

7944

2015-2016 Regular Sessions

I N A S S E M B L Y

June 1, 2015

Introduced by M. of A. WRIGHT -- read once and referred to the Committee
on Housing

AN ACT to amend the real property tax law, in relation to extending the
exemption of certain multiple dwellings from local taxation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. The opening paragraph of clause (A) of subparagraph (iv) of
2 paragraph (a) of subdivision 2 of section 421-a of the real property tax
3 law, as amended by section 41 of part B of chapter 97 of the laws of
4 2011, is amended to read as follows:
5 Unless excluded by local law, in the city of New York, the benefits of
6 this subparagraph shall be available in the borough of Manhattan for new
7 multiple dwellings on tax lots now existing or hereafter created south
8 of or adjacent to either side of one hundred tenth street that commence
9 construction after July first, nineteen hundred ninety-two and before
10 June fifteenth, two thousand [fifteen] NINETEEN, only if:
11 S 2. Subparagraph (ii) of paragraph (c) of subdivision 2 of section
12 421-a of the real property tax law, as amended by section 42 of part B
13 of chapter 97 of the laws of 2011, is amended to read as follows:
14 (ii) construction is commenced after January first, nineteen hundred
15 seventy-five and before June fifteenth, two thousand [fifteen] NINETEEN
16 provided, however, that such commencement period shall not apply to
17 multiple dwellings eligible for benefits under subparagraph (iv) of
18 paragraph (a) of this subdivision;
19 S 3. Subdivision 7 of section 421-a of the real property tax law, as
20 added by chapter 618 of the laws of 2007, subparagraph (i) of paragraph
21 (a) and subparagraphs (i) and (ii) of paragraph (d) as amended by chap-
22 ter 619 of the laws of 2007, and paragraphs (b), (c) and (e) as amended
23 by chapter 15 of the laws of 2008, is amended to read as follows:
24 7. (a) For the purposes of this subdivision:

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

LBD11457-01-5

1 (i) "affordable units" shall mean units which meet the affordability
2 requirements set forth in paragraph (c) of this subdivision.
3 (ii) "geographic exclusion areas" shall mean:
4 (A) areas described in subdivision eleven of this section,
5 (B) in the borough of Manhattan tax lots now existing or hereafter
6 created south of or adjacent to either side of one hundred tenth street,
7 [and]
8 (C) areas made ineligible for the benefits of this section:
9 (1) as set forth in section 11-245 of the administrative code of the
10 city of New York on the effective date of this subdivision, notwith-
11 standing any exceptions to ineligibility contained in such local law for
12 certain types of projects in such areas,
13 (2) as set forth in local law number fifty-eight of the city of New
14 York for the year two thousand six, notwithstanding any exceptions to
15 ineligibility contained in such local law for certain types of projects
16 in such areas and notwithstanding the effective date of such law, [and]
17 (3) by local law after the effective date of this subdivision[.], AND
18 (D) FOR CONSTRUCTION THAT COMMENCES AFTER JUNE FIFTEENTH, TWO THOUSAND
19 FIFTEEN, ALL REAL PROPERTY LOCATED WITHIN THE GEOGRAPHIC BOUNDARIES OF A
20 CITY WITH A POPULATION OF ONE MILLION OR MORE.
21 (b) Notwithstanding any provision of this section or any local law to
22 the contrary, the benefits of this section shall not be available for
23 new multiple dwellings located in a geographic exclusion area which
24 commence construction after December twenty-eighth, two thousand seven
25 unless they comply with the provisions of this subdivision for thirty-
26 five years from completion of construction of the building receiving
27 benefits pursuant to this section.
28 (c) (i) Not less than twenty percent of the units in the multiple
29 dwelling must, upon the initial rental or sale of the units and upon all
30 subsequent rentals of the units after a vacancy, be affordable to and
31 occupied or available for occupancy by individuals or families whose
32 incomes at the time of initial occupancy do not exceed sixty percent of
33 the area median incomes adjusted for family size or (ii) if the
34 construction of such building is carried out with substantial assistance
35 of grants, loans or subsidies from any federal, state or local agency or
36 instrumentality and such assistance is provided pursuant to a program
37 for the development of affordable housing, not less than twenty percent
38 of the units in the multiple dwelling must, either (A) upon the initial
39 rental of the units and upon all subsequent rentals of the units after a
40 vacancy, be affordable to and occupied or available for occupancy by
41 individuals or families whose incomes at the time of initial occupancy
42 do not exceed one hundred twenty percent of the area median incomes
43 adjusted for family size and, where the multiple dwelling contains more
44 than twenty-five units, do not exceed an average of ninety percent of
45 the area median incomes adjusted for family size, or (B) upon the
46 initial sale of the units, be affordable to and occupied or available
47 for occupancy by individuals or families whose incomes at the time of
48 initial occupancy do not exceed one hundred twenty-five percent of the
49 area median incomes adjusted for family size. IF CONSTRUCTION OF A
50 MULTIPLE DWELLING COMMENCED AFTER JUNE FIFTEENTH, TWO THOUSAND FIFTEEN,
51 (I) NOT LESS THAN FIFTEEN PERCENT OF THE UNITS IN THE MULTIPLE DWELLING
52 MUST, UPON THE INITIAL RENTAL OF THE UNITS AND UPON ALL SUBSEQUENT
53 RENTALS OF THE UNITS AFTER A VACANCY, BE AFFORDABLE TO AND OCCUPIED OR
54 AVAILABLE FOR OCCUPANCY BY INDIVIDUALS OR FAMILIES WHOSE INCOMES, AT THE
55 TIME OF INITIAL OCCUPANCY, DO NOT EXCEED FORTY PERCENT OF THE AREA MEDI-
56 AN INCOME ADJUSTED FOR FAMILY SIZE, AND (II) NOT LESS THAN TEN PERCENT

1 OF THE UNITS IN THE MULTIPLE DWELLING MUST, UPON THE INITIAL RENTAL OF
2 THE UNITS AND UPON ALL SUBSEQUENT RENTALS OF THE UNITS AFTER A VACANCY,
3 BE AFFORDABLE TO AND OCCUPIED OR AVAILABLE FOR OCCUPANCY BY INDIVIDUALS
4 OR FAMILIES WHOSE INCOMES, AT THE TIME OF INITIAL OCCUPANCY, DO NOT
5 EXCEED SIXTY PERCENT OF THE AREA MEDIAN INCOME ADJUSTED FOR FAMILY SIZE,
6 AND (III) NOT LESS THAN FIVE PERCENT OF THE UNITS IN THE MULTIPLE DWELL-
7 ING MUST, UPON THE INITIAL RENTAL OF THE UNITS AND UPON ALL SUBSEQUENT
8 RENTALS OF THE UNITS AFTER A VACANCY, BE AFFORDABLE TO AND OCCUPIED OR
9 AVAILABLE FOR OCCUPANCY BY INDIVIDUALS OR FAMILIES WHOSE INCOMES, AT THE
10 TIME OF INITIAL OCCUPANCY, DO NOT EXCEED ONE HUNDRED TWENTY PERCENT OF
11 THE AREA MEDIAN INCOME ADJUSTED FOR FAMILY SIZE.

12 (d) Unless preempted by federal requirements:

13 (i) all affordable units must have a comparable number of bedrooms as
14 market rate units and a unit mix proportional to the market rate units,
15 or at least fifty percent of the affordable units must have two or more
16 bedrooms and no more than fifty percent of the remaining units can be
17 smaller than one bedroom or in addition to the requirements of paragraph
18 (c) of this subdivision, the floor area of affordable units is no less
19 than twenty percent of the total floor area of all dwelling units; [and]

20 (ii) AFFORDABLE UNITS SHALL SHARE THE SAME COMMON ENTRANCES AND COMMON
21 AREAS AS MARKET RATE UNITS, AND SHALL NOT BE ISOLATED TO A SPECIFIC
22 FLOOR OR AREA OF A BUILDING OR BUILDINGS. COMMON ENTRANCES SHALL MEAN
23 ANY AREA REGULARLY USED BY ANY RESIDENT FOR INGRESS AND EGRESS FROM A
24 MULTIPLE DWELLING. IN THE CASE OF A PROJECT CONTAINING MULTIPLE BUILD-
25 INGS, AFFORDABLE UNITS SHALL BE EQUALLY DISPERSED BETWEEN BUILDINGS; AND

26 (III) residents of the community board where the multiple dwelling
27 which receives the benefits provided in this section is located shall,
28 upon initial occupancy, have priority for the purchase or rental of
29 fifty percent of the affordable units.

30 (e) Notwithstanding any provision of law to the contrary, affordable
31 rental units must remain as rent stabilized units for thirty-five years
32 from completion of construction provided that tenants holding a lease
33 and in occupancy at the expiration of the rent stabilization period
34 shall have the right to remain as rent stabilized tenants for the dura-
35 tion of their occupancy. ALL PROVISIONS OF RENT STABILIZATION SHALL
36 APPLY TO TENANTS AFTER THE THIRTY-FIVE YEAR PERIOD, FOR THE DURATION OF
37 THEIR OCCUPANCY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, SUCCESSION
38 RIGHTS REGARDLESS OF IF THE INDIVIDUAL OR INDIVIDUALS SUCCEEDING THE
39 TENANT BEGAN THEIR OCCUPANCY OF THE UNIT AFTER THE END OF THE
40 THIRTY-FIVE YEAR PERIOD.

41 (f) All affordable units must be situated onsite. For the purposes of
42 this section, "onsite" shall mean that affordable units shall be situ-
43 ated within the building or buildings for which benefits pursuant to
44 this section are being granted.

45 (g) The limitations on eligibility for benefits contained in this
46 subdivision shall be in addition to those contained in this section and
47 in any other law or regulation.

48 S 4. Subdivision 8 of section 421-a of the real property tax law, as
49 added by chapter 618 of the laws of 2007, subparagraph (i) of paragraph
50 (a) and paragraph (c) as amended by chapter 15 of the laws of 2008, and
51 paragraphs (d) and (e) as amended by chapter 619 of the laws of 2007, is
52 amended to read as follows:

53 8. (a) As used in this subdivision, the following terms shall have the
54 following meanings:

55 (i) "Building service employee" means any person who is regularly
56 employed at a building who performs work in connection with the care or

1 maintenance of such building. "Building service employee" includes, but
2 is not limited to superintendent, watchman, guard, doorman, building
3 cleaner, porter, handyman, janitor, gardener, groundskeeper, elevator
4 operator and starter, and window cleaner, but shall not include persons
5 regularly scheduled to work fewer than eight hours per week in the
6 building.

7 (ii) "CONSTRUCTION EMPLOYEE" MEANS A LABORER, WORKER, OR MECHANIC IN
8 THE EMPLOY OF THE CONTRACTOR, SUBCONTRACTOR OR OTHER PERSON DOING OR
9 CONTRACTING TO DO THE WHOLE OR A PORTION OF THE CONSTRUCTION OF A NEW
10 MULTIPLE DWELLING.

11 (III) "Prevailing wage" means the [wage] RATE OF WAGES AND SUPPLEMENTS
12 determined by the fiscal officer to be prevailing for the various class-
13 es of building service employees in the locality pursuant to section two
14 hundred thirty of the labor law, OR THE RATE OF WAGES AND SUPPLEMENTS
15 DETERMINED BY THE FISCAL OFFICER TO BE PREVAILING FOR THE VARIOUS CLASS-
16 ES OF CONSTRUCTION EMPLOYEES IN THE LOCALITY PURSUANT TO SECTION TWO
17 HUNDRED TWENTY OF THE LABOR LAW.

18 (b) (I) No benefits under this section shall be conferred for any
19 construction commenced on or after December twenty-eighth, two thousand
20 seven for any tax lots now existing or hereafter created except where
21 the applicant agrees that all building service employees employed at the
22 building, whether employed directly by the applicant or its successors,
23 or through a property management company [or], a contractor OR A SUBCON-
24 TRACTOR, shall receive the applicable prevailing wage for the duration
25 of the building's tax exemption.

26 (II) NO BENEFITS UNDER THIS SECTION SHALL BE CONFERRED FOR ANY
27 CONSTRUCTION COMMENCED ON OR AFTER JUNE FIFTEENTH, TWO THOUSAND FIFTEEN
28 FOR ANY TAX LOTS NOW EXISTING OR HEREAFTER CREATED, EXCEPT WHERE THE
29 APPLICANT AGREES THAT ALL CONSTRUCTION EMPLOYEES EMPLOYED AT THE BUILD-
30 ING, WHETHER EMPLOYED DIRECTLY BY THE APPLICANT OR ITS SUCCESSORS, OR
31 THROUGH A PROPERTY MANAGEMENT COMPANY, A CONTRACTOR, OR A SUBCONTRACTOR,
32 SHALL RECEIVE THE APPLICABLE PREVAILING WAGE FOR THE DURATION OF THE
33 BUILDING'S TAX EXEMPTION.

34 (III) NOTWITHSTANDING ANY GENERAL, SPECIAL OR LOCAL LAW, OR JUDICIAL
35 DECISION TO THE CONTRARY, FOR THE PURPOSES OF THIS SECTION SUCH
36 CONSTRUCTION, WHICH MAY INVOLVE THE EMPLOYMENT OF LABORERS, WORKERS, OR
37 MECHANICS, EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION,
38 SHALL BE DEEMED PUBLIC WORK FOR THE PURPOSES OF ARTICLE EIGHT OF THE
39 LABOR LAW AND ALL CONTRACTS AND SUBCONTRACTS WHICH MAY INVOLVE THE
40 EMPLOYMENT OF LABORERS, WORKERS OR MECHANICS SHALL BE ENFORCEABLE UNDER
41 ARTICLE EIGHT OF THE LABOR LAW.

42 (IV) NO BENEFITS UNDER THIS SECTION SHALL BE CONFERRED FOR ANY PROJECT
43 COMMENCED ON OR AFTER JUNE FIFTEENTH, TWO THOUSAND FIFTEEN FOR ANY TAX
44 LOTS NOW EXISTING OR HEREAFTER CREATED, EXCEPT WHERE THE APPLICANT
45 AGREES TO PROVIDE MEANINGFUL PARTICIPATION BY MINORITY AND WOMEN-OWNED
46 BUSINESS ENTERPRISES ON CONTRACTS AND SUBCONTRACTS FOR SUCH PROJECT SO
47 AS TO FACILITATE THE AWARD OF A FAIR SHARE OF SUCH CONTRACTS TO THEM.
48 THE LOCAL HOUSING AGENCY SHALL TAKE MEASURES AS ARE APPROPRIATE TO
49 FACILITATE AND ENCOURAGE MEANINGFUL PARTICIPATION BY MINORITY OR WOMEN-
50 OWNED BUSINESS ENTERPRISES.

51 (c) THE LIMITATIONS CONTAINED IN PARAGRAPH (B) OF THIS SUBDIVISION
52 REGARDING BUILDING SERVICE EMPLOYEES SHALL NOT BE APPLICABLE TO: (I)
53 PROJECTS CONTAINING LESS THAN THIRTY DWELLING UNITS; OR (II) BUILDINGS
54 IN WHICH ALL OF THE DWELLING UNITS ARE AFFORDABLE HOUSING UNITS AND NOT
55 LESS THAN FIFTY PERCENT OF SUCH AFFORDABLE HOUSING UNITS, UPON INITIAL
56 RENTAL AND UPON EACH SUBSEQUENT RENTAL FOLLOWING A VACANCY DURING THE

1 PERIOD OF TIME SUCH BUILDING IS SUBJECT TO THE PROVISIONS OF THIS
2 SECTION, ARE AFFORDABLE TO AND RESTRICTED TO OCCUPANCY BY INDIVIDUALS OR
3 FAMILIES WHOSE HOUSEHOLD INCOME DOES NOT EXCEED ONE HUNDRED TWENTY-FIVE
4 PERCENT OF THE AREA MEDIAN INCOME, ADJUSTED FOR FAMILY SIZE, AT THE TIME
5 THAT SUCH HOUSEHOLD INITIALLY OCCUPIES SUCH DWELLING UNIT.

6 (D) The limitations contained in paragraph (b) of this subdivision
7 REGARDING CONSTRUCTION EMPLOYEES shall not be applicable to:

8 (i) projects containing less than fifty dwelling units; or

9 (ii) buildings where the local housing agency certifies that at
10 initial occupancy at least fifty percent of the dwelling units are
11 affordable to individuals or families with a gross household income at
12 or below one hundred twenty-five percent of the area median income and
13 that any such units which are located in rental buildings will be
14 subject to restrictions to [insure] ENSURE that they will remain afford-
15 able for the entire period during which they receive benefits under this
16 section.

17 [(d)] (E) The local housing agency shall prescribe appropriate sanc-
18 tions for failure to comply with the provisions of this subdivision.

19 [(e)] (F) Solely for purposes of paragraph (b) of this subdivision,
20 construction shall be deemed to have commenced when excavation or alter-
21 ation has begun in good faith on the basis of approved construction
22 plans.

23 [(f)] (G) The limitations on eligibility for benefits contained in
24 this subdivision shall be in addition to those contained in any other
25 law or regulation.

26 S 5. Section 421-a of the real property tax law is amended by adding a
27 new subdivision 16 to read as follows:

28 16. NOTWITHSTANDING ANY PROVISION OF THIS SECTION OR ANY LOCAL LAW TO
29 THE CONTRARY, THE BENEFITS OF THIS SECTION SHALL NOT BE AVAILABLE FOR
30 NEW MULTIPLE DWELLINGS OWNED AS A COOPERATIVE OR CONDOMINIUM THAT
31 COMMENCE CONSTRUCTION AFTER JUNE FIFTEENTH, TWO THOUSAND FIFTEEN.

32 S 6. This act shall take effect immediately.