STATE OF NEW YORK

2696

2019-2020 Regular Sessions

IN ASSEMBLY

January 25, 2019

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

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

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

Section 1. Section 421-a of the real property tax law is amended by adding a new subdivision 18 to read as follows:

18. (a) Definitions. For the purposes of this subdivision:

(i) "421-a benefits" shall mean exemption from real property taxation pursuant to this subdivision.

(ii) "Condominium or cooperative affordability option" shall only apply to a homeownership project, of which one hundred percent of the units shall: (A) have an actual sales price that shall be affordable to an individual or family whose income at the time of the sale does not exceed one hundred sixty-five percent of the area median income adjusted for family size or (B) be offered for rent to an individual or family whose income at the time of occupancy does not exceed eighty percent of the area median income adjusted for family size such a unit shall not be rented on a temporary, transient or short-term basis. Every lease and renewal thereof for such unit rental shall be for a term of one or two years, at the option of the tenant.

(iii) "Agency" shall mean the department of housing preservation and development.

(iv) "Application" shall mean an application for 421-a benefits.

(v) "Area median income" shall mean the area median income established by the United States department of housing and urban development or a successor agency.

(vi) "Commencement date" shall mean, with respect to any eligible multiple dwelling, the date upon which excavation and construction of initial footings and foundations lawfully begins in good faith or, for

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

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an eligible conversion, the date upon which the actual construction of the conversion, alteration or improvement of the pre-existing building or structure lawfully begins in good faith.

(vii) "Completion date" shall mean the date upon which the local department of buildings issues the first temporary or permanent certificate of occupancy covering all residential areas of an eligible multiple dwelling.

(viii) "Construction period" shall mean, with respect to any eligible multiple dwelling, a period: (A) beginning on the later of the commencement date of such eligible multiple dwelling or three years before the completion date of such eligible multiple dwelling; and (B) ending on the day preceding the completion date of such eligible multiple dwelling.

(ix) "Eligible conversion" shall mean the conversion, alteration or improvement of a pre-existing building or structure resulting in a multiple dwelling in which no more than forty-nine percent of the floor area consists of such pre-existing building or structure.

(x) "Eligible multiple dwelling" shall mean a homeownership project containing four or more dwelling units created through new construction or eligible conversion for which the commencement date is after December thirty-first, two thousand seventeen and on or before June fifteenth, two thousand twenty-one, and for which the completion date is on or before June fifteenth, two thousand twenty-five.

(xi) "Eligible site" shall mean either: (A) a tax lot containing an eligible multiple dwelling; or (B) a zoning lot containing two or more eligible multiple dwellings that are part of a single application.

(xii) "Floor area" shall mean the horizontal areas of the several floors, or any portion thereof, of a dwelling or dwellings, and accessory structures on a lot measured from the exterior faces of exterior walls, or from the center line of party walls.

(xiii) "Homeownership project" shall mean a multiple dwelling or portion thereof operated as condominium or cooperative housing, however, it shall not include a multiple dwelling or portion thereof operated as cooperative or condominium housing located within the borough of Manhattan.

(xiv) "Multiple dwelling" shall have the meaning set forth in the multiple dwelling law.

(xv) "Restriction period" shall mean a period commencing on the completion date and expiring on the twentieth anniversary of the completion date.

(xvi) "Twenty year benefit" shall mean: (A) for the construction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements; (B) for the first fourteen years of the restriction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements; and (C) for the final six years of the restriction period, a twenty-five percent exemption from real property taxation, other than assessments for local improvements; provided, however, that no exemption under clause (B) or (C) of this subparagraph shall be given for any unit which does not qualify under the condominium or cooperative affordability requirement.

(b) Benefit. In cities having a population of one million or more, notwithstanding the provisions of any other subdivision of this section or of any general, special or local law to the contrary, a homeownership project that meets all of the requirements of this subdivision shall receive a twenty year benefit.

(c) Tax payments. In addition to any other amounts payable pursuant to this subdivision, the owner of any eligible site receiving 421-a benefits shall pay, in each tax year in which such 421-a benefits are in effect, real property taxes and assessments as follows:

(i) with respect to each eligible multiple dwelling constructed on such eligible site, real property taxes on the assessed valuation of such land and any improvements thereon in effect during the tax year prior to the commencement date of such eligible multiple dwelling, without regard to any exemption from or abatement of real property taxation in effect during such tax year, which real property taxes shall be calculated using the tax rate in effect at the time such taxes are due; and

(ii) all assessments for local improvements.

(d) Limitation on benefits for non-residential space. If the aggregate floor area of commercial, community facility and accessory use space in an eligible site, other than parking which is located not more than twenty-three feet above the curb level, exceeds twelve percent of the aggregate floor area in such eligible site, any 421-a benefits shall be reduced by a percentage equal to such excess.

(e) Calculation of benefit. Based on the certification of the agency certifying the applicant's eligibility for 421-a benefits, the assessors shall certify to the collecting officer the amount of taxes to be exempted.

(f) Affordability requirements. During the restriction period, a homeownership project shall comply with subparagraph (ii) of paragraph (a) of this subdivision. Failure to comply with the provisions of this paragraph shall result in revocation of any 421-a benefits for the period of such non-compliance.

(g) Lower income rentals. Nothing in this subdivision, or any other provision of law shall: (i) prohibit the occupancy of a unit by individuals or families whose income at any time is less than the maximum percentage of the area median income, adjusted for family size, specified for such unit pursuant to this subdivision, or (ii) prohibit the owner of an eligible site from requiring, upon initial rental or upon any rental following a vacancy, the occupancy of any unit by such lower income individuals or families.

(h) Agency requirements. The agency shall establish by rule requirements for the marketing and monitoring of any homeownership project that is granted an exemption pursuant to this subdivision. Such requirements shall include: (i) if qualifying by sales price, certification by an architect or engineer verifying number of bedrooms and a certified public accountant verifying affordable sales price and (ii) if qualifying by rental, the filing annually of an affidavit by the owner certifying that a unit is rented at or below eighty percent of the area median income based on household size.

(i) Concurrent exemptions or abatements. An eligible multiple dwelling receiving 421-a benefits shall not receive any exemption from or abatement of real property taxation under any other law.

(j) Voluntary renunciation or termination. Notwithstanding the provisions of any general, special or local law to the contrary, an owner shall not be entitled to voluntarily renounce or terminate any 421-a benefits unless the agency authorizes such renunciation or termination in connection with the commencement of a new tax exemption pursuant to either the private housing finance law or section four hundred twenty-c of this title.

(k) Termination or revocation. The agency may terminate or revoke 421-a benefits for noncompliance with this subdivision. If 421-a benefits are terminated or revoked for noncompliance with this subdivision, a homeownership project shall continue to comply with subparagraph (ii) of paragraph (a) of this subdivision and all other requirements of this subdivision for the restriction period and any additional period expressly provided in this subdivision, as if the 421-a benefits had not been terminated or revoked.

(l) Powers cumulative. The enforcement provisions of this subdivision shall not be exclusive, and are in addition to any other rights, remedies, or enforcement powers set forth in any other law or available at law or in equity.

(m) Applications. (i) The application with respect to any eligible multiple dwelling shall be filed with the agency not later than one year after the completion date of such eligible multiple dwelling.

(ii) Notwithstanding the provisions of any general, special or local law to the contrary, the agency may require by rule that applications be filed electronically.

(iii) The agency may rely on certification by an architect or engineer or certified public accountant submitted by an applicant in connection with the filing of an application. A false certification by such architect or engineer or certified public accountant shall be deemed to be professional misconduct pursuant to section sixty-five hundred nine of the education law. Any licensee found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten of the education law shall be subject to the penalties prescribed in section sixty-five hundred eleven of the education law, and shall thereafter be ineligible to submit a certification pursuant to this subdivision.

(n) Filing fee. The agency may require a filing fee of three thousand dollars per dwelling unit in connection with any application. However, the agency may promulgate rules imposing a lesser fee for eligible sites containing eligible multiple dwellings constructed with the substantial assistance of grants, loans or subsidies provided by a federal, state or local governmental agency or instrumentality pursuant to a program for the development of affordable housing.

(o) Rules. The agency shall promulgate rules to carry out the provisions of this subdivision.

(p) Authority of city to enact local law. Except as otherwise specified in this subdivision, a city to which this subdivision is applicable may enact a local law to restrict, limit or condition the eligibility for or the scope or amount of 421-a benefits in any manner, provided that such local law may not grant 421-a benefits beyond those provided in this subdivision and provided further that such local law shall not take effect sooner than one year after it is enacted. The provisions of sections 11-245 and 11-245.1 of the administrative code of the city of New York or of any other local law of the city of New York that were enacted on or before the effective date of this paragraph shall not restrict, limit or condition the eligibility for or the scope or amount of 421-a benefits pursuant to this subdivision.

§ 2. Subparagraphs (v) and (liv) of paragraph (a) of subdivision 16 of section 421-a of the real property tax law, as amended by section 3 of part TTT of chapter 59 of the laws of 2017, are amended to read as follows:

(v) "Affordability option D" shall only apply to a homeownership project[~~, of which one hundred percent of the units shall have an average assessed value not to exceed sixty-five thousand dollars upon the~~

~~first assessment following the completion date and where each owner of any such unit shall agree, in writing, to maintain such unit as their primary residence for no less than five years from the acquisition of such unit~~] which complies with subdivision eighteen of this section.

(liv) "Twenty year benefit" shall [~~mean: (A) for the construction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements; (B) for the first fourteen years of the restriction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements, provided, however, that no exemption shall be given for any portion of a unit's assessed value that exceeds $65,000; and (C) for the next six years of the restriction period, a twenty-five percent exemption from real property taxation, other than assessments for local improvements, provided, however, that no exemption shall be given for any portion of a unit's assessed value that exceeds $65,000~~] have the meaning set forth in subdivision eighteen of this section.

§ 3. This act shall take effect immediately.