

# STATE OF NEW YORK

8431--A

2021-2022 Regular Sessions

## IN ASSEMBLY

November 17, 2021

Introduced by M. of A. GALLAGHER, SIMON, CARROLL, EPSTEIN, DINOWITZ, L. ROSENTHAL, SEAWRIGHT, MAMDANI, GOTTFRIED, GLICK, STECK, GONZALEZ-ROJAS, REYES, JACKSON, KIM, MITAYNES, NIOU, COLTON, BURDICK, FORREST, KELLES, GALEF, BURGOS, CRUZ, RAMOS, BICHOTTE HERMELYN, FAHY, ANDERSON, FRONTUS, STIRPE, BURKE, QUART, ENGLEBRIGHT, PAULIN, MEEKS -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to enacting the "all-electric building act"

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "all-electric building act".

3 § 2. The executive law is amended by adding a new section 382-c to  
4 read as follows:

5 § 382-c. All-electric buildings. 1. As used in this section:

6 a. "All-electric building or project" shall mean a building or project  
7 that uses a permanent supply of electricity as the sole source of energy  
8 to meet building energy needs. An all-electric building or project shall  
9 have no natural gas, propane, or oil heaters, boilers, piping systems,  
10 fixtures or infrastructure installed to meet building energy needs.

11 b. "Building energy needs" shall mean all space conditioning including  
12 heating and cooling, water heating including pools and spas, cooking  
13 appliances and clothes drying appliances.

14 c. "All-electric ready" shall mean a building, project, or portion  
15 thereof that contains electrical systems and designs that provide suffi-  
16 cient capacity for a future retrofit of a mixed-fuel building to an  
17 all-electric building, including sufficient space, drainage, electrical  
18 conductors or raceways, bus bar capacity, and overcurrent protective  
19 devices for such retrofit. The department of state shall promulgate  
20 guidelines for an electric-ready building on or before January first,  
21 two thousand twenty-three.

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

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1 d. "Initial application" shall mean the first site or building  
2 permit application associated with the building or project.

3 e. "Mixed-fuel building" shall mean a building that uses a combination  
4 of electricity and natural gas, propane, or oil to meet building energy  
5 needs. For the purposes of this section, "mixed-fuel building" shall  
6 not include buildings that use geothermal or solar energy to meet heat-  
7 ing and/or cooling building energy needs but are otherwise all-electric  
8 buildings.

9 f. "Mixed-use building" shall mean a building used for both residen-  
10 tial and commercial purposes.

11 2. a. No city, town or village shall issue a permit for the  
12 construction of any new commercial, residential, or mixed-use building  
13 that is not an all-electric building if the initial application for such  
14 permit was submitted after December thirty-first, two thousand twenty-  
15 three, unless the circumstances set forth in paragraph b of this subdivi-  
16 vision apply.

17 b. Notwithstanding the provisions of paragraph a of this subdivision,  
18 a city, town, or village may issue a permit for construction of a new  
19 mixed-fuel building upon a finding by the permitting body of such city,  
20 town, or village that constructing an all-electric building or project  
21 is physically or technically infeasible and that a modification is  
22 warranted. Financial considerations shall not be a sufficient basis to  
23 determine physical or technical infeasibility. Modifications shall only  
24 be issued under this exception where the permitting body finds that:

25 (i) sufficient evidence was submitted to substantiate the infeasibil-  
26 ity of an all-electric building or project design. Such evidence must  
27 show that either:

28 A. the proposed building has seven or more floors and cannot satisfy  
29 necessary building code requirements without the usage of gas or oil  
30 piping systems, fixtures and/or infrastructure and the initial applica-  
31 tion for the permitting of such building was not submitted after Decem-  
32 ber thirty-first, two thousand twenty-six;

33 B. the building is specifically designated for occupancy by a commer-  
34 cial food service establishment, laboratory, laundromat, hospital, or  
35 crematorium, and such establishment cannot feasibly operate using  
36 commercially available all-electric appliances; or

37 C. the natural gas or oil piping systems are used solely for the  
38 generation of emergency standby power;

39 (ii) the installation of natural gas or oil piping systems, fixtures  
40 and/or infrastructure is strictly limited to the system and area of the  
41 building for which all-electric building or project design is infeasible;  
42 and

43 (iii) the area or service within the project where gas or oil piping  
44 systems, fixtures and/or infrastructure are installed is all-electric  
45 ready; and

46 (iv) the project's modified design provides equivalent health, safety  
47 and fire-protection to all-electric building or project design.

48 c. If a modification is issued under paragraph b of this subdivision,  
49 the applicant shall pay or agree in writing to pay any costs related to  
50 the connection of any gas main and/or transmission system to ensure that  
51 such costs are not subsidized by other service class rate payers. Those  
52 costs include but are not limited to the material and installation of  
53 the pipe, conduit, duct, or other facilities to be installed.

54 3. a. No city, town or village shall issue building or construction  
55 permits that would convert an all-electric building or project into a

1 mixed-fuel building where the initial application was submitted after  
2 December thirty-first, two thousand twenty-two.

3 b. Notwithstanding the provisions of paragraph a of this subdivision,  
4 a city, town, or village may issue a permit to convert an all-electric  
5 building or project into a mixed-fuel building for the generation of  
6 emergency standby power or occupancy by a commercial food service  
7 establishment, laboratory, laundromat, hospital, or crematorium, and  
8 such establishment cannot feasibly operate using commercially available  
9 all-electric appliances, provided:

10 (i) sufficient evidence is presented to substantiate the physical or  
11 technical infeasibility of an all-electric building or project design,  
12 financial considerations shall not be a sufficient basis to determine  
13 physical or technical infeasibility;

14 (ii) the installation of natural gas or oil piping systems, fixtures  
15 and/or infrastructure is strictly limited to the system and area of the  
16 building for which all-electric building or project design is infeasible;  
17 and

18 (iii) the area or service within the project where gas or oil piping  
19 systems, fixtures and/or infrastructure are installed is all-electric  
20 ready; and

21 (iv) the project's modified design provides equivalent health, safety  
22 and fire-protection to all-electric building or project design.

23 c. If a permit is issued under paragraph b of this subdivision, the  
24 applicant shall pay or agree in writing to pay any costs related to the  
25 connection of any gas main and/or transmission system to ensure that  
26 such costs are not subsidized by other service class rate payers. Those  
27 costs include but are not limited to the material and installation of  
28 the pipe, conduit, duct, or other facilities to be installed.

29 4. On or before February first, two thousand twenty-three, the depart-  
30 ment of public service, the division of housing and community renewal,  
31 the department of state, and the New York state energy research and  
32 development authority shall report jointly to the governor, the tempo-  
33 rary president of the senate, the minority leader of the senate, the  
34 speaker of the assembly, and the minority leader of the assembly,  
35 regarding what changes to electric rate designs, new or existing subsidy  
36 programs, policies, or laws are necessary to ensure this section does  
37 not diminish the production of affordable housing or the affordability  
38 of electricity for customers in all-electric buildings. For the purpose  
39 of this subdivision, "affordability of electricity" shall mean that  
40 electricity does not cost more than six percent of a residential custom-  
41 er's income.

42 5. On or before December first, two thousand twenty-eight, the depart-  
43 ment of public service, the department of state, and the New York state  
44 energy research and development authority shall report jointly to the  
45 governor, the temporary president of the senate, the minority leader of  
46 the senate, the speaker of the assembly, and the minority leader of the  
47 assembly, regarding the continued need of waivers established under this  
48 section for commercial food establishments, laboratories, laundromats,  
49 hospitals, or crematoriums. The report shall make recommendations for  
50 the continuance or elimination of such waivers for both new construction  
51 and building conversions.

52 6. Nothing in this section shall be interpreted or otherwise construed  
53 as preempting a municipality from requiring all-electric buildings or  
54 otherwise prohibiting new gas service connections for new buildings and  
55 conversions.

56 § 3. This act shall take effect immediately.