

STATE OF NEW YORK

8091--A

Cal. No. 310

2019-2020 Regular Sessions

IN ASSEMBLY

May 31, 2019

Introduced by M. of A. MAGNARELLI, RYAN, SIMOTAS -- read once and referred to the Committee on Real Property Taxation -- ordered to third reading passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the real property tax law, in relation to the residential-commercial urban exemption program

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

- 1 Section 1. Section 485-a of the real property tax law, as amended by
2 chapter 632 of the laws of 2004, subdivision 5 as further amended by
3 subdivision (b) of section 1 of part W of chapter 56 of the laws of
4 2010, is amended to read as follows:
5 § 485-a. Residential-commercial urban exemption program. 1. Defi-
6 nitions. As used in this section, the following terms shall have the
7 following meanings:
8 (a) "Municipality" means any town, city or village except for a city
9 having more than one million inhabitants.
10 (b) "Applicant" means any person obligated to pay real property taxes
11 on the property for which an exemption from real property taxes under
12 this section is sought.
13 (c) "Commercial construction work" means the modernization, rehabili-
14 tation, expansion or other improvement of the portion of mixed-use prop-
15 erty to be used for commercial purposes.
16 (d) "Commercial purpose or use" means the buying, selling or otherwise
17 providing of goods or services directly to the public, including hotel
18 services, [~~or other lawful business or commercial activities permitted~~
19 ~~in mixed-use property~~] retail stores, office space, restaurants, bars,
20 gyms, theaters, and cafes.
21 (e) "Mixed-use property" means property on which will exist, after
22 completion of residential construction work or a combination of residen-

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

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1 tial construction work and commercial construction work, a building or
 2 structure used for both residential and commercial purposes of which,
 3 at least fifty percent of the building or structure's square footage is
 4 devoted to residential purposes or use and at least fifteen percent of
 5 the building or structure's square footage is devoted to commercial
 6 purposes or use. Only square footage existing in a story above grade
 7 shall be used in the determination of the building's percentage of resi-
 8 dential purposes or use and commercial purposes or use.

9 (f) "Person" means an individual, corporation, limited liability
 10 company, partnership, association, agency, trust, estate, foreign or
 11 domestic government or subdivision thereof, or other entity.

12 (g) "Residential construction work" means the creation, modernization,
 13 rehabilitation, expansion or other improvement of dwelling units, other
 14 than dwelling units in a hotel, in the portion of mixed-use property to
 15 be used for residential purposes.

16 (h) "Floor area" means the horizontal areas of the several floors or
 17 any portion thereof of a mixed-use property measured from the exterior
 18 faces of exterior walls or from the center line of party walls, exclu-
 19 sive of any area existing below-grade.

20 (i) "Story above grade" means any story having its finished floor
 21 surface entirely above grade.

22 (j) "Grade" shall mean the finished ground level adjoining the build-
 23 ing at all exterior walls.

24 2. Any municipality may, by local law, provide for the exemption of
 25 real property from taxation as provided in this section. Upon the
 26 adoption of such a local law, the county in which such municipality is
 27 located may, by local law, and any school district, all or part of which
 28 is located in such municipality, may, by resolution, exempt such proper-
 29 ty from its taxation in the same manner and to the same extent as such
 30 municipality has done.

31 3. Upon the adoption of such a local law, non-residential real proper-
 32 ty, upon conversion to mixed-use property, shall be exempt from taxation
 33 and special ad valorem levies as provided for in subdivision four of
 34 this section. Land which was vacant prior to the residential or commer-
 35 cial construction work for which a tax exemption is sought, shall not be
 36 eligible to receive benefits pursuant to this section.

37 4. (a) (i) For a period of twelve years from the approval of an appli-
 38 cation, the increase in assessed value of such property attributable to
 39 such conversion shall be exempt as provided in subparagraph (ii) of this
 40 paragraph. Such exemption shall be computed with respect to the
 41 "exemption base". The exemption base shall be determined for each year
 42 in which there is an increase in assessed value so attributable from
 43 that of the previous year's assessed value.

44 (ii) The following table shall illustrate the computation of the tax
 45 exemption:

| 46 | Year of exemption | Percentage of exemption |
|----|-------------------|-------------------------|
| 47 | 1 through 8 | 100% of exemption base |
| 48 | 9 | 80% of exemption base |
| 49 | 10 | 60% of exemption base |
| 50 | 11 | 40% of exemption base |
| 51 | 12 | 20% of exemption base |

52 (b) No such exemption shall be granted unless

1 (i) such conversion was commenced subsequent to the date on which the
2 municipality's local law took effect; [~~and~~]

3 (ii) the cost of such conversion exceeds the sum of ten thousand
4 dollars or such greater amount as may be specified by local law[~~];~~;

5 (iii) at least seventy-five percent of the floor area of the mixed-use
6 property consists of the pre-existing building or structure;

7 (iv) the portion of the building used for commercial purposes is
8 currently, as demonstrated by documentation submitted by the applicant,
9 used as such or is in good faith contemplated.

10 (c) For purposes of this section the term conversion shall not include
11 ordinary maintenance and repairs.

12 (d) No such exemption shall be granted concurrent with or subsequent
13 to any other real property tax exemption granted to the same improve-
14 ments to real property, except, where during the period of such previous
15 exemption, payments in lieu of taxes or other payments were made to the
16 local government in an amount that would have been equal to or greater
17 than the amount of real property taxes that would have been paid on such
18 improvements had such property been granted an exemption pursuant to
19 this section. In such case, an exemption shall be granted for a number
20 of years equal to the twelve year exemption granted pursuant to this
21 section less the number of years the property would have been previously
22 exempt from real property taxes.

23 5. Such exemption shall be granted only upon application by the owner
24 of such real property on a form prescribed by the commissioner. Such
25 application shall be filed with the assessor of the municipality or
26 county having the power to assess property for taxation on or before the
27 appropriate taxable status date of such municipality or county.

28 6. If the assessor is satisfied that the applicant is entitled to an
29 exemption pursuant to this section, he or she shall approve the applica-
30 tion and such real property shall [~~thereafter~~] be exempt from taxation
31 and special ad valorem levies as in this section provided [~~commencing~~
32 ~~with the assessment roll prepared after the taxable status date referred~~
33 ~~to in subdivision five of this section~~]. The assessed value of any
34 exemption granted pursuant to this section shall be entered by the
35 assessor on the assessment roll with the taxable property, with the
36 amount of the exemption shown in a separate column.

37 7. (a) During the period of exemption pursuant to this section, the
38 owner shall submit an annual certification to the assessor attesting
39 that the property complies with the provisions or requirements of this
40 section and any additional provisions or requirements as may be provided
41 by local law. Failure to submit such certification shall result in revo-
42 cation of benefits. Such certification shall include at a minimum the
43 following:

44 (i) the types of residential use and the total above-grade square
45 footage of such use;

46 (ii) the types of commercial use and the total above-grade square
47 footage of such use;

48 (iii) attestation that the portion of the building used for commercial
49 purposes is currently, as demonstrated by documentation submitted by the
50 applicant, used as such or is in good faith contemplated; and

51 (iv) all such other information required by the municipality.

52 (b) If the assessor is satisfied that the applicant continues to be
53 entitled to the exemption pursuant to this section, the assessor shall
54 approve the certification and the real property shall remain exempt from
55 taxation and special ad valorem levies for another year as provided in
56 this section.

1 8. (a) The benefits of this section shall be revoked upon a finding by
2 the assessor that:

3 (i) the application for benefits hereunder or the annual certification
4 required hereunder contains a false statement or false information as to
5 a material matter or omits a material matter; or

6 (ii) the eligible real property fails to comply with one or more of
7 the provisions or requirements of this section or any provisions or
8 requirements provided by local law.

9 (b) Such revocation shall require the repayment of any benefits previ-
10 ously granted pursuant to this section.

11 9. If the assessor determines that there was a material misstatement
12 in an application filed by or on behalf of the owners for an exemption
13 pursuant to this section and that such misstatement provided the basis
14 for the granting of such exemption, the municipality shall proceed to
15 impose a penalty on the applicant of one thousand dollars in addition to
16 recovering the amount of any prior exemption granted.

17 § 2. This act shall take effect January 1, 2021 and shall apply to
18 properties for which the initial application for exemption are received
19 on and after such date.