

# STATE OF NEW YORK

8252

## IN SENATE

February 7, 2022

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1

AN ACT to amend the real property tax law, in relation to providing a tax abatement for facility-integrated carbon-to-value equipment

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

1 Section 1. Article 4 of the real property tax law is amended by adding  
2 a new title 5-A to read as follows:

### TITLE 5-A

#### CARBON-TO-VALUE TAX ABATEMENT FOR CERTAIN PROPERTIES IN A CITY OF

#### ONE MILLION OR MORE PERSONS

#### Section 499-aaaaa. Definitions.

7 499-bbbbbb. Tax abatement terms and amounts.

8 499-cccccc. Tax abatement application guidelines and rules.

9 499-dddddd. Tax abatement continuing requirements.

10 499-eeeeee. Tax abatement revocation rules.

11 499-ffffff. Tax abatement enforcement and administration.

12 499-gggggg. Tax lien and interest rules.

13 § 499-aaaaa. Definitions. When used in this title:

14 1. "Anthropogenic carbon dioxide emissions" shall refer to the release  
15 of heat-trapping carbon dioxide pollution into the atmosphere as a  
16 result of human activities.

17 2. "Application for tax abatement" shall mean an application for a  
18 facility-integrated carbon-to-value equipment tax abatement pursuant to  
19 section four hundred ninety-nine-cccc of this title.

20 3. "Carbon dioxide beneficial use" shall refer to a practice that  
21 involves the utilization of carbon dioxide in a process to manufacture a  
22 product or operate equipment that: (a) results in a net reduction in  
23 operational and/or embodied carbon dioxide at a facility or property;  
24 and (b) is verified by a life cycle assessment in compliance with Inter-  
25 national Standard ISO 14040.

26 4. "Carbon dioxide capture" shall refer to the process of capturing  
27 carbon dioxide at emissions point sources located at facilities and  
28 buildings.

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

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1 5. "Carbon dioxide removal" shall refer to the process of removing  
2 carbon dioxide from the atmosphere.

3 6. "Carbon dioxide storage" shall refer to the process of chemically  
4 and/or physically sequestering carbon dioxide emissions from post-indus-  
5 trial or atmospheric sources in materials, products or geological forma-  
6 tions for periods of time equal or greater to one hundred years.

7 7. "Compliance period" shall mean the tax year in which a tax abate-  
8 ment commences and the three tax years immediately thereafter. For  
9 eligible carbon-to-value applications placed in service at eligible  
10 buildings for which annual property tax liability for the eligible  
11 building is less than one hundred thousand dollars, and for which five  
12 percent of the eligible carbon-to-value equipment expenditures exceeds  
13 one hundred thousand dollars, the compliance period shall be extended to  
14 a maximum of eight tax years to allow eligible building owners to avail  
15 a tax abatement equal to the lesser of twenty percent of eligible  
16 carbon-to-value equipment expenditures, or eight hundred thousand  
17 dollars.

18 8. "Designated agency" shall mean one or more agencies or departments  
19 of a city having a population of one million or more persons that are  
20 designated by the mayor of such city to exercise the functions, powers  
21 and duties of a designated agency pursuant to this title, including  
22 certification of eligible carbon-to-value equipment, applications and  
23 buildings.

24 9. "Eligible carbon-to-value application" shall mean the application  
25 of carbon-to-value equipment at facilities for the purposes of mitigat-  
26 ing carbon dioxide emissions that are: (a) generated as a result of the  
27 operation of that facility; and/or (b) the manufacture of materials that  
28 are prepared or produced at that facility, by technologies that remove,  
29 capture and/or beneficially use carbon dioxide, resulting in a net  
30 reduction of carbon dioxide emissions.

31 10. "Eligible building" shall mean class four real property located  
32 within a city having a population of one million or more persons. Desig-  
33 nated agencies shall be empowered to exclude property tax abatement  
34 eligibility of certain building types on the basis of carbon dioxide  
35 emissions reduction and/or environmental justice considerations if the  
36 latter are determined to contradict the intent of existing local laws  
37 that have been established to reduce the carbon dioxide emissions of  
38 such buildings. No building shall be eligible for the property tax  
39 abatement, under this provision, if the designated agencies empowered to  
40 administer such abatement, deem that such building has not exhausted  
41 other viable methods to reduce the building's carbon emissions in align-  
42 ment with rules, objectives and programs established pursuant of exist-  
43 ing local laws. No building shall be eligible for more than one tax  
44 abatement pursuant to this title.

45 11. "Eligible carbon-to-value equipment expenditures" shall mean  
46 reasonable expenditures for materials, labor costs properly allocable to  
47 on-site preparation, assembly and original installation, architectural  
48 and engineering services, and designs and plans directly related to the  
49 construction or installation of a carbon-to-value equipment installed in  
50 connection with an eligible building. Such eligible expenditures shall  
51 not include interest or other finance charges, or any expenditures  
52 incurred using a federal, state or local grant.

53 12. "Environmental justice areas" shall mean low-income communities or  
54 minority communities located in a city of one million or more persons  
55 that have been designated and defined pursuant to local law based on  
56 United States census data.

13. "Facility-integrated carbon-to-value equipment" refers to technologies placed in service at buildings within a city of one million or more persons that remove carbon dioxide from the ambient air, capture carbon dioxide from emissions point sources located at the property, and/or utilize carbon dioxide in the production of goods and materials. Qualified carbon-to-value equipment must perform functions that result either in verifiable carbon dioxide removal and storage or constitute a verifiable carbon dioxide beneficial use that results in reduced or avoided carbon dioxide emissions.

§ 499-bbbbbb. Tax abatement terms and amounts. 1. If the facility-integrated carbon-to-value equipment is placed in service on or after January first, two thousand twenty-two, and not after December thirty-first, two thousand twenty-seven, for each year of the compliance period such tax abatement shall be the lesser of: (a) five percent of eligible facility-integrated carbon-to-value equipment expenditures; (b) the amount of taxes payable in such tax year; or (c) one hundred thousand dollars.

2. For facility-integrated carbon-to-value equipment that captures carbon dioxide from boiler systems that combust fossil-based hydrocarbon fuels eligibility for the property tax abatement shall be restricted to properties that meet the following conditions:

(a) Boiler systems that are located at the property were placed in service between January first, two thousand fourteen and April twenty-second, two thousand nineteen.

(b) The carbon dioxide captured at the property by the proposed carbon-to-value application shall:

(i) be utilized subsequent to capture within the physical jurisdiction of the city with a population of one million or more people; and

(ii) result in the storage of carbon dioxide in materials for periods of no less than one hundred years in duration.

(c) The carbon-to-value application at the property shall demonstrate net carbon dioxide reductions as verified by a life cycle assessment in compliance with International Standard ISO 14040.

(d) The equipment shall not be located at buildings located within designated environmental justice areas as defined by a city of one million or more persons pursuant to local law.

§ 499-cccc. Tax abatement application guidelines and rules. 1. To obtain a tax abatement pursuant to this title, an applicant must file an application for tax abatement, which may be filed on or after January first, two thousand twenty-three, and on or before March fifteenth, two thousand twenty-eight.

2. Such an application shall contain the following:

(a) The name and address of the applicant and the location of the facility-integrated carbon-to-value equipment.

(b) The type of facility-integrated carbon-to-value equipment.

(c) A description of the specific utilization or utilizations of the carbon dioxide that will be removed or captured by the facility-integrated carbon-to-value equipment.

(d) Proof that the applicant received all required certifications, permits and other approvals to construct the facility-integrated carbon-to-value equipment.

(e) Certifications in a form prescribed by a designated agency, from an architect, engineer or other certified or licensed professional whom a designated agency designates by rule, that: (i) a facility-integrated carbon-to-value equipment has been placed in service in connection with an eligible building in accordance with this title, the rules promulgat-

1 ed hereunder, and local construction and fire codes; and (ii) if deemed  
2 applicable by a designated agency, the facility-integrated carbon-to-value  
3 equipment has been placed on the roof of a building or other struc-  
4 ture, that a structural analysis has been performed establishing that  
5 such building or structure can sustain the load of such facility-inte-  
6 grated carbon-to-value equipment. All certifications required by this  
7 title or the rules promulgated hereunder shall set forth the specific  
8 findings upon which the certification is based, and shall include infor-  
9 mation sufficient to identify the eligible building, the certifying  
10 engineer, architect or other professional, and such other information as  
11 may be prescribed by a designated agency.

12 (f) If deemed applicable, an agreement to permit a designated agency  
13 or its designee to inspect the facility-integrated carbon-to-value  
14 equipment and any related structures and equipment upon reasonable  
15 notice.

16 (g) Any other information or certifications required by a designated  
17 agency pursuant to this title and the rules promulgated hereunder.

18 § 499-ddddd. Tax abatement continuing requirements. The tax abatement  
19 shall be conditioned upon:

20 1. continuing compliance during the compliance period with all appli-  
21 cable provisions of law, including without limitation the local  
22 construction and fire codes, maintaining the facility-integrated  
23 carbon-to-value equipment in such a manner that it continuously consti-  
24 tutes a facility-integrated carbon-to-value equipment within the meaning  
25 of this title and the rules promulgated hereunder, and permitting a  
26 designated agency or its designee to inspect the facility-integrated  
27 carbon-to-value equipment and any related structures and equipment upon  
28 reasonable notice; and

29 2. property taxes, water and sewer charges, payments in lieu of taxes  
30 or other municipal charges with respect to an eligible building not  
31 having been due and owing during the compliance period for a period of  
32 six months or more.

33 § 499-eeee. Tax abatement revocation rules. 1. The department of  
34 taxation and finance shall revoke, in whole or in part, any tax abate-  
35 ment granted pursuant to this title whenever a designated agency has  
36 determined and notified the department of taxation and finance that:

37 (a) an applicant has failed to comply with a requirement of this title  
38 or any rule promulgated hereunder at any time during the compliance  
39 period including, but not limited to, any of the continuing requirements  
40 set forth in subdivision one of section four hundred ninety-nine-ddddd  
41 of this title;

42 (b) an eligible building has not been in compliance at any time during  
43 the compliance period with a requirement of this title or any rule  
44 promulgated hereunder;

45 (c) the facility-integrated carbon-to-value equipment for which a tax  
46 abatement was granted has at any time during the compliance period  
47 failed to meet any requirement for a facility-integrated carbon-to-value  
48 equipment pursuant to this title or any rule promulgated hereunder;

49 (d) facility-integrated carbon-to-value equipment has become a fire or  
50 safety hazard at any time during the compliance period; or

51 (e) an application, certification, report or other document submitted  
52 by the applicant contains a false or misleading statement as to a mate-  
53 rial fact or omits to state any material fact necessary in order to make  
54 the statement therein not false or misleading.

55 2. The department of taxation and finance may revoke, in whole or in  
56 part, any tax abatement granted pursuant to this title whenever it has

1 determined that an applicant has failed to comply with the continuing  
2 requirements set forth in section four hundred ninety-nine-ddddd of this  
3 title.

4 3. Where it has been determined by a designated agency, after notice  
5 and an opportunity to be heard, that any of the provisions of subdivi-  
6 sion one of this section have not been complied with, such designated  
7 agency shall notify the department of taxation and finance no later than  
8 the ninetieth day after the last day of the compliance period.

9 4. An applicant shall pay, with interest, such part of any tax abate-  
10 ment received pursuant to this title that represents the period of non-  
11 compliance as determined by the designated agency or the department of  
12 taxation and finance. In addition, a designated agency may declare any  
13 applicant ineligible for future tax abatement pursuant to this title if  
14 any application, certification, report or other document submitted by  
15 the applicant contains a false or misleading statement as to a material  
16 fact or omits to state any material fact necessary in order to make the  
17 statement therein not false or misleading.

18 § 499-fffff. Tax abatement enforcement and administration. 1. The  
19 department of taxation and finance shall have, in addition to any other  
20 functions, powers and duties that have been or may be conferred on it by  
21 law, the following functions, powers and duties to be exercised in  
22 accordance with this title:

23 (a) to apply a tax abatement;

24 (b) to revoke all or part of any such tax abatement;

25 (c) to make and promulgate rules to carry out the purposes of this  
26 title; and

27 (d) any other function, power or duty necessarily implied by this  
28 title.

29 2. A designated agency shall have, in addition to any other functions,  
30 powers and duties that have been or may be conferred on it by law, the  
31 following functions, powers and duties to be exercised in accordance  
32 with this title:

33 (a) to receive, review, approve and deny applications for tax abate-  
34 ment;

35 (b) to inspect facility-integrated carbon-to-value equipment and any  
36 related structures and equipment;

37 (c) to establish permit or certification requirements to determine  
38 when the facility-integrated carbon-to-value equipment has been placed  
39 in service, such as certification by an architect, engineer or other  
40 certified or licensed professional whom a designated agency designates  
41 by rule;

42 (d) to establish guidance and procedures for determining or certifying  
43 eligible facility-integrated carbon-to-value equipment expenditures;

44 (e) to prescribe forms and make and promulgate rules to carry out the  
45 purposes of this title;

46 (f) to make the determinations provided for in this title and to noti-  
47 fy the department of taxation and finance of such determinations; and

48 (g) any other function, power or duty necessarily implied by this  
49 title.

50 3. If a designated agency determines that an architect or engineer or  
51 other certified or licensed professional whom a designated agency desig-  
52 nates by rule, in making any certification under this title or any rule  
53 promulgated hereunder, engaged in professional misconduct, then such  
54 agency shall so inform the education department or other appropriate  
55 certifying or licensing authority.

1     4. A designated agency may provide for reasonable administrative  
2 charges or fees necessary to defray expenses of administering the tax  
3 abatement program established by this title.

4     5. A designated agency and the department of taxation and finance  
5 shall establish procedures that are necessary or appropriate for: (a)  
6 the timely notification to the department of taxation and finance by a  
7 designated agency of an approval of an application for tax abatement or  
8 of any noncompliance pursuant to section four hundred ninety-nine-eeee  
9 of this title; and (b) any other interagency coordination to facilitate  
10 the purposes of this title.

11     § 499-ggggg. Tax lien and interest rules. All taxes, with interest,  
12 required to be paid retroactively pursuant to this title shall consti-  
13 tute a tax lien as of the date it is determined such taxes and interest  
14 are owed. All interest shall be calculated from the date the taxes would  
15 have been due but for the tax abatement granted pursuant to this title  
16 at the applicable rate or rates of interest imposed generally for non-  
17 payment of real property tax with respect to the eligible building for  
18 the period in question.

19     § 2. This act shall take effect immediately.