
55 parties in interest to an eligible rental building, other than one owned
56 and operated by a limited-profit housing company, which provides that

1 such eligible rental building shall comply with the applicable require-
2 ments of this subdivision, any local law or ordinance enacted pursuant
3 to this subdivision, and any rules and regulations of the local housing
4 agency.

5 (32) "Restrictive declaration date" shall mean the date upon which a
6 restrictive declaration is recorded and effective against an eligible
7 rental building, other than one owned and operated by a limited-profit
8 housing company.

9 (33) "Substantial governmental assistance" shall mean grants, loans,
10 or subsidies from any federal, state or local governmental agency or
11 instrumentality in furtherance of a program for the development of
12 affordable housing approved by the local housing agency, provided that
13 such grants, loans, or subsidies are provided in accordance with a regu-
14 latory agreement entered into with such agency or instrumentality that
15 is in effect as of the filing date of the application for a certificate
16 of eligibility and reasonable cost.

17 (34) "Substantial interest" shall mean an ownership interest of ten
18 percent or more.

19 (b) Exemption. (1) Notwithstanding the provisions of any other subdivi-
20 vision of this section or of any general, special or local law to the
21 contrary, any city to which the multiple dwelling law is applicable,
22 acting through its local legislative body or other governing agency, is
23 hereby authorized and empowered, to and including June thirtieth, two
24 thousand twenty-six, to adopt and amend local laws or ordinances provid-
25 ing that:

26 (A) an eligible rental building in which eligible construction has
27 been completed, and which is not the recipient of substantial govern-
28 mental assistance, shall be exempt from real property taxation for local
29 purposes as provided herein equal to five percent of the assessed valu-
30 ation of such building as of the commencement date;

31 (B) an eligible rental building in which eligible construction has
32 been completed and which is the recipient of substantial governmental
33 assistance shall be exempt from real property taxation for local
34 purposes as provided herein equal to fifteen percent of the assessed
35 valuation of such building as of the commencement date; and

36 (C) an eligible rental building owned by a limited-profit housing
37 company or redevelopment company, shall not be eligible for an exemption
38 from real property taxation for local purposes pursuant to this subdivi-
39 sion.

40 (2) Such exemption shall begin with the first quarterly tax bill imme-
41 diately following the restrictive declaration date and shall continue
42 for a period not to exceed fifteen years in the aggregate, as follows:

43 (A) except as otherwise provided herein, for ten years, such exemption
44 shall be equal to the amount of assessed valuation that is subject to
45 exemption under this paragraph as of the commencement date;

46 (B) followed by one year of exemption from eighty-three and one-third
47 percent of such amount;

48 (C) followed by one year of exemption from sixty-six and two-thirds
49 percent of such amount;

50 (D) followed by one year of exemption from fifty percent of such
51 amount;

52 (E) followed by one year of exemption from thirty-three and one-third
53 percent of such amount;

54 (F) followed by one year of exemption from sixteen and two-thirds
55 percent of such amount;

1 (G) after which the amount of assessed valuation that had been exempt
2 is fully taxable.

3 (3) Notwithstanding subparagraphs one and two of this paragraph:

4 (A) the owner of any such eligible rental building, shall pay, in each
5 year in which rehabilitation program benefits are in effect, real prop-
6 erty taxes on any amount of the assessed valuation of such building that
7 is not exempted from real property taxation pursuant to subparagraph two
8 of this paragraph and for which there is no abatement thereof in accord-
9 ance with paragraph (c) of this subdivision, as well as any such real
10 property taxes related to the land portion of such real property; and

11 (B) if eligible construction is completed on an eligible rental build-
12 ing that is the recipient of substantial governmental assistance, the
13 exemption under this paragraph shall continue for a period not to
14 exceed, in the aggregate, the greater of fifteen years or the remaining
15 term, up to forty years, of the relevant regulatory agreement with the
16 local housing agency in effect as of the filing date of the application
17 for a certificate of eligibility and reasonable cost, with the final
18 five years of such exemption to be implemented in accordance with claus-
19 es (B) through (F) of subparagraph two of this paragraph, after which
20 the assessed value is fully taxable.

21 (4) Notwithstanding any other provision of this paragraph, no eligible
22 rental building shall receive concurrent exemptions under this para-
23 graph, and upon the commencement of an exemption under this paragraph
24 for an eligible rental building, any prior exemption under this para-
25 graph for such eligible rental building still in effect shall immediate-
26 ly terminate.

27 (c) Abatement. Any such local law or ordinance may also provide an
28 abatement of real property taxes on an eligible building in which eligi-
29 ble construction has been completed, provided that:

30 (1) such abatement shall not exceed seventy percent of the certified
31 reasonable cost of the eligible construction, as determined under rules
32 and regulations of the local housing agency;

33 (2) such abatement shall not be effective for more than twenty years;

34 (3) the annual abatement of real property taxes on such eligible
35 building shall not exceed eight and one-third percent of the total
36 certified reasonable cost of such eligible construction;

37 (4) the annual abatement of real property taxes on such eligible
38 building in any consecutive twelve-month period shall in no event exceed
39 the amount of real property taxes payable in such twelve-month period
40 for such building, provided, however, that such abatement shall not
41 exceed fifty percent of the amount of real property taxes payable in
42 such twelve-month period for any of the following:

43 (A) an eligible rental building owned by a limited-profit housing
44 company or a redevelopment company;

45 (B) an eligible homeownership building; and

46 (C) an eligible regulated homeownership building; and

47 (5) such abatement shall become effective:

48 (A) for eligible rental buildings other than those owned and operated
49 by limited-profit housing companies, beginning with the first quarterly
50 tax bill immediately following the restrictive declaration date;

51 (B) for all other eligible buildings, including eligible rental build-
52 ings owned and operated by limited-profit housing companies, beginning
53 with the first quarterly tax bill immediately following the date of
54 issuance of the certificate of eligibility and reasonable cost.

55 (d) Authority of city to adopt rules and regulations. Any such local
56 law or ordinance shall authorize the adoption of rules and regulations,

1 not inconsistent with this subdivision, by the local housing agency and
2 any other local agency necessary for the implementation of this subdivi-
3 sion.

4 (e) Applications. (1) Any such local law or ordinance shall require
5 that an application for a certificate of eligibility and reasonable cost
6 pursuant to this subdivision be made after the completion date and no
7 later than four months from such completion date.

8 (2) Such application shall include evidence of eligibility for reha-
9 ilitation program benefits and evidence of reasonable cost as shall be
10 satisfactory to the local housing agency including, but not limited to,
11 evidence showing the cost of eligible construction.

12 (3) The local housing agency shall require a non-refundable filing fee
13 that shall be paid by a certified check or cashier's check upon the
14 filing of an application for a certificate of eligibility and reasonable
15 cost. Such fee shall be (A) one thousand dollars, plus (B) seventy-five
16 dollars for each dwelling unit in excess of six dwelling units in the
17 eligible building that is the subject of such application.

18 (4) Any application that is filed pursuant to this paragraph that is
19 missing any of the information and documentation required at initial
20 filing by such local law or ordinance and any rules and regulations of
21 the local housing agency shall be denied, provided that a new applica-
22 tion for the same eligible construction, together with a new non-refund-
23 able filing fee, may be filed within fifteen days of the date of issua-
24 ance of such denial. If such second application is also missing any such
25 required information and documentation, it shall be denied and no
26 further applications for the same eligible construction shall be permit-
27 ted.

28 (5) The failure of an applicant to respond to any checklist within
29 thirty days of the date of its issuance by the local housing agency
30 shall result in denial of such application, and no further applications
31 for the same eligible construction shall be permitted. The local housing
32 agency shall issue not more than three checklists per application. An
33 application for a certificate of eligibility and reasonable cost shall
34 be denied when the local housing agency does not have a sufficient basis
35 to issue a certificate of eligibility and reasonable cost after the
36 timely response of an applicant to the third checklist concerning such
37 application. After the local housing agency has denied an application
38 for the reason described in the preceding sentence, such agency shall
39 permit no further applications for the same eligible construction.

40 (6) An application for a certificate of eligibility and reasonable
41 cost shall also include an affidavit of no harassment.

42 (A) Such affidavit shall set forth the following information:

43 (i) the name of every owner of record and owner of a substantial
44 interest in the eligible building or entity owning the eligible building
45 or sponsoring the eligible construction; and

46 (ii) a statement that none of such persons had, within the five years
47 prior to the completion date, been found to have harassed or unlawfully
48 evicted tenants by judgment or determination of a court or agency,
49 including a non-governmental agency having appropriate legal jurisdic-
50 tion, under the penal law, any state or local law regulating rents or
51 any state or local law relating to harassment of tenants or unlawful
52 eviction.

53 (B) No eligible building shall be eligible for an exemption pursuant
54 to paragraph (b) of this subdivision or an abatement pursuant to para-
55 graph (c) of this subdivision where:

1 (i) any affidavit required under this subparagraph has not been filed;
2 or

3 (ii) any such affidavit contains a willful misrepresentation or omis-
4 sion of any material fact; or

5 (iii) any owner of record or owner of a substantial interest in the
6 eligible building or entity owning the eligible building or sponsoring
7 the eligible construction has been found, by judgment or determination
8 of a court or agency, including a non-governmental agency having appro-
9 priate legal jurisdiction, under the penal law, any state or local law
10 regulating rents or any state or local law relating to harassment of
11 tenants or unlawful eviction, to have, within the five years prior to
12 the completion date, harassed or unlawfully evicted tenants, until and
13 unless the finding is reversed on appeal.

14 (C) Notwithstanding the provisions of any general, special or local
15 law to the contrary, the corporation counsel or other legal represen-
16 tative of a city having a population of one million or more or the
17 district attorney of any county, may institute an action or proceeding
18 in any court of competent jurisdiction that may be appropriate or neces-
19 sary to determine whether any owner of record or owner of a substantial
20 interest in the eligible building or entity owning the eligible building
21 or sponsoring the eligible construction has harassed or unlawfully
22 evicted tenants as described in this subparagraph.

23 (7) Notwithstanding the provisions of any general, special or local
24 law to the contrary, the local housing agency may require by rules and
25 regulations that an application for a certificate of eligibility and
26 reasonable cost be filed electronically.

27 (f) Additional requirements for an eligible rental building other than
28 one owned and operated by a limited-profit housing company. Any such
29 local law or ordinance shall, in addition to all other conditions of
30 eligibility for rehabilitation program benefits set forth in this subdivi-
31 sion, require that an eligible rental building, other than one owned
32 and operated by a limited-profit housing company, also comply with all
33 provisions of this paragraph. Notwithstanding the foregoing, an eligible
34 rental building that is the recipient of substantial governmental
35 assistance shall not be required to comply with the provisions of
36 subparagraph three of this paragraph.

37 (1) Notwithstanding any provision of rent regulation to the contrary,
38 any market rental unit within such eligible rental building subject to
39 rent regulation as of the filing date of the application for a certif-
40 icate of eligibility and reasonable cost and any affordable rental unit
41 within such eligible rental building shall be subject to rent regulation
42 until such unit first becomes vacant after the expiration of the
43 restriction period at which time such unit, unless it would be subject
44 to rent regulation for reasons other than the provisions of this subdivi-
45 sion, shall be deregulated, provided, however, that during the
46 restriction period, no exemption or exclusion from any requirement of
47 rent regulation shall apply to such dwelling units.

48 (2) The owner of an eligible rental building shall execute and record
49 a restrictive declaration, in a form satisfactory to the local housing
50 agency, that requires compliance with the provisions of this subdivi-
51 sion, such local law or ordinance, and the rules and regulations of the
52 local housing agency. Such restrictive declaration shall bind the owner
53 of such eligible rental building and its successors and assigns, and may
54 include such other terms and conditions as the local housing agency
55 shall determine.

1 (3) Additional requirements for an eligible rental building that is
2 not a recipient of substantial governmental assistance.

3 (A) Not less than fifty percent of the dwelling units in such eligible
4 rental building shall be designated as affordable rental units. The
5 restrictive declaration for any such eligible rental building shall not
6 be executed and recorded until leases in accordance with the applicable
7 provisions of rent regulation have been executed with respect to all
8 affordable rental units within such eligible rental building and all
9 affordable rental units have been registered in accordance with such
10 rent regulation provisions.

11 (B) The owner of such eligible rental building shall ensure that no
12 affordable rental unit is held off the market for a period that is long-
13 er than reasonably necessary. To that end, such owner shall notify the
14 local housing agency of a vacancy of an affordable rental unit within
15 such rental building during the restriction period no later than four-
16 teen days following such vacancy, after which such affordable rental
17 unit shall be marketed in accordance with the rules and regulations of
18 the local housing agency and shall be rented by the owner in a prompt
19 and timely manner. The local housing agency may impose requirements upon
20 such owner to facilitate such prompt and timely rental, as set forth in
21 rules and regulations of the local housing agency.

22 (C) The owner of such eligible rental building shall, during the
23 restriction period, waive the collection of any major capital improve-
24 ment rent increase granted by the New York state division of housing and
25 community renewal pursuant to rent regulation that is attributable to
26 eligible construction for which such eligible rental building receives
27 rehabilitation program benefits, and shall file a declaration with the
28 New York state division of housing and community renewal providing such
29 waiver.

30 (D) An affordable rental unit shall not be rented on a temporary,
31 transient or short-term basis. Every lease and renewal thereof for an
32 affordable rental unit shall be for a term of one or two years, at the
33 option of the tenant, and shall include a notice in at least twelve
34 point type informing such tenant of their rights pursuant to this subdivi-
35 sion, including an explanation of the restrictions on rent increases
36 that may be imposed on such affordable rental unit.

37 (E) The local housing agency may establish by rules and regulations
38 such requirements as the local housing agency deems necessary or appro-
39 priate for the following:

40 (i) designating affordable rental units, including, but not limited
41 to, designating the unit mix and distribution requirements of such
42 affordable rental units in an eligible building;

43 (ii) marketing affordable rental units upon any vacancy; and

44 (iii) monitoring compliance with the provisions of this subdivision.
45 Such requirements may include, but need not be limited to, retaining a
46 monitor approved by the local housing agency and paid for by the owner
47 of the eligible rental building.

48 (4) The owner of such eligible rental building shall not engage in or
49 cause any harassment of the tenants of such eligible rental building or
50 unlawfully evict any such tenants during the restriction period.

51 (5) No dwelling units within such eligible rental building shall be
52 converted to cooperative or condominium ownership during the restriction
53 period.

54 (6) Any non-compliance of an eligible rental building with the
55 provisions of this paragraph shall permit the local housing agency to
56 take the following action:

1 (A) extend the restriction period;

2 (B) increase the number of affordable rental units in such eligible
3 rental building;

4 (C) impose a penalty of not more than the product of one thousand
5 dollars per instance of non-compliance and the number of dwelling units
6 contained in such eligible rental building; and

7 (D) terminate or revoke any rehabilitation program benefits in accord-
8 ance with paragraph (n) of this subdivision.

9 (g) Compliance with applicable law. Any such local law or ordinance
10 may also provide that rehabilitation program benefits shall not be
11 allowed for any eligible building unless and until such eligible build-
12 ing complies with all applicable provisions of law.

13 (h) Implementation of rehabilitation program benefits. Upon issuance
14 of a certificate of eligibility and reasonable cost and payment of
15 outstanding fees, the local housing agency shall be authorized to trans-
16 mit such certificate of eligibility and reasonable cost to the local
17 agency responsible for real property tax assessment. Upon receipt of a
18 certificate of eligibility and reasonable cost, the local agency respon-
19 sible for real property tax assessment shall certify the amount of value
20 to be exempt from taxation and the amount of taxes to be abated pursuant
21 to paragraphs (b) and (c) of this subdivision, respectively, and pursu-
22 ant to such certificate of eligibility and reasonable cost provided by
23 the local housing agency.

24 (i) Outstanding taxes and charges. Any such local law or ordinance
25 shall also provide that rehabilitation program benefits shall not be
26 allowed for an eligible building in either of the following cases:

27 (1) there are outstanding real estate taxes or water and sewer charges
28 or payments in lieu of taxes that are due and owing as of the last day
29 of the tax period preceding the date of the receipt of the certificate
30 of eligibility and reasonable cost by the local agency responsible for
31 real property tax assessment; or

32 (2) real estate taxes or water and sewer charges due at any time
33 during the authorized term of such benefits remain unpaid for one year
34 after the same are due and payable.

35 (j) Additional limitations on eligibility. Any such local law or ordi-
36 nance shall also provide that:

37 (1) rehabilitation program benefits shall not be allowed for any
38 eligible building receiving tax exemption or abatement concurrently for
39 rehabilitation or new construction under any other provision of state or
40 local law or ordinance with the exception of any eligible construction
41 to an eligible building receiving a tax exemption or abatement under the
42 provisions of the private housing finance law;

43 (2) rehabilitation program benefits shall not be allowed for any item
44 of eligible construction in an eligible building if such eligible build-
45 ing is receiving tax exemption or abatement for the same or a similar
46 item of eligible construction as of the December thirty-first preceding
47 the date of application for a certificate of eligibility and reasonable
48 cost for such rehabilitation program benefits;

49 (3) where the eligible construction includes or benefits a portion of
50 an eligible building that is not occupied for dwelling purposes, the
51 assessed valuation of such eligible building and the cost of the eligi-
52 ble construction shall be apportioned so that rehabilitation program
53 benefits shall not be provided for eligible construction made for other
54 than dwelling purposes; and

55 (4) rehabilitation program benefits shall not be applied to abate or
56 reduce the taxes upon the land portion of real property, which shall

1 continue to be taxed based upon the assessed valuation of the land and
2 the applicable tax rate at the time such taxes are levied.

3 (k) Re-inspection penalty. Any such local law or ordinance shall also
4 provide that if the local housing agency cannot verify the eligible
5 construction claimed by an applicant upon the first inspection by the
6 local housing agency of the eligible building, such applicant shall be
7 required to pay ten times the actual cost of any additional inspection
8 needed to verify such eligible construction.

9 (l) Strict liability for inaccurate applications. Any such local law
10 or ordinance shall also provide that if the local housing agency deter-
11 mines that an application for a certificate of eligibility and reason-
12 able cost contains a material misstatement of fact, the local housing
13 agency may reject such application and bar the submission of any other
14 application pursuant to this subdivision with respect to such eligible
15 building for a period not to exceed three years. An applicant shall not
16 be relieved from liability under this paragraph because it submitted its
17 application under a mistaken belief of fact. Furthermore, any person or
18 entity that files more than six applications containing such a material
19 misstatement of fact within any twelve month period shall be barred from
20 submitting any new application for rehabilitation program benefits on
21 behalf of any eligible building for a period not to exceed five years.

22 (m) Investigatory authority. Any such local law or ordinance shall
23 also allow the local housing agency to require such certifications and
24 consents necessary to access records, including other tax records, as
25 may be deemed appropriate to enforce the eligibility requirements of
26 this subdivision. Any such local law or ordinance shall further provide
27 that, for purposes of determining and certifying eligibility for reha-
28 bilitation program benefits and the reasonable cost of any eligible
29 construction, the local housing agency shall be authorized to:

30 (1) administer oaths to and take the testimony of any person, includ-
31 ing, but not limited to, the owner of such eligible building;

32 (2) issue subpoenas requiring the attendance of such persons and the
33 production of any bills, books, papers or other documents as it may deem
34 necessary;

35 (3) make preliminary estimates of the maximum reasonable cost of such
36 eligible construction;

37 (4) establish maximum allowable costs of specified units, fixtures or
38 work in such eligible construction;

39 (5) require the submission of plans and specifications of such eligi-
40 ble construction before the commencement thereof;

41 (6) require physical access to inspect the eligible building; and

42 (7) on an annual basis, require the submission of leases for any
43 dwelling unit in a building granted a certificate of eligibility and
44 reasonable cost.

45 (n) Termination or revocation. Any such local law or ordinance shall
46 provide that failure to comply with the provisions of this subdivision,
47 any such local law or ordinance, any rules and regulations promulgated
48 thereunder, or any restrictive declaration, mutual company regulatory
49 agreement, or mutual redevelopment company regulatory agreement entered
50 into thereunder, may result in revocation of any rehabilitation program
51 benefits retroactive to the commencement thereof. Such termination or
52 revocation shall not exempt such eligible building from continued
53 compliance with the requirements of this subdivision, such local law or
54 ordinance, such rules and regulations, and such restrictive declaration,
55 mutual company regulatory agreement, or mutual redevelopment company
56 regulatory agreement.

1 (o) Criminal liability for unauthorized uses. Any such local law or
2 ordinance shall also provide that in the event that any recipient of
3 rehabilitation program benefits uses any dwelling unit in such eligible
4 building in violation of the requirements of such local law or ordinance
5 as adopted pursuant to this subdivision and any rules and regulations
6 promulgated pursuant thereto, such recipient shall be guilty of an
7 unclassified misdemeanor punishable by a fine in an amount equivalent to
8 double the value of the gain of such recipient from such unlawful use or
9 imprisonment for not more than ninety days, or both.

10 (p) Private right of action. Any prospective, present, or former
11 tenant of an eligible rental building may sue to enforce the require-
12 ments and prohibitions of this subdivision, any such local law or ordi-
13 nance, any rules and regulations promulgated thereunder, or any restric-
14 tive declaration entered into thereunder, in the supreme court of New
15 York. Any such individual harmed by reason of a violation of such
16 requirements and prohibitions may sue therefor in the supreme court of
17 New York on behalf of himself or herself, and shall recover threefold
18 the damages sustained and the cost of the suit, including a reasonable
19 attorney's fee. The local housing agency may use any court decision
20 under this paragraph that is adverse to the owner of an eligible build-
21 ing as the basis for further enforcement action. Notwithstanding any
22 other provision of law, an action by a tenant of an eligible rental
23 building under this paragraph must be commenced within six years from
24 the date of the latest violation.

25 (q) Appointment of receiver. In addition to the remedies for non-com-
26 pliance provided for in subparagraph six of paragraph (f) of this subdivi-
27 vision, any such local law or ordinance may also provide that the local
28 housing agency may make application for the appointment of a receiver in
29 accordance with the procedures contained in such local law or ordinance.
30 Any receiver appointed pursuant to this paragraph shall be authorized,
31 in addition to any other powers conferred by law, to effect compliance
32 with the provisions of this subdivision, such local law or ordinance,
33 and rules and regulations of the local housing agency. Any expenditures
34 incurred by the receiver to affect such compliance shall constitute a
35 debt of the owner and a lien upon the property, and upon the rents and
36 income thereof, in accordance with the procedures contained in such
37 local law or ordinance. The local housing agency in its discretion may
38 provide funds to be expended by the receiver, and such funds shall
39 constitute a debt recoverable from the owner in accordance with applica-
40 ble local laws or ordinances.

41 (r) Authority of city to limit local law. Where a city enacts or
42 amends a local law or ordinance under this subdivision, such local law
43 or ordinance may restrict, limit or condition the eligibility, scope or
44 amount of rehabilitation program benefits under the local law or ordi-
45 nance in any manner, provided that the local law or ordinance may not
46 grant rehabilitation program benefits beyond those provided in this
47 subdivision.

48 § 2. This act shall take effect immediately.