STATE OF NEW YORK

2363

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

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

AN ACT to amend the real property tax law, in relation to clarifying the definition of "first building permit" for purposes of filing requirements to qualify for an abatement of tax payments for certain industrial and commercial properties located in a city of one million or more persons

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

Section 1. Subdivisions 1 and 2 and paragraph (a) of subdivision 5 of section 489-cccccc of the real property tax law, as added by chapter 119 of the laws of 2008, subparagraph (ii) of paragraph (a) of subdivision 5 as amended by chapter 397 of the laws of 2017, are amended to read as follows:

1. Time limit for meeting minimum required expenditure. Applicants must meet the appropriate minimum required expenditure as provided in subdivision three of section four hundred eighty-nine-bbbbbb of this title relating to the abatement for which such project qualifies as follows:

(a) No later than four years from the date of issuance of the first building permit **that allows actual construction work on the proposed project, not merely site preparation, to commence**, or if no permit was required, the commencement of construction.

(b) Mixed use properties. Expenditures for construction work related to the common areas and systems of such property shall be allocated under rules promulgated by the department between the residential, nonresidential and retail, if any, portions of the property.

2. Time limit for completion of construction. Construction of buildings or structures for which benefits have been approved shall be completed no later than five years from the date of issuance of the first building permit **that allows actual construction work on the**

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

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proposed project, not merely site preparation, to commence, or if no permit was required, the commencement of construction. Failure to meet this requirement shall result in termination of any inflation protection provided under subdivision three of section four hundred eighty-nine-bbbbbb of this title for any tax year that begins following the date by which completion of construction is required under this paragraph.

(a) Time to file. (i) Preliminary application. (A) Building permit. No benefits pursuant to this title shall be granted for any construction work unless the applicant filed a preliminary application for such benefits on or before the date of issuance of the first building permit **that allows actual construction work on the proposed project, not merely site preparation, to commence** for such work. This requirement may be satisfied where the applicant's architect, contractor or other representative authorized to file the application for such building permit files with the department on behalf of the applicant a preliminary application containing such information as the department shall prescribe by rule.

(B) No building permit required. Where construction work does not require a building permit, a notarized letter from the project's architect or engineer notifying the department of this fact shall be filed within thirty calendar days of the commencement of construction. In such circumstance, such letter shall also satisfy the requirement of a preliminary application if the letter contains all of the information required for a preliminary application under rules prescribed by the department.

(ii) Final application. Applicants shall file a final application for benefits no later than one year from the date of issuance of the first building permit [~~**for construction work**~~] **that allows actual construction work on the proposed project, not merely site preparation, to commence**, or, where construction work does not require a building permit, no later than one year from the date of commencement of construction. Abatement benefits shall not be granted until the applicant files the final application. If the final application is not filed within such one year period, abatement benefits shall not be granted until such application is filed, and the department may delay the granting of such benefits, at the department's discretion, to investigate the reason for the late filing.

§ 2. This act shall take effect immediately and shall apply to construction projects that:

(i) were delayed as a result of environmental damage due to Hurricane Sandy in the fall of 2012; and

(ii) for which a decision is under contested review by a court of competent jurisdiction or by the New York City Department of Finance.