

STATE OF NEW YORK

5080

2023-2024 Regular Sessions

IN SENATE

February 22, 2023

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the multiple dwelling law, in relation to facilitating conversion of commercial buildings to residential uses in New York city; and providing for the repeal of certain provisions of such law relating thereto (Part A); and to amend the labor law and the real property tax law, in relation to authorizing exemptions from real property taxation of certain multiple dwellings converted from commercial use in New York city that include affordable housing (Part B)

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

1 Section 1. This act enacts into law major components of legislation
2 necessary to facilitate the conversion of commercial buildings to resi-
3 dential uses in New York city and to authorize property tax exemptions
4 of converted buildings that include affordable housing. Each component
5 is wholly contained within a Part identified as Parts A through B. The
6 effective date for each particular provision contained within such Part
7 is set forth in the last section of such Part. Any provision in any
8 section contained within a Part, including the effective date of the
9 Part, which makes a reference to a section "of this act", when used in
10 connection with that particular component, shall be deemed to mean and
11 refer to the corresponding section of the Part in which it is found.
12 Section three of this act sets forth the general effective date of this
13 act.

14 PART A

15 Section 1. Subdivision 11 of section 3 of the multiple dwelling law,
16 as amended by chapter 806 of the laws of 1972, is amended to read as
17 follows:

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

LBD09278-03-3

11. Notwithstanding any other provision of this section, the following enumerated articles, sections and subdivisions of sections of this chapter shall not apply to the construction or alteration of multiple dwellings for which an application for a permit is made to the department after December sixth, nineteen hundred sixty-nine in a city having a population of one million or more [~~which adopts or has adopted local laws, ordinances, resolutions or regulations providing protection from fire hazards and making provision for escape from fire in the construction and alteration of multiple dwellings and in other respects as protective as local law seventy-six of the laws of the city of New York for nineteen hundred sixty-eight and covering the same subject matter as the following~~]: subdivisions twenty-five, twenty-seven, twenty-eight, thirty-five-c, thirty-six and thirty-nine of section four, subdivision three of section twenty-eight, sections thirty-six, thirty-seven, fifty, fifty-one, fifty-two, fifty-three, fifty-five, sixty, sixty-one, sixty-seven, subdivisions one, two, four and five of section seventy-five, article four, article five, article five-A[~~7~~ and article six [~~and article seven-B~~]; except that after December sixth, nineteen hundred sixty-nine where a multiple dwelling erected prior to December sixth, nineteen hundred sixty-nine is altered, or a building erected prior to December sixth, nineteen hundred sixty-nine is converted to a multiple dwelling pursuant to a permit applied for to the department having jurisdiction, the foregoing articles, sections and subdivisions of sections shall remain applicable where a local law of such city authorizes such alteration or conversion to be made, at the option of the owner, either in accordance with the requirements of the building law and regulations in effect in such city prior to December sixth, nineteen hundred sixty-eight or the requirements of the building law and regulations in effect after such date, and the owner elects to comply with the requirements of the building law and regulations in effect prior to December sixth, nineteen hundred sixty-eight.

§ 2. Section 275 of the multiple dwelling law, as added by chapter 734 of the laws of 1985, is amended to read as follows:

§ 275. Legislative findings. It is hereby declared and found that in cities with a population in excess of one million, large numbers of loft, manufacturing, commercial, institutional, public and community facility buildings have lost, and continue to lose, their tenants to more modern premises; and that the untenanted portions of such buildings constitute a potential housing stock within such cities which is capable, when appropriately altered, of accommodating general residential use, thereby contributing to an alleviation of the housing shortage most severely affecting moderate and middle income families, and of accommodating joint living-work quarters for artists by making readily available space which is physically and economically suitable for use by persons regularly engaged in the arts.

There is a public purpose to be served by making accommodations readily available for joint living-work quarters for artists for the following reasons: persons regularly engaged in the arts require larger amounts of space for the pursuit of their artistic endeavors and for the storage of the materials therefor and of the products thereof than are regularly to be found in dwellings subject to this article; that the financial remunerations to be obtained from pursuit of a career in the arts are generally small; that as a result of such limited financial remuneration persons regularly engaged in the arts generally find it financially impossible to maintain quarters for the pursuit of their artistic endeavors separate and apart from their places of residence;

1 that the cultural life of cities of more than one million persons within
2 this state and of the state as a whole is enhanced by the residence in
3 such cities of large numbers of persons regularly engaged in the arts;
4 that the high cost of land within such cities makes it particularly
5 difficult for persons regularly engaged in the arts to obtain the use of
6 the amounts of space required for their work as aforesaid; and that the
7 residential use of the space is secondary or accessory to the primary
8 use as a place of work.

9 It is further declared that the legislation governing the alteration
10 of such buildings to accommodate general residential use must of neces-
11 sity be more restrictive than statutes heretofore in effect, which
12 affected only joint living-work quarters for artists.

13 It is the intention of this legislation to promulgate statewide mini-
14 mum standards for all alterations of non-residential buildings to resi-
15 dential use, but the legislature is cognizant that the use of such
16 buildings for residential purposes must be consistent with local zoning
17 ordinances. The legislature further recognizes that it is the role of
18 localities to adopt regulations which will define in further detail the
19 manner in which alterations should be carried out where building types
20 and conditions are peculiar to their local environment. It is hereby
21 additionally declared and found that in cities with a population in
22 excess of one million, large numbers of commercial buildings have lost,
23 and continue to lose, their tenants to more modern premises and to the
24 changing nature of remote office work in the wake of the COVID-19
25 pandemic; and that the untenanted portions of such buildings constitute
26 a potential housing stock within such cities which is capable, when
27 appropriately altered, of accommodating general residential use, thereby
28 contributing to an alleviation of the housing shortage.

29 § 3. Section 276 of the multiple dwelling law, as amended by chapter
30 420 of the laws of 2022, is amended to read as follows:

31 § 276. [~~Definition of an artist~~] Definitions. As used in this article,
32 the following terms shall have the following meanings:

33 1. The word "artist" means a person who is regularly engaged in the
34 fine arts, such as painting and sculpture or in the performing or crea-
35 tive arts, including choreography and filmmaking, or in the composition
36 of music on a professional basis, and is so certified by the city
37 department of cultural affairs and/or state council on the arts. For
38 joint living-work quarters for artists limited to artists' occupancy by
39 local zoning resolution, any permanent occupant whose residence therein
40 began on or before December fifteenth, two thousand twenty-one shall be
41 deemed to meet such occupancy requirements under the same rights as an
42 artist so certified in accordance with applicable law.

43 2. The term "general residential purposes" means use of a building as
44 a class A multiple dwelling, except that such term shall not include a
45 rooming unit as defined in section 27-2004 of the administrative code of
46 the city of New York other than a rooming unit in a class A or class B
47 multiple dwelling that is authorized pursuant to section 27-2077 of such
48 administrative code.

49 § 4. The multiple dwelling law is amended by adding a new section 279
50 to read as follows:

51 § 279. Occupancy of commercial buildings. 1. Any building in a city
52 with a population of one million or more persons which was occupied for
53 loft, commercial, institutional, public, community facility or manufac-
54 turing purposes at any time prior to December thirty-first, nineteen
55 hundred ninety, may be occupied, in whole or in part, for general resi-
56 dential purposes if such occupancy is in compliance with this article,

notwithstanding any other article of this chapter, or any provision of law covering the same subject matter, except as otherwise required by the zoning resolution of such city.

2. Occupancy pursuant to this section shall be permitted only if the conditions in subdivisions one through sixteen of section two hundred seventy-seven of this article are complied with, except that the conversion shall not be required to include joint living-work quarters for artists, and provided further that conversions undertaken pursuant to this section shall not be subject to subdivision three of section twenty-six of this chapter.

3. Notwithstanding any state or local law, rule, or regulation, including any other provision of this section or article to the contrary, the provisions of this section shall apply to any building located in a district that otherwise would have been subject to the provisions of section 15-01 of the zoning resolution of a city with a population of one million or more persons.

§ 5. An application for conversion of a building pursuant to the provisions of this act, which application for a permit containing complete plans and specifications is filed prior to December 31, 2030, shall be permitted to proceed as if subdivision 3 of section 279 of the multiple dwelling law, as added by section four of this act, remained in effect, so long as construction of such project begins within the earlier to occur of three years from December 31, 2030 or such time which the permit otherwise expires.

§ 6. This act shall take effect immediately; provided, however, that subdivision 3 of section 279 of the multiple dwelling law as added by section four of this act shall expire and be deemed repealed on December 31, 2030; provided further, however, that the repeal of subdivision 3 of section 279 of the multiple dwelling law as added by section four of this act shall not affect the use of any building for general residential purposes, as such term is defined in article 7-B of the multiple dwelling law, permitted prior to such repeal.

PART B

Section 1. Paragraph a of subdivision 3 of section 224-a of the labor law, as added by section 1 of part FFF of chapter 58 of the laws of 2020, is amended to read as follows:

a. Benefits under section four hundred twenty-one-a or four hundred sixty-seven-m of the real property tax law;

§ 2. The real property tax law is amended by adding a new section 467-m to read as follows:

§ 467-m. Exemption from local real property taxation of certain multiple dwellings in a city having a population of one million or more. 1. Definitions. For purposes of this section, the following terms shall have the following meanings:

a. "Affordable housing from commercial conversions tax incentive benefits" hereinafter referred to as "AHCC program benefits", shall mean the exemption from real property taxation authorized pursuant to this section.

b. "Affordability requirement" shall mean that within any eligible multiple dwelling: (i) not less than twenty percent of the dwelling units are affordable housing units; (ii) not less than five percent of the dwelling units are affordable housing forty percent units; (iii) the weighted average of all income bands for all of the affordable housing units does not exceed seventy percent of the area median income,

1 adjusted for family size; (iv) there are no more than three income bands
2 for all of the affordable housing units; and (v) no income band for
3 affordable housing units exceeds one hundred percent of the area median
4 income, adjusted for family size.

5 c. "Affordable housing forty percent unit" shall mean a dwelling unit
6 that: (i) is situated within the eligible multiple dwelling for which
7 AHCC program benefits are granted; and (ii) upon initial rental and upon
8 each subsequent rental following a vacancy during the restriction peri-
9 od, is affordable to and restricted to occupancy by individuals or fami-
10 lies whose household income does not exceed forty percent of the area
11 median income, adjusted for family size, at the time that such household
12 initially occupies such dwelling unit.

13 d. "Affordable housing unit" shall mean, collectively and individual-
14 ly: (i) an affordable housing forty percent unit; and (ii) any other
15 unit that meets the affordability requirement upon initial occupancy and
16 upon each subsequent rental following a vacancy during the restriction
17 period, and is affordable to and restricted to occupancy by individuals
18 or families whose household income does not exceed the income bands
19 established in conjunction with such affordability requirement.

20 e. "Agency" shall mean the New York city department of housing preser-
21 vation and development.

22 f. "Application" shall mean an application for AHCC program benefits.

23 g. "Building service employee" shall mean any person who is regularly
24 employed at, and performs work in connection with the care or mainte-
25 nance of, an eligible multiple dwelling, including, but not limited to,
26 a watchman, guard, doorman, building cleaner, porter, handyman, janitor,
27 gardener, groundskeeper, elevator operator and starter, and window
28 cleaner, but not including persons regularly scheduled to work fewer
29 than eight hours per week at such eligible multiple dwelling.

30 h. "Commencement date" shall mean the date upon which the actual
31 construction of the eligible conversion lawfully begins in good faith.

32 i. "Completion date" shall mean the date upon which the local depart-
33 ment of buildings issues the first temporary or permanent certificate of
34 occupancy covering all residential areas of an eligible multiple dwell-
35 ing.

36 j. "Construction period" shall mean, with respect to any eligible
37 multiple dwelling, a period: (i) beginning on the later of the commence-
38 ment date or three years before the completion date; and (ii) ending on
39 the day preceding the completion date.

40 k. "Dwelling" or "dwellings" shall have the same meaning as set forth
41 in subdivision four of section four of the multiple dwelling law.

42 l. "Eligible conversion" shall mean the conversion of a non-residen-
43 tial building to an eligible multiple dwelling.

44 m. "Eligible multiple dwelling" shall mean a multiple dwelling in
45 which: (i) all dwelling units included in any application are operated
46 as rental housing; (ii) six or more dwelling units have been created
47 through an eligible conversion; (iii) the commencement date is after
48 December thirty-first, two thousand twenty-two and on or before December
49 thirty-first, two thousand thirty-two; and (iv) the completion date is
50 on or before December thirty-first, two thousand thirty-eight.

51 n. "Fiscal officer" shall mean the comptroller or other analogous
52 officer in a city having a population of one million or more.

53 o. "Floor area" shall mean the horizontal areas of the several floors,
54 or any portion thereof, of a dwelling or dwellings, and accessory struc-
55 tures on a lot measured from the exterior faces of exterior walls, or
56 from the center line of party walls.

1 p. "Income band" shall mean a percentage of the area median income,
2 adjusted for family size, that is a multiple of ten percent.

3 q. "Manhattan prime development area" shall mean any tax lot now
4 existing or hereafter created which is located entirely south of 96th
5 street in the borough of Manhattan.

6 r. "Market unit" shall mean a dwelling unit in an eligible multiple
7 dwelling other than an affordable housing unit.

8 s. "Marketing band" shall mean maximum rent amounts ranging from twen-
9 ty percent to thirty percent of the area median income or income band,
10 respectively, that is applicable to a specific affordable housing unit.

11 t. "Multiple dwelling" shall have the same meaning as set forth in
12 subdivision seven of section four of the multiple dwelling law.

13 u. "Nineteen-year benefit" shall mean: (i) for the construction peri-
14 od, a one hundred percent exemption from real property taxation, other
15 than assessments for local improvements; (ii) for the first fifteen
16 years of the restriction period, (A) within the Manhattan prime develop-
17 ment area, a fifty percent exemption from real property taxation, other
18 than assessments for local improvements, and (B) outside of the Manhat-
19 tan prime development area, a thirty-five percent exemption from real
20 property taxation, other than assessments for local improvements; (iii)
21 for the sixteenth year of the restriction period, (A) within the Manhat-
22 tan prime development area, a forty percent exemption from real property
23 taxation, other than assessments for local improvements, and (B) outside
24 of the Manhattan prime development area, a twenty-eight percent
25 exemption from real property taxation, other than assessments for local
26 improvements; (iv) for the seventeenth year of the restriction period,
27 (A) within the Manhattan prime development area, a thirty percent
28 exemption from real property taxation, other than assessments for local
29 improvements, and (B) outside of the Manhattan prime development area, a
30 twenty-one percent exemption from real property taxation, other than assess-
31 ments for local improvements; (v) for the eighteenth year of the
32 restriction period, (A) within the Manhattan prime development area, a
33 twenty percent exemption from real property taxation, other than assess-
34 ments for local improvements, and (B) outside of the Manhattan prime
35 development area, a fourteen percent exemption from real property taxa-
36 tion, other than assessments for local improvements; and (vi) for the
37 nineteenth year of the restriction period, (A) within the Manhattan
38 prime development area, a ten percent exemption from real property taxa-
39 tion, other than assessments for local improvements, and (B) outside of
40 the Manhattan prime development area, a seven percent exemption from
41 real property taxation, other than assessments for local improvements.

42 v. "Non-residential building" shall mean a structure or portion of a
43 structure having at least one floor, a roof and at least three walls
44 enclosing all or most of the space used in connection with the structure
45 or portion of the structure, which has a certificate of occupancy for
46 commercial, manufacturing or other non-residential use for not less than
47 ninety percent of the aggregate floor area of such structure or portion
48 of such structure, or other proof of such non-residential use as is
49 acceptable to the agency.

50 w. "Non-residential tax lot" shall mean a tax lot that does not
51 contain any dwelling units.

52 x. "Rent stabilization" shall mean, collectively, the rent stabiliza-
53 tion law of nineteen hundred sixty-nine, the rent stabilization code,
54 and the emergency tenant protection act of nineteen seventy-four, all as
55 in effect as of the effective date of this section or as amended there-

1 after, together with any successor statutes or regulations addressing
2 substantially the same subject matter.

3 y. "Residential tax lot" shall mean a tax lot that contains dwelling
4 units.

5 z. "Restriction period" shall mean a period commencing on the
6 completion date and extending in perpetuity, notwithstanding any earlier
7 termination or revocation of AHCC program benefits.

8 2. Benefit. In cities having a population of one million or more,
9 notwithstanding the provisions of any other general, special or local
10 law to the contrary, a new eligible multiple dwelling, except a hotel,
11 that complies with the provisions of this section shall be exempt from
12 real property taxation, other than assessments for local improvements,
13 in the amounts and for the periods specified in this section, provided
14 that such eligible multiple dwelling is used or held out for use for
15 dwelling purposes. An eligible multiple dwelling that meets all of the
16 requirements of this section shall receive a nineteen-year benefit.

17 3. Tax payments. In addition to any other amounts payable pursuant to
18 this section, the owner of any eligible multiple dwelling receiving AHCC
19 program benefits shall pay, in each tax year in which such AHCC program
20 benefits are in effect, all assessments for local improvements.

21 4. Limitation on benefits for non-residential space. If the aggregate
22 floor area of commercial, community facility and accessory use space in
23 an eligible multiple dwelling exceeds twelve percent of the aggregate
24 floor area in such eligible multiple dwelling, any AHCC program benefits
25 shall be reduced by a percentage equal to such excess. If an eligible
26 multiple dwelling contains multiple tax lots, the tax arising out of
27 such reduction in AHCC program benefits shall first be apportioned pro
28 rata among any non-residential tax lots. After any such non-residential
29 tax lots are fully taxable, the remainder of the tax arising out of such
30 reduction in AHCC program benefits, if any, shall be apportioned pro
31 rata among the remaining residential tax lots. For the purposes of this
32 section, accessory use space shall not include home occupation space or
33 accessory parking space located not more than twenty-three feet above
34 the curb level.

35 5. Application of benefit. Based on the certification of the agency
36 certifying eligibility for AHCC program benefits, the department of
37 finance shall determine the amount of the exemption pursuant to subdivi-
38 sions two and four of this section and shall apply the exemption to the
39 assessed value of the eligible multiple dwelling.

40 6. Affordability requirements. An eligible multiple dwelling shall
41 comply with the following affordability requirements during the
42 restriction period:

43 a. All affordable housing units in an eligible multiple dwelling shall
44 share the same common entrances and common areas as rental market rate
45 units in such eligible multiple dwelling and shall not be isolated to a
46 specific floor or area of an eligible multiple dwelling. Common
47 entrances shall mean any means of ingress or egress regularly used by
48 any resident of a rental dwelling unit in the eligible multiple dwell-
49 ing.

50 b. Unless preempted by the requirements of a federal, state or local
51 housing program, either: (i) the affordable housing units in an eligible
52 multiple dwelling shall have a unit mix proportional to the rental
53 market units; or (ii) at least fifty percent of the affordable housing
54 units in an eligible multiple dwelling shall have two or more bedrooms
55 and no more than twenty-five percent of the affordable housing units
56 shall have less than one bedroom.

1 c. Notwithstanding any provision of rent stabilization to the contra-
2 ry: (i) all affordable housing units shall remain fully subject to rent
3 stabilization during the restriction period; and (ii) any affordable
4 housing unit occupied by a tenant that has been approved by the agency
5 prior to the agency's denial of an eligible multiple dwelling's applica-
6 tion for AHCC program benefits shall remain subject to rent stabiliza-
7 tion until such tenant vacates such affordable housing unit.

8 d. All rent stabilization registrations required to be filed shall
9 contain a designation that specifically identifies affordable housing
10 units created pursuant to this section as "AHCC program affordable hous-
11 ing units" and shall contain an explanation of the requirements that
12 apply to all such affordable housing units.

13 e. Failure to comply with the provisions of this subdivision that
14 require the creation, maintenance, rent stabilization compliance, and
15 occupancy of affordable housing units shall result in revocation of AHCC
16 program benefits.

17 f. Nothing in this section shall: (i) prohibit the occupancy of an
18 affordable housing unit by individuals or families whose income at any
19 time is less than the maximum percentage of the area median income or
20 income band, as applicable, adjusted for family size, specified for such
21 affordable housing unit pursuant to this section; or (ii) prohibit the
22 owner of an eligible multiple dwelling from requiring, upon initial
23 rental or upon any rental following a vacancy, the occupancy of any
24 affordable housing unit by such lower income individuals or families.

25 g. Following issuance of a temporary certificate of occupancy and upon
26 each vacancy thereafter, an affordable housing unit shall promptly be
27 offered for rental by individuals or families whose income does not
28 exceed the maximum percentage of the area median income or income band,
29 as applicable, adjusted for family size, specified for such affordable
30 housing unit pursuant to this section and who intend to occupy such
31 affordable housing unit as their primary residence. An affordable hous-
32 ing unit shall not be: (i) rented to a corporation, partnership or other
33 entity; or (ii) held off the market for a period longer than is reason-
34 ably necessary to perform repairs needed to make such affordable housing
35 unit available for occupancy.

36 h. An affordable housing unit shall not be rented on a temporary,
37 transient or short-term basis. Every lease and renewal thereof for an
38 affordable housing unit shall be for a term of one or two years, at the
39 option of the tenant.

40 i. An affordable housing unit shall not be converted to cooperative or
41 condominium ownership.

42 j. The agency may establish by rule such requirements as the agency
43 deems necessary or appropriate for: (i) the marketing of affordable
44 housing units, both upon initial occupancy and upon any vacancy; (ii)
45 monitoring compliance with the provisions of this subdivision; and (iii)
46 the establishment of marketing bands for affordable housing units. Such
47 requirements may include, but need not be limited to, retaining a moni-
48 tor approved by the agency and paid for by the owner of the eligible
49 multiple dwelling.

50 k. Notwithstanding any provision of this section to the contrary, a
51 market unit shall not be subject to rent stabilization unless, in the
52 absence of AHCC program benefits, the unit would be subject to rent
53 stabilization.

54 7. Building service employees. a. For the purposes of this subdivi-
55 sion, "applicant" shall mean an applicant for AHCC program benefits, any
56 successor to such applicant, or any employer of building service employ-

1 ees for such applicant including, but not limited to, a property manage-
2 ment company or contractor.

3 b. All building service employees employed by the applicant at the
4 eligible multiple dwelling shall receive the applicable prevailing wage
5 for the duration of the nineteen-year benefit period, regardless of
6 whether such benefits are revoked or terminated.

7 c. The fiscal officer shall have the power to enforce the provisions
8 of this subdivision. In enforcing such provisions, the fiscal officer
9 shall have the power: (i) to investigate or cause an investigation to be
10 made to determine the prevailing wages for building service employees,
11 and in making such investigation, the fiscal officer may utilize wage
12 and fringe benefit data from various sources, including, but not limited
13 to, data and determinations of federal, state or other governmental
14 agencies; provided, however, that the provision of a dwelling unit shall
15 not be considered wages or a fringe benefit; (ii) to institute and
16 conduct inspections at the site of the work or elsewhere; (iii) to exam-
17 ine the books, documents and records pertaining to the wages paid to,
18 and the hours of work performed by, building service employees; (iv) to
19 hold hearings and, in connection therewith, to issue subpoenas, the
20 enforcement of which shall be regulated by the civil practice law and
21 rules, administer oaths and examine witnesses; (v) to make a classifica-
22 tion by craft, trade or other generally recognized occupational category
23 of the building service employees and to determine whether such work has
24 been performed by the building service employees in such classification;
25 (vi) to require the applicant to file with the fiscal officer a record
26 of the wages actually paid by such applicant to the building service
27 employees and of their hours of work; (vii) to delegate any of the fore-
28 going powers to his or her deputy or other authorized representative;
29 (viii) to promulgate rules as he or she shall consider necessary for the
30 proper execution of the duties, responsibilities and powers conferred
31 upon him or her by the provisions of this subdivision; and (ix) to
32 prescribe appropriate sanctions for failure to comply with the
33 provisions of this subdivision. For each violation of paragraph b of
34 this subdivision, the fiscal officer may require the payment of (A) back
35 wages and fringe benefits; (B) liquidated damages up to three times the
36 amount of the back wages and fringe benefits for willful violations;
37 and/or (C) reasonable attorneys' fees. If the fiscal officer finds that
38 the applicant has failed to comply with the provisions of this subdivi-
39 sion, he or she shall present evidence of such non-compliance to the
40 agency.

41 d. Paragraph b of this subdivision shall not be applicable to: (i) an
42 eligible multiple dwelling containing less than thirty dwelling units;
43 or (ii) an eligible multiple dwelling whose eligible conversion is
44 carried out with the substantial assistance of grants, loans or subsi-
45 dies provided by a federal, state or local governmental agency or
46 instrumentality pursuant to a program for the development of affordable
47 housing.

48 e. The applicant shall submit a sworn affidavit with its application
49 certifying that it shall comply with the requirements of this subdivi-
50 sion or is exempt in accordance with paragraph d of this subdivision.
51 Upon the agency's approval of such application, the applicant who is not
52 exempt in accordance with paragraph d of this subdivision shall submit
53 annually a sworn affidavit to the fiscal officer certifying that it
54 shall comply with the requirements of this subdivision.

1 8. Concurrent exemptions or abatements. An eligible multiple dwelling
2 receiving AHCC program benefits shall not receive any exemption from or
3 abatement of real property taxation under any other law.

4 9. Voluntary renunciation or termination. Notwithstanding the
5 provisions of any general, special or local law to the contrary, an
6 owner shall not be entitled to voluntarily renounce or terminate AHCC
7 program benefits unless the agency authorizes such renunciation or
8 termination in connection with the commencement of a tax exemption
9 pursuant to the private housing finance law or section four hundred
10 twenty-c of this title.

11 10. Termination or revocation. The agency may terminate or revoke AHCC
12 program benefits for noncompliance with this section. All of the afford-
13 able housing units shall remain subject to rent stabilization and all
14 other requirements of this section for the duration of the restriction
15 period, regardless of whether such benefits have been terminated or
16 revoked.

17 11. Powers cumulative. The enforcement provisions of this section
18 shall not be exclusive, and are in addition to any other rights, reme-
19 dies or enforcement powers set forth in any other law or available at
20 law or in equity.

21 12. Multiple tax lots. If an eligible multiple dwelling contains
22 multiple tax lots, an application may be submitted with respect to one
23 or more of such tax lots. The agency shall determine eligibility for
24 AHCC program benefits based upon the tax lots included in such applica-
25 tion and benefits for each such eligible multiple dwelling shall be
26 based upon the completion date of each such multiple dwelling.

27 13. Applications. a. The application with respect to any eligible
28 multiple dwelling shall be filed with the agency no earlier than the
29 completion date and not later than one year after the completion date of
30 such eligible multiple dwelling.

31 b. Notwithstanding the provisions of any general, special, or local
32 law to the contrary, the agency may require by rule that applications be
33 filed electronically.

34 c. The agency may rely on certification by an architect or engineer
35 submitted by an applicant in connection with the filing of an applica-
36 tion. A false certification by such architect or engineer shall be
37 deemed to be professional misconduct pursuant to section sixty-five
38 hundred nine of the education law. Any architect or engineer found
39 guilty of such misconduct under the procedures prescribed in section
40 sixty-five hundred ten of the education law shall be subject to the
41 penalties prescribed in section sixty-five hundred eleven of the educa-
42 tion law and shall thereafter be ineligible to submit a certification
43 pursuant to this section.

44 d. Such application shall also certify that all taxes, water charges,
45 and sewer rents currently due and owing on the property which is the
46 subject of the application have been paid or are currently being paid in
47 timely installments pursuant to a written agreement with the department
48 of finance or other appropriate agency.

49 14. Filing fee. The agency may require a filing fee of no less than
50 three thousand dollars per dwelling unit in connection with any applica-
51 tion, except that the agency may promulgate rules:

52 a. imposing a lesser fee for an eligible multiple dwelling whose
53 eligible conversion is carried out with the substantial assistance of
54 grants, loans or subsidies provided by a federal, state or local govern-
55 mental agency or instrumentality pursuant to a program for the develop-
56 ment of affordable housing; and

1 b. requiring a portion of the filing fee to be paid upon the
2 submission of the information the agency requires in advance of approv-
3 ing the commencement of the marketing process for such eligible conver-
4 sion.

5 15. Rules. Except as provided in subdivision seven of this section,
6 the agency shall have the sole authority to enforce the provisions of
7 this section and may promulgate rules to carry out the provisions of
8 this section.

9 16. Penalties for violations of affordability requirements. a. On or
10 after the expiration date of the nineteen-year benefit, the agency may
11 impose, after notice and an opportunity to be heard, a penalty for any
12 violation by an eligible multiple dwelling of the affordability require-
13 ments of subdivision six of this section.

14 b. A penalty imposed under this subdivision shall be computed as a
15 percentage of the capitalized value of all AHCC program benefits on the
16 eligible multiple dwelling, calculated as of the first year that bene-
17 fits were granted, not to exceed one thousand percent. The agency shall
18 establish a schedule and method of calculation of such penalties pursu-
19 ant to subdivision fifteen of this section.

20 c. A penalty imposed under this subdivision shall be imposed against
21 the owner of the eligible multiple dwelling at the time the violation
22 occurred, even if such owner no longer owns such eligible multiple
23 dwelling at the time of the agency's determination.

24 d. A person or entity who fails to pay a penalty imposed pursuant to
25 this subdivision shall be guilty of a misdemeanor punishable by impri-
26 sonment not to exceed six months.

27 § 3. This act shall take effect immediately.

28 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
29 sion, section or part of this act shall be adjudged by any court of
30 competent jurisdiction to be invalid, such judgment shall not affect,
31 impair, or invalidate the remainder thereof, but shall be confined in
32 its operation to the clause, sentence, paragraph, subdivision, section
33 or part thereof directly involved in the controversy in which such judg-
34 ment shall have been rendered. It is hereby declared to be the intent of
35 the legislature that this act would have been enacted even if such
36 invalid provisions had not been included herein.

37 § 3. This act shall take effect immediately provided, however, that
38 the applicable effective date of Parts A through B of this act shall be
39 as specifically set forth in the last section of such Parts.