

STATE OF NEW YORK

1608

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. CARROLL, DINOWITZ, ENGLEBRIGHT, COLTON, EPSTEIN, FAHY, HYNDMAN, NIOU, STIRPE, SIMON -- Multi-Sponsored by -- M. of A. DAVILA, FRONTUS -- 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.

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

LBD05512-01-1

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

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

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

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

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

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

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

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

38 3. Application for tax abatement. (a) To obtain a tax abatement pursu-
39 ant to this section, an applicant shall file an application for tax
40 abatement on or after January first, two thousand twenty-three, and on
41 or before March fifteenth, two thousand twenty-five for eligible geoth-
42 ermal well expenditures.

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

46 (c) Such application shall contain the following:

47 (i) The name and address of the applicant and the location of the
48 geothermal well system.

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

51 (iii) Certifications in a form prescribed by the department, from an
52 architect, engineer or other certified or licensed professional, that
53 the geothermal well system has been placed in service in accordance with
54 this section, the rules promulgated hereunder, and local construction
55 and fire codes. All certifications required by this section or the
56 rules promulgated hereunder shall set forth the specific findings upon

1 which the certification is based, and shall include information suffi-
2 cient to identify the location of the geothermal well, the certifying
3 engineer, architect or other professional, and such other information as
4 may be prescribed by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (d) All taxes, with interest, required to be paid retroactively pursu-
2 ant to this subdivision shall constitute a tax lien as of the date it is
3 determined such taxes and interest are owed. All interest shall be
4 calculated from the date the taxes would have been due but for the tax
5 abatement granted pursuant to this section at the applicable rate or
6 rates of interest imposed generally for non-payment of real property tax
7 with respect to such taxed property for the period in question.

8 § 2. This act shall take effect immediately.