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:

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

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

(a) "Architect" shall mean a person licensed and registered to practice the profession of architecture under the education law.

(b) "Compliance period" shall mean the tax year in which a tax abatement commences and the three tax years immediately thereafter.

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

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

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

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

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

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

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

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

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

(e) The tax abatement shall be conditioned upon:

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

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

3. Application for tax abatement. (a) To obtain a tax abatement pursuant to this section, an applicant shall file an application for tax abatement on or after January first, two thousand twenty-three, and on or before March fifteenth, two thousand twenty-five for eligible geothermal well expenditures.

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

(c) Such application shall contain the following:

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

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

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

which the certification is based, and shall include information sufficient to identify the location of the geothermal well, the certifying engineer, architect or other professional, and such other information as may be prescribed by the department.

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

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

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

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

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

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

(i) an applicant has failed to comply with a requirement of this section or any rule promulgated hereunder at any time during the compliance period, including without limitation any of the continuing requirements set forth in subdivision two of this section;

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.