

STATE OF NEW YORK

5892

2017-2018 Regular Sessions

IN SENATE

May 4, 2017

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

AN ACT to amend the real property tax law, in relation to establishing an energy-related public utility mass real property central assessment pilot program; and providing for the repeal of such provisions upon expiration thereof

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

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

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

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

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

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

LBD11097-02-7

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

TITLE 6

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

Section 499-tttt. Definitions.

499-uuuu. Annual fee.

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

499-www. Assessment ceiling.

**499-xxxx. Local energy-related public utility mass real proper-
ty value.**

499-yyyy. Equitable ratio of assessment.

499-zzzz. Equalization rate.

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

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

**499-cccc. Application of assessment ceiling; computation of
exemption.**

499-ddddd. Reports to commissioner.

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

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

**1. "Local energy-related public utility mass real property" means
energy-related public utility mass real property that is located in
counties with a population of more than nine hundred forty thousand and
less than one million two hundred thousand inhabitants according to the
last decennial census.**

**2. "Local assessing jurisdiction" means the town, city, village or
county assessing unit that establishes the assessment rolls for such
town, city, village or county with a population of more than nine
hundred forty thousand and less than one million two hundred thousand
inhabitants according to the last decennial census.**

**3. "Energy-related public utility mass real property" means real prop-
erty used in the transmission and distribution of electricity and gas
located in counties with a population of more than nine hundred forty
thousand and less than one million two hundred thousand inhabitants
according to the last decennial census, including conduits, cables,
lines, wires, poles, mains, pipes, substations, tanks, supports and
enclosures for electrical conductors located on, above and below real
property. Such term shall include all property described in paragraph
(e) of subdivision twelve of section one hundred two of this chapter.
Special franchise property as described in subdivision seventeen of
section one hundred two of this chapter and all property described in
paragraphs (a) and (b) and subparagraphs (A), (B), (C) and (D) of para-
graph (i) of subdivision twelve of section one hundred two of this chap-
ter shall not be considered energy-related public utility mass real
property for purposes of this title.**

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

**§ 499-uuuu. Annual fee. Any costs and expenses incurred by the commis-
sioner under the energy-related public utility mass real property
central assessment pilot program shall be paid from the collection of an**

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

18 § 499-vvvv. Assessment of local energy-related public utility mass
19 real property. Subject to the provisions of section four hundred nine-
20 ty-nine-cccc of this title, the assessor in each city, town and village
21 in counties with a population of more than nine hundred forty thousand
22 and less than one million two hundred thousand inhabitants according to
23 the last decennial census, and counties with a population of more than
24 nine hundred forty thousand and less than one million two hundred thou-
25 sand inhabitants according to the last decennial census shall annually
26 assess all local energy-related public utility mass real property situ-
27 ated in such city, town, village or county, as the case may be. Where a
28 village has enacted a local law as provided in subdivision three of
29 section fourteen hundred two of this chapter, the town or county asses-
30 sor shall apportion that part of the assessment of local energy-related
31 public utility mass real property in the town or county to the village
32 for village tax purposes.

33 § 499-www. Assessment ceiling. 1. To determine the extent to which
34 local energy-related public utility mass real property shall be exempt
35 under this title, an assessment ceiling for the local energy-related
36 public utility mass real property in counties with a population of more
37 than nine hundred forty thousand and less than one million two hundred
38 thousand inhabitants according to the last decennial census shall be
39 established annually by the commissioner as follows:

40 (a) Determine: (i) the local energy-related public utility mass real
41 property value in accordance with the provisions of section four hundred
42 ninety-nine-yyyy of this title; and (ii) the equalization rate factor
43 for the local energy-related public utility mass real property in
44 accordance with the provisions of section four hundred ninety-nine-zzzz
45 of this title.

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

48 The result shall be the assessment ceiling.

49 2. The valuation date for all local energy-related public utility mass
50 real property in counties with a population of more than nine hundred
51 forty thousand and less than one million two hundred thousand inhabit-
52 ants according to the last decennial census shall be January first of
53 the year preceding the year in which the assessment roll on which such
54 property is to be assessed, completed and filed in the office of the
55 city or town clerk. The taxable status for all local energy-related
56 public utility mass real property in counties with a population of more

1 than nine hundred forty thousand and less than one million two hundred
2 thousand inhabitants according to the last decennial census shall be
3 based upon its condition and ownership as of the taxable status date
4 applicable to the assessment roll on which it is to appear.

5 3. For assessment rolls with taxable status dates in each of the three
6 calendar years including and following the year in which this section
7 shall take effect, the commissioner shall establish no assessment ceil-
8 ing that is less than ninety percent or more than one hundred ten
9 percent of the assessment of such local energy-related public utility
10 mass real property appearing on the municipal assessment roll with a
11 taxable status date occurring in the second preceding calendar year from
12 when this section shall take effect, except that the commissioner may
13 establish assessment ceilings below the ninety percent level or above
14 the one hundred ten percent level to take into account any change in
15 level of assessment and/or to take into account any additions or retire-
16 ments to energy-related public utility mass real property in counties
17 with a population of more than nine hundred forty thousand and less than
18 one million two hundred thousand inhabitants according to the last
19 decennial census or litigation affecting the value or taxable status of
20 the local energy-related public utility mass real property initiated
21 prior to the effective date of this section.

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

25 1. The local reproduction cost of the energy-related public utility
26 mass real property of each energy-related public utility mass real prop-
27 erty owner in counties with a population of more than nine hundred forty
28 thousand and less than one million two hundred thousand inhabitants
29 according to the last decennial census is the cost of reproduction, less
30 depreciation of that energy-related public utility mass real property.

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

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

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

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

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

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

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

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

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

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

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

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

1 utility mass real property for which such ceiling has been determined a
2 duplicate copy of such certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (c) Three years after the effective date of this act, the commissioner
31 of taxation and finance shall examine and evaluate whether to extend the
32 provisions of this act to other owners of energy-related public utility
33 mass real property and shall report to the governor, the temporary pres-
34 ident of the senate and the speaker of the assembly his or her findings
35 and recommendations, including any amendment of statute or regulation,
36 related to this examination and evaluation.

37 § 5. This act shall take effect on the first of January next succeed-
38 ing the date on which it shall have become a law and shall apply to
39 assessment rolls with taxable status dates on or after such date;
40 provided, however, that:

41 a. this act shall expire and be deemed repealed five years after such
42 effective date;

43 b. no assessment of local energy-related public utility mass real
44 property appearing on the municipal assessment roll with a taxable
45 status date occurring in the first calendar year after this act shall
46 have become a law shall be less than ninety percent or more than one
47 hundred ten percent of the assessment of the same property on the date
48 this act shall have become a law; and

49 c. the amendments to paragraph (a) of subdivision 2 of section 200-a
50 of the real property tax law made by section one of this act shall not
51 affect the expiration and reversion of such section pursuant to section
52 1 of chapter 475 of the laws of 2013, when upon such date the provisions
53 of section two of this act shall take effect.