

STATE OF NEW YORK

9603

IN SENATE

November 23, 2022

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the real property tax law, in relation to establishing an abatement and exemption from real property taxes for capital improvements to reduce carbon emissions; and to repeal such provisions upon the expiration thereof

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

1 Section 1. Legislative intent. New York's nation leading climate law,
2 the climate leadership and community protection act of 2019 (CLCPA),
3 requires the state to reduce its greenhouse gas emissions to 40 percent
4 below 1990 levels by 2030, and 85 percent below 1990 levels by 2050,
5 among other goals. At the same time, New York city's local law number 97
6 for the year 2019 requires buildings over 25,000 square feet to reduce
7 their carbon emissions to comply with increasingly stringent emissions
8 limits. While New York's building stock accounts for more than 25
9 percent of statewide greenhouse gas emissions and transportation is a
10 top emitter, in New York city that ratio is reversed, with buildings
11 accounting for approximately 70 percent of greenhouse gas emissions. As
12 such, reaching the state and city's climate goals will require signif-
13 icant investment to decarbonize buildings including through electrifica-
14 tion, energy efficiency, and the use of new technologies and energy
15 sources. The use of this targeted abatement, which would be available to
16 support all property owners that are meaningfully engaged in reducing
17 carbon emissions will ensure the success of the CLCPA and local law 97.
18 This legislation will benefit all New Yorkers by ensuring that our
19 buildings can play a vital role in decarbonization.

20 § 2. The real property tax law is amended by adding a new section
21 488-b to read as follows:

22 § 488-b. Abatement and exemption from real property taxes for capital
23 improvements to reduce carbon emissions. 1. For the purposes of this
24 section, the following terms shall have the meaning specified in this
25 subdivision:

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

LBD16565-01-2

1 a. "Eligible real property" shall mean a property located within a
2 city of one million or more that is:

3 (i) any class B multiple dwelling as defined in the multiple dwelling
4 law;

5 (ii) any class A multiple dwelling as defined in the multiple dwelling
6 law;

7 Notwithstanding the foregoing, eligible real property shall not
8 include college and school dormitories, club houses, or residences whose
9 occupancy is restricted to an institutional use such as housing intended
10 for use primarily or exclusively by the employees of a single company or
11 institution. A building is an eligible real property only if it quali-
12 fies as such after completion of the eligible improvements, but need not
13 have been an eligible real property prior to the eligible improvements;

14 (iii) any non-residential, commercial property used primarily for the
15 buying, selling or otherwise providing of goods or services inclusive of
16 manufacturing and office space;

17 (iv) any single family private dwelling; or

18 (v) any two-family private dwelling.

19 b. "Eligible improvements" shall be limited to categories of work that
20 result in a reduction of greenhouse gas emissions for the building,
21 provided further that such work shall be in conformity with all applica-
22 ble laws. Eligible improvements shall include, but not be limited to,
23 any of the following types of improvements:

24 (i) design, permitting, and technical analysis work required to iden-
25 tify, measure, and complete eligible work including the development of
26 carbon emissions reduction strategies and plans;

27 (ii) cleaning, resurfacing or repair of adjacent surfaces, inclusive
28 of the replacement or installation of windows, walls, ceilings, floors,
29 doors or trim where necessary;

30 (iii) pointing, waterproofing and repair of building envelope, includ-
31 ing cleaning of entire building exterior surface to prepare for such
32 work, in the course of the replacement, installation or upgrading of
33 eligible systems or equipment;

34 (iv) replacement, repair or installation of new systems for heating or
35 cooling, including domestic hot water;

36 (v) installation of solar, green roofs or other mechanisms to offset
37 use of energy from the electricity grid;

38 (vi) replacement, or installation of insulation in walls, roofs,
39 flooring, eaves, and around pipes;

40 (vii) replacement or installation of thermostats to control temper-
41 ature and building management systems;

42 (viii) installation of energy efficient appliances, fixtures, or
43 lighting;

44 (ix) repair, replacement and modification of electrical systems,
45 and/or wiring associated therewith;

46 (x) appurtenant labor, equipment and supplies; and

47 (xi) any other categories of work established by the board in regu-
48 lations that results in a net reduction in greenhouse gas emissions for
49 the building.

50 c. "Board" shall mean the energy efficiency improvement board estab-
51 lished by this section.

52 d. "Department of buildings" shall mean the department of buildings in
53 the city of New York.

54 2. Eligible property reconstructed, altered or improved subsequent to
55 the effective date of this section shall be exempt from taxation and
56 special ad valorem levies to the extent provided in this section. Any

1 exemption or abatement permitted pursuant to this section shall take
2 effect no sooner than July first next succeeding the effective date of
3 this section.

4 3. There is hereby established an energy efficiency improvement board
5 within the office of real property services, which shall consist of four
6 members appointed by the governor, one of whom shall be the commissioner
7 of taxation and finance, ex-officio, one of whom shall be the president
8 of the New York state energy research and development authority, ex-of-
9 ficio, one of whom shall be the commissioner of homes and community
10 renewal, ex-officio, and a fourth member who shall have experience in
11 the construction of multiple dwellings. The board shall additionally
12 have two, non-voting members appointed by the mayor of the city of New
13 York. The board shall be responsible for administering the benefits
14 conferred by this section. The board shall appoint staff, within amounts
15 appropriated therefor, to assist it in the execution of its duties. The
16 board members shall be entitled to reimbursement of their actual and
17 necessary expenses in the discharge of their duties, but shall not
18 otherwise be entitled to any compensation for their service. The board
19 shall promulgate a regulation to establish a methodology to determine
20 the greenhouse gas emissions of a building, and by regulation establish
21 a formula that applicants can utilize to determine the reduction in
22 emissions created by any improvements permitted by this section. The
23 improvements described in subparagraphs (i), (ii) and (x) of paragraph b
24 of subdivision one of this section which do not inherently reduce emis-
25 sions, may only be approved if they are part of an application which
26 includes other projects which have the net effect of reducing the net
27 greenhouse gas emissions of the building if the building is character-
28 ized as an eligible real property pursuant to subparagraph (i), (ii) or
29 (iii) of paragraph a of subdivision one of this section. For an eligible
30 real property defined in subparagraph (iv) or (v) of paragraph a of
31 subdivision one of this section, the benefits of subparagraph (i) of
32 paragraph b of subdivision one of this section may be claimed independ-
33 ently at a reduced benefit of fifty percent of actual costs as provided
34 further in this section. The board shall promulgate an application for
35 benefits afforded to owners under this section, and shall establish a
36 process to review applications for the benefits under this section. The
37 board may promulgate regulations to allow for additional classes or
38 categories of work that should entitle an individual to an exemption and
39 abatement under this section, upon a finding that such work has a bene-
40 ficial impact on greenhouse gas emissions. The board shall approve
41 reasonable costs associated with the work proposed and may use as a
42 guide the typical costs of such improvements, and update such informa-
43 tion annually. Any application for benefits shall be approved or denied
44 within one year of submission, or if an affirmative approval or denial
45 has not been given, then such application shall be deemed approved. The
46 board shall establish a process to communicate with the department of
47 finance in the city of New York as to their determinations, such that it
48 may promptly update the tax rolls.

49 4. Any increase in assessed valuation of eligible real property
50 resulting from eligible improvements shall be exempt from taxation for
51 local purposes for a period of twenty years, provided that:

52 a. the eligible improvements are commenced after December thirty-
53 first, two thousand twenty-one, and are completed within sixty months of
54 the issuance of a permit by the department of buildings;

55 b. the eligible improvements are approved by the board with respect to
56 their costs and their qualifications for the benefits of this section;

1 c. the exemption may commence no sooner than the July first following
2 the filing with the local agency responsible for real property tax
3 assessment an application for such assessment, provided that if the
4 board has not established the amount of such assessment prior to such
5 filing, that no such increase in assessment shall be permitted until
6 such time as the board determines that the cost or work is otherwise not
7 qualified for such exemption; provided, however, that no abatement of
8 existing taxes shall be permitted until such time as an application is
9 approved, or deemed approved as applicable. If the rehabilitation is
10 carried out with substantial government assistance as part of a program
11 for affordable housing, the exemption may commence no sooner than the
12 July first following the commencement of construction of eligible
13 improvements;

14 d. there shall be no outstanding real estate taxes, water and sewer
15 charges, payments in lieu of taxes or other municipal charges due and
16 owing as of the tax quarter prior to commencement of tax exemption to
17 this section;

18 e. no person who lives in the eligible real property shall be required
19 by the owner to permanently vacate the eligible real property in order
20 to perform the eligible improvements or any related work;

21 f. notwithstanding the provisions of any state or local law, rule or
22 regulation to the contrary, the exemption shall be available notwith-
23 standing the receipt of any other benefit under state, local or federal
24 law.

25 5. Eligible real property which qualifies for exemption from taxation
26 for local purposes for eligible improvements shall also be eligible for
27 an abatement of real property taxes not to exceed the cost of eligible
28 improvements certified by the board, which abatement may commence on the
29 first day of the first tax quarter following the filing with the local
30 agency responsible for real property tax assessment of a certification
31 of eligibility issued by the board for such abatement; provided, however
32 that if the rehabilitation is carried out with substantial government
33 assistance as part of a program for affordable housing the abatement may
34 commence no sooner than the first day of the first tax quarter following
35 the commencement of construction of eligible improvements, provided
36 that:

37 a. the annual abatement shall not exceed the amount of taxes otherwise
38 payable in the corresponding tax year;

39 b. the period during which such abatement is effective shall not
40 exceed the following amounts, which shall be determined by regulations
41 which establish a methodology to determine such amounts, which shall
42 establish a base year for calculating the percentage on the building's
43 prior calendar year building emissions report as required by article
44 three hundred twenty of chapter three of title twenty-eight of the
45 administrative code of the city of New York, or if not required to file
46 a building emissions report, then a benchmarking report required by
47 article three hundred nine of chapter three of title twenty-eight of the
48 administrative code of the city of New York;

49 (i) two years for a greenhouse gas emission reduction of between two
50 to five percent;

51 (ii) five years for a greenhouse gas emission reduction of between
52 five to ten percent;

53 (iii) six years for a greenhouse gas emission reduction of between ten
54 to twelve percent;

55 (iv) seven years for a greenhouse gas emission reduction of between
56 twelve to fifteen percent;

1 (v) eight years for a greenhouse gas emission reduction of between
2 fifteen to seventeen percent;

3 (vi) nine years for a greenhouse gas emission reduction of between
4 seventeen to twenty percent;

5 (vii) ten years for a greenhouse gas emission reduction of between
6 twenty to twenty-five percent;

7 (viii) fifteen years for a greenhouse gas emission reduction of
8 between twenty-five to thirty percent; and

9 (ix) twenty years for a greenhouse gas emission reduction of in excess
10 of thirty percent;

11 c. the abatement shall be available for consecutive years from the
12 date such abatement first becomes effective;

13 d. the total abatement shall be the lesser of two hundred percent of
14 the certified reasonable costs of eligible improvements or the actual
15 costs as determined by the board pursuant to its rules and regulations;
16 and

17 e. notwithstanding the provisions of any state or local law, rule or
18 regulation to the contrary, the abatement shall be available notwith-
19 standing the receipt of any other benefit under state, local or federal
20 law.

21 6. During the period of tax exemption or abatement pursuant to this
22 section, the owner shall submit an annual certification to the board.
23 Failure to submit such certification may result in revocation of bene-
24 fits. Such certification shall include the following:

25 a. the annual greenhouse gas emissions and usage of energy for the
26 building;

27 b. a statement that the property currently complies with all building
28 and housing codes and that no tax required to be paid is in arrears; and

29 c. all such other information required by the board.

30 7. During the period of tax exemption or abatement pursuant to this
31 section, the exemption and abatement may be revoked upon a violation of
32 applicable oversight laws, where an agency with jurisdiction to enforce
33 such laws has requested a suspension of abatement or exemption based
34 upon violations of the multiple dwelling law, the local building code
35 and the local housing maintenance code, or other applicable law or regu-
36 lation.

37 8. The benefits of this section may be revoked or reduced upon a find-
38 ing by the board that:

39 a. the application for benefits hereunder or the annual certification
40 required hereunder contains a false statement or false information as to
41 a material matter or omits a material matter;

42 b. real estate taxes, water and sewer charges, payments in lieu of
43 taxes or other municipal charges are due and owing for more than one
44 year; or

45 c. the eligible real property fails to provide the annual certifi-
46 cation required by this section; and

47 d. after receiving notice of such a failure, that such owner has
48 failed to cure the deficiency within ninety days.

49 9. The local agencies of government charged with the administration of
50 this section may promulgate rules and regulations to carry out the
51 provisions of this section.

52 § 3. This act shall take effect immediately and shall expire and be
53 deemed repealed December 31, 2030.