

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

4 (vii) "Completion date" shall mean the date upon which the local  
5 department of buildings issues the first temporary or permanent certifi-  
6 cate of occupancy covering all residential areas of an eligible multi-  
7 ple dwelling.

8 (viii) "Construction period" shall mean, with respect to any eligible  
9 multiple dwelling, a period: (A) beginning on the later of the commence-  
10 ment date of such eligible multiple dwelling or three years before the  
11 completion date of such eligible multiple dwelling; and (B) ending on  
12 the day preceding the completion date of such eligible multiple dwell-  
13 ing.

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

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

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

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

31 (xiii) "Homeownership project" shall mean a multiple dwelling or  
32 portion thereof operated as condominium or cooperative housing, however,  
33 it shall not include a multiple dwelling or portion thereof operated as  
34 cooperative or condominium housing located within the borough of Manhat-  
35 tan.

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

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

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

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

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

5 (i) with respect to each eligible multiple dwelling constructed on  
6 such eligible site, real property taxes on the assessed valuation of  
7 such land and any improvements thereon in effect during the tax year  
8 prior to the commencement date of such eligible multiple dwelling, with-  
9 out regard to any exemption from or abatement of real property taxation  
10 in effect during such tax year, which real property taxes shall be  
11 calculated using the tax rate in effect at the time such taxes are due;  
12 and

13 (ii) all assessments for local improvements.

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

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

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

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

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

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

49 (j) Voluntary renunciation or termination. Notwithstanding the  
50 provisions of any general, special or local law to the contrary, an  
51 owner shall not be entitled to voluntarily renounce or terminate any  
52 421-a benefits unless the agency authorizes such renunciation or termi-  
53 nation in connection with the commencement of a new tax exemption pursu-  
54 ant to either the private housing finance law or section four hundred  
55 twenty-c of this title.

1 (k) Termination or revocation. The agency may terminate or revoke  
2 421-a benefits for noncompliance with this subdivision. If 421-a bene-  
3 fits are terminated or revoked for noncompliance with this subdivision,  
4 a homeownership project shall continue to comply with subparagraph (ii)  
5 of paragraph (a) of this subdivision and all other requirements of this  
6 subdivision for the restriction period and any additional period  
7 expressly provided in this subdivision, as if the 421-a benefits had not  
8 been terminated or revoked.

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

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

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

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

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

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

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

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

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

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

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

17 § 3. This act shall take effect immediately.