

# STATE OF NEW YORK

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2257

2023-2024 Regular Sessions

## IN ASSEMBLY

January 25, 2023

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Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to clarifying the definition of "first building permit" for purposes of filing requirements to qualify for an abatement of tax payments for certain industrial and commercial properties located in a city of one million or more persons

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

1 Section 1. Subdivisions 1 and 2 and paragraph (a) of subdivision 5 of  
2 section 489-cccccc of the real property tax law, as added by chapter 119  
3 of the laws of 2008, subparagraph (ii) of paragraph (a) of subdivision 5  
4 as amended by chapter 397 of the laws of 2017, subparagraph (iii) of  
5 paragraph (a) of subdivision 5 as added by chapter 361 of the laws of  
6 2021, are amended to read as follows:

7 1. Time limit for meeting minimum required expenditure. Applicants  
8 must meet the appropriate minimum required expenditure as provided in  
9 subdivision three of section four hundred eighty-nine-bbbbbbb of this  
10 title relating to the abatement for which such project qualifies as  
11 follows:

12 (a) No later than four years from the date of issuance of the first  
13 building permit that allows actual construction work on the proposed  
14 project, not merely site preparation, to commence, or if no permit was  
15 required, the commencement of construction.

16 (b) Mixed use properties. Expenditures for construction work related  
17 to the common areas and systems of such property shall be allocated  
18 under rules promulgated by the department between the residential,  
19 nonresidential and retail, if any, portions of the property.

20 2. Time limit for completion of construction. Construction of build-  
21 ings or structures for which benefits have been approved shall be  
22 completed no later than five years from the date of issuance of the

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

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1 first building permit that allows actual construction work on the  
2 proposed project, not merely site preparation, to commence, or if no  
3 permit was required, the commencement of construction. Failure to meet  
4 this requirement shall result in termination of any inflation protection  
5 provided under subdivision three of section four hundred eighty-nine-  
6 bbbbbb of this title for any tax year that begins following the date by  
7 which completion of construction is required under this paragraph.

8 (a) Time to file. (i) Preliminary application. (A) Building permit.  
9 No benefits pursuant to this title shall be granted for any construction  
10 work unless the applicant filed a preliminary application for such bene-  
11 fits on or before the date of issuance of the first building permit that  
12 allows actual construction work on the proposed project, not merely site  
13 preparation, to commence for such work. This requirement may be satis-  
14 fied where the applicant's architect, contractor or other representative  
15 authorized to file the application for such building permit files with  
16 the department on behalf of the applicant a preliminary application  
17 containing such information as the department shall prescribe by rule.

18 (B) No building permit required. Where construction work does not  
19 require a building permit, a notarized letter from the project's archi-  
20 tect or engineer notifying the department of this fact shall be filed  
21 within thirty calendar days of the commencement of construction. In  
22 such circumstance, such letter shall also satisfy the requirement of a  
23 preliminary application if the letter contains all of the information  
24 required for a preliminary application under rules prescribed by the  
25 department.

26 (ii) Final application. Applicants shall file a final application for  
27 benefits no later than one year from the date of issuance of the first  
28 building permit [~~for construction work~~] that allows actual construction  
29 work on the proposed project, not merely site preparation, to commence,  
30 or, where construction work does not require a building permit, no later  
31 than one year from the date of commencement of construction. Abatement  
32 benefits shall not be granted until the applicant files the final appli-  
33 cation. If the final application is not filed within such one year peri-  
34 od, abatement benefits shall not be granted until such application is  
35 filed, and the department may delay the granting of such benefits, at  
36 the department's discretion, to investigate the reason for the late  
37 filing.

38 (iii) Time limit; final application. Notwithstanding any provision of  
39 law to the contrary, the time limit to file a final application for  
40 benefits as specified in subparagraph (ii) of this paragraph shall not  
41 apply to brand-new construction from the ground up located on property  
42 purchased from the city of New York where such property which is the  
43 site of the new construction was purchased from the city of New York for  
44 the purposes of an eligible development pursuant to this article and  
45 where the sales agreement with the city of New York for such property  
46 includes a restriction preventing the sale or transfer of such property  
47 for a period of five years or more and where the first valuation and  
48 assessment for the purposes of property taxes occurred within that peri-  
49 od of restriction from sale, provided the project meets the other  
50 requirements of this title.

51 § 2. This act shall take effect immediately and shall apply to  
52 construction projects that:

53 (i) were delayed as a result of environmental damage due to Hurricane  
54 Sandy in the fall of 2012; and

55 (ii) for which a decision is under contested review by a court of  
56 competent jurisdiction or by the New York City Department of Finance.