

# STATE OF NEW YORK

8557

2019-2020 Regular Sessions

## IN ASSEMBLY

August 23, 2019

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

AN ACT to amend the real property tax law, in relation to creating a tax abatement for geothermal wells

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

1 Section 1. The real property tax law is amended by adding a new  
2 section 487-b to read as follows:

3 § 487-b. Tax abatement for geothermal wells. 1. Definitions. When used  
4 in this section, the following terms shall have the following meanings:

5 (a) "Architect" shall mean a person licensed and registered to prac-  
6 tice the profession of architecture under the education law.

7 (b) "Compliance period" shall mean the tax year in which a tax abate-  
8 ment commences and the three tax years immediately thereafter.

9 (c) "Eligible geothermal well system expenditures" shall mean reason-  
10 able expenditures for materials, labor costs properly allocable to  
11 on-site preparation, assembly and original installation, architectural  
12 and engineering services, and designs and plans directly related to the  
13 construction or installation of a geothermal well system installed in a  
14 building. Such eligible expenditures shall not include interest or other  
15 finance charges, or any expenditures incurred using a federal, state or  
16 local grant.

17 (d) "Engineer" shall mean a person licensed and registered to practice  
18 the profession of engineering under the education law.

19 (e) "Geothermal well system" shall mean a system which uses the  
20 earth's natural temperature under the ground to heat and/or cool a  
21 building.

22 2. Real property tax abatement. An eligible building shall receive an  
23 abatement of real property taxes as provided in this section and the  
24 rules promulgated hereunder.

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

LBD13616-01-9

1 (a) The amount of such tax abatement shall be if a geothermal well is  
2 placed in service on or after January first, two thousand twenty-one,  
3 and before January first, two thousand twenty-three, for each year of  
4 the compliance period such tax abatement shall be the lesser of (i) ten  
5 percent of eligible geothermal well expenditures, (ii) the amount of  
6 taxes payable in such tax year, or (iii) sixty-two thousand five hundred  
7 dollars.

8 (b) Such tax abatement shall commence on July first following the  
9 approval of an application for tax abatement by the department, and may  
10 not be carried over to any subsequent tax year.

11 (c) With respect to any building held in the condominium form of  
12 ownership that receives a tax abatement pursuant to this section, such  
13 tax abatement benefits shall be apportioned among all of the condominium  
14 tax lots within such eligible building.

15 (d) If, as a result of application to the department or a court order  
16 or action by the department, the billable assessed value for any fiscal  
17 year in which the tax abatement is taken is reduced after the assessment  
18 roll becomes final, the department shall recalculate the abatement so  
19 that the abatement granted shall not exceed the annual tax liability as  
20 so reduced. The amount equal to the difference between the abatement  
21 originally granted and the abatement as so recalculated shall be  
22 deducted from any refund otherwise payable or remission otherwise due as  
23 a result of such reduction in billable assessed value.

24 (e) The tax abatement shall be conditioned upon:

25 (i) continuing compliance during the compliance period with all appli-  
26 cable provisions of law, including without limitation the local  
27 construction and fire codes, maintaining the geothermal well system in  
28 such a manner that it continuously constitutes a geothermal well system,  
29 and permitting for inspections of the geothermal well system and any  
30 related structures and equipment upon reasonable notice; and

31 (ii) real estate taxes, water and sewer charges, payments in lieu of  
32 taxes or other municipal charges with respect to the property the geoth-  
33 ermal well system is located on or is servicing not having been due and  
34 owing during the compliance period for a period of six months or more.

35 3. Application for tax abatement. (a) To obtain a tax abatement pursu-  
36 ant to this section, an applicant shall file an application for tax  
37 abatement on or after January first, two thousand twenty-one, and on or  
38 before March fifteenth, two thousand twenty-three for eligible geother-  
39 mal well expenditures.

40 (b) Such application shall be filed no later than March fifteenth  
41 before the first tax year, beginning July first, for which the tax  
42 abatement is sought.

43 (c) Such application shall contain the following:

44 (i) The name and address of the applicant and the location of the  
45 geothermal well system.

46 (ii) Proof that the applicant received all required certifications,  
47 permits and other approvals to construct the geothermal well system.

48 (iii) Certifications in a form prescribed by the department, from an  
49 architect, engineer or other certified or licensed professional, that  
50 the geothermal well system has been placed in service in accordance with  
51 this section, the rules promulgated hereunder, and local construction  
52 and fire codes. All certifications required by this section or the  
53 rules promulgated hereunder shall set forth the specific findings upon  
54 which the certification is based, and shall include information suffi-  
55 cient to identify the location of the geothermal well, the certifying

1 engineer, architect or other professional, and such other information as  
2 may be prescribed by the department.

3 (iv) An agreement to permit for inspections of the geothermal well  
4 system and any related structures and equipment upon reasonable notice.

5 (v) Any other information or certifications required by the department  
6 pursuant to this section and the rules promulgated hereunder.

7 (d) An application for tax abatement shall be in any format prescribed  
8 by the department, including electronic form.

9 (e) An application for tax abatement shall be approved by the depart-  
10 ment upon determining that the applicant has submitted proof that the  
11 requirements for obtaining a tax abatement pursuant to this section and  
12 the rules promulgated hereunder have been met. The burden of proof shall  
13 be on the applicant to show by clear and convincing evidence that the  
14 requirements for granting a tax abatement have been satisfied.

15 (f) Upon approval of an application for tax abatement, the tax abate-  
16 ment shall be applied, provided there are no outstanding real estate  
17 taxes, water and sewer charges, payments in lieu of taxes or other  
18 municipal charges with respect to the property the geothermal well  
19 system is located on or is servicing.

20 4. Revocation of tax abatement. (a) The department shall revoke, in  
21 whole or in part, any tax abatement granted pursuant to this section  
22 whenever the department has determined that:

23 (i) an applicant has failed to comply with a requirement of this  
24 section or any rule promulgated hereunder at any time during the compli-  
25 ance period, including without limitation any of the continuing require-  
26 ments set forth in subdivision two of this section;

27 (ii) the property the geothermal well system is located on or is  
28 servicing has not been in compliance at any time during the compliance  
29 period with a requirement of this section or any rule promulgated here-  
30 under;

31 (iii) the geothermal well system for which a tax abatement was granted  
32 has at any time during the compliance period failed to meet any require-  
33 ment for a geothermal well system pursuant to this section or any rule  
34 promulgated hereunder;

35 (iv) the geothermal well system has become a fire or safety hazard at  
36 any time during the compliance period; or

37 (v) an application, certification, report or other document submitted  
38 by the applicant contains a false or misleading statement as to a mate-  
39 rial fact or omits to state any material fact necessary in order to make  
40 the statement therein not false or misleading.

41 (b) The department may revoke, in whole or in part, any tax abatement  
42 granted pursuant to this section whenever it has determined that an  
43 applicant has failed to comply with the continuing requirement set forth  
44 in subparagraph (ii) of paragraph (e) of subdivision two of this  
45 section.

46 (c) An applicant shall pay, with interest, such part of any tax abate-  
47 ment received pursuant to this section that represents the period of  
48 non-compliance as determined by the department. In addition, the depart-  
49 ment may declare any applicant ineligible for future tax abatement  
50 pursuant to this section if any application, certification, report or  
51 other document submitted by the applicant contains a false or misleading  
52 statement as to a material fact or omits to state any material fact  
53 necessary in order to make the statement therein not false or mislead-  
54 ing.

55 (d) All taxes, with interest, required to be paid retroactively pursu-  
56 ant to this subdivision shall constitute a tax lien as of the date it is

1 determined such taxes and interest are owed. All interest shall be  
2 calculated from the date the taxes would have been due but for the tax  
3 abatement granted pursuant to this section at the applicable rate or  
4 rates of interest imposed generally for non-payment of real property tax  
5 with respect to such taxed property for the period in question.

6 § 2. This act shall take effect immediately.