

STATE OF NEW YORK

5050

2023-2024 Regular Sessions

IN ASSEMBLY

February 27, 2023

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

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 Assem-
bly, 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

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

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1 section, the following terms shall have the meanings specified in this
2 subdivision:

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

5 (i) any class B multiple dwelling as defined in the multiple dwelling
6 law;

7 (ii) any class A multiple dwelling as defined in the multiple dwelling
8 law;

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

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

19 (iv) any single family private dwelling; or

20 (v) any two-family private dwelling.

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

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

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

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

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

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

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

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

44 (viii) installation of energy efficient appliances, fixtures, or
45 lighting;

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

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

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

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

54 d. "Department of buildings" shall mean the department of buildings in
55 the city of New York.

1 2. Eligible property reconstructed, altered or improved subsequent to
2 the effective date of this section shall be exempt from taxation and
3 special ad valorem levies to the extent provided in this section. Any
4 exemption or abatement permitted pursuant to this section shall take
5 effect no sooner than July first next succeeding the effective date of
6 this section.

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

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

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

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

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

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

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

26 f. notwithstanding the provisions of any state or local law, rule or
27 regulation to the contrary, the exemption shall be available notwith-
28 standing the receipt of any other benefit under state, local or federal
29 law.

30 5. Eligible real property which qualifies for exemption from taxation
31 for local purposes for eligible improvements shall also be eligible for
32 a ten or twenty year abatement of real property taxes not to exceed the
33 cost of eligible improvements certified by the board, which abatement
34 may commence on the first day of the first tax quarter following the
35 filing with the local agency responsible for real property tax assess-
36 ment of a certification of eligibility issued by the board for such
37 abatement; provided, however that if the rehabilitation is carried out
38 with substantial government assistance as part of a program for affor-da-
39 ble housing the abatement may commence no sooner than the first day of
40 the first tax quarter following the commencement of construction of
41 eligible improvements, provided that:

42 a. the annual abatement shall not exceed the amount of taxes otherwise
43 payable in the corresponding tax year, provided that excess costs which
44 are not applied in any tax year may be carried forward for the remainder
45 of the period of the abatement applicable to such improvement;

46 b. the amount of such abatement shall not exceed the following amounts
47 and durations, which shall be determined by regulations establishing a
48 methodology to calculate the annual abatement for such applicable work.
49 Such methodology shall establish a base year for calculating the
50 percentage on the building's prior calendar year building emissions
51 report as required by article three hundred twenty of chapter three of
52 title twenty-eight of the administrative code of the city of New York,
53 or if not required to file a building emissions report, then a bench-
54 marking report required by article three hundred nine of chapter three
55 of title twenty-eight of the administrative code of the city of New
56 York;

(i) a ten year abatement shall apply for projects which have a greenhouse gas emission reduction of between two percent and twenty-nine percent as follows:

(1) five percent of the costs of such improvement annually for a greenhouse gas emission reduction of between two to five percent;

(2) six and one-half percent of the costs of such improvement annually for a greenhouse gas emission reduction of between five to ten percent;

(3) seven percent of the costs of such improvement annually for a greenhouse gas emission reduction of between ten to twelve percent;

(4) seven and one-half percent of the costs of such improvement annually for a greenhouse gas emission reduction of between twelve to fifteen percent;

(5) eight percent of the costs of such improvement annually for a greenhouse gas emission reduction of between fifteen to seventeen percent;

(6) eight and one-half percent of the costs of such improvement annually for a greenhouse gas emission reduction of between seventeen to twenty percent;

(7) nine percent of the costs of such improvement annually for a greenhouse gas emission reduction of between twenty to twenty-five percent;

(8) nine and one-half percent of the costs of such improvement annually for a greenhouse gas emission reduction of between twenty-five to twenty-nine percent; and

(ii) up to a twenty year abatement shall apply for projects which have a greenhouse gas emission reduction of thirty percent or more as follows: ten percent of the costs of such improvement annually, provided that in any year in which such ten percent exceeds the tax owed, excess amounts shall carry forward until the earlier of years is reached, or one hundred percent of the costs of such improvement are expended.

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

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

e. notwithstanding the provisions of any state or local law, rule or regulation to the contrary, the abatement shall be available notwithstanding the receipt of any other benefit under state, local or federal law.

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

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

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

c. all such other information required by the board.

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

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

3 a. the application for benefits hereunder or the annual certification
4 required hereunder contains a false statement or false information as to
5 a material matter or omits a material matter;

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

9 c. the eligible real property fails to provide the annual certif-
10 ication required by this section; and

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

13 9. The local agencies of government charged with the administration of
14 this section may promulgate rules and regulations to carry out the
15 provisions of this section.

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