STATE OF NEW YORK

5080--B

2023-2024 Regular Sessions

IN SENATE

February 22, 2023

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling law, in relation to facilitating conversion of commercial buildings to residential uses in New York city; and providing for the repeal of certain provisions of such law relating thereto (Part A); to amend the labor law and the real property tax law, in relation to authorizing exemptions from real property taxation of certain multiple dwellings converted from commercial use in New York city that include affordable housing (Part B); and to amend the labor law and the real property tax law, in relation to exemptions of eligible newly constructed rental multiple dwellings or conversions to rental multiple dwellings in villages, towns, and cities other than New York city (Part C)

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

Section 1. This act enacts into law major components of legislation necessary to facilitate the conversion of commercial buildings to residential uses in New York city and to authorize property tax exemptions of converted buildings that include affordable housing. Each component is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found.

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

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Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Subdivision 11 of section 3 of the multiple dwelling law, as amended by chapter 806 of the laws of 1972, is amended to read as follows:

11. Notwithstanding any other provision of this section, the following enumerated articles, sections and subdivisions of sections of this chapter shall not apply to the construction or alteration of multiple dwellings for which an application for a permit is made to the department after December sixth, nineteen hundred sixty-nine in a city having a population of one million or more [~~which adopts or has adopted local laws, ordinances, resolutions or regulations providing protection from fire hazards and making provision for escape from fire in the construction and alteration of multiple dwellings and in other respects as protective as local law seventy-six of the laws of the city of New York for nineteen hundred sixty-eight and covering the same subject matter as the following~~]: subdivisions twenty-five, twenty-seven, twenty-eight, thirty-five-c, thirty-six and thirty-nine of section four, subdivision three of section twenty-eight, sections thirty-six, thirty-seven, fifty, fifty-one, fifty-two, fifty-three, fifty-five, sixty, sixty-one, sixty-seven, subdivisions one, two, four and five of section seventy-five, article four, article five, article five-A[~~,~~] **and** article six [~~and article seven-B~~]; except that after December sixth, nineteen hundred sixty-nine where a multiple dwelling erected prior to December sixth, nineteen hundred sixty-nine is altered, or a building erected prior to December sixth, nineteen hundred sixty-nine is converted to a multiple dwelling pursuant to a permit applied for to the department having jurisdiction, the foregoing articles, sections and subdivisions of sections shall remain applicable where a local law of such city authorizes such alteration or conversion to be made, at the option of the owner, either in accordance with the requirements of the building law and regulations in effect in such city prior to December sixth, nineteen hundred sixty-eight or the requirements of the building law and regulations in effect after such date, and the owner elects to comply with the requirements of the building law and regulations in effect prior to December sixth, nineteen hundred sixty-eight.

§ 2. Section 275 of the multiple dwelling law, as added by chapter 734 of the laws of 1985, is amended to read as follows:

§ 275. Legislative findings. **1.** It is hereby declared and found that in cities with a population in excess of one million, large numbers of loft, manufacturing, commercial, institutional, public and community facility buildings have lost, and continue to lose, their tenants to more modern premises; and that the untenanted portions of such buildings constitute a potential housing stock within such cities which is capable, when appropriately altered, of accommodating general residential use, thereby contributing to an alleviation of the housing shortage most severely affecting **low,** moderate and middle income families **and individuals**, and of accommodating joint living-work quarters for artists by making readily available space which is physically and economically suitable for use by persons regularly engaged in the arts.

There is a public purpose to be served by making accommodations readily available for joint living-work quarters for artists for the following reasons: persons regularly engaged in the arts require larger

amounts of space for the pursuit of their artistic endeavors and for the storage of the materials therefor and of the products thereof than are regularly to be found in dwellings subject to this article; that the financial remunerations to be obtained from pursuit of a career in the arts are generally small; that as a result of such limited financial remuneration persons regularly engaged in the arts generally find it financially impossible to maintain quarters for the pursuit of their artistic endeavors separate and apart from their places of residence; that the cultural life of cities of more than one million persons within this state and of the state as a whole is enhanced by the residence in such cities of large numbers of persons regularly engaged in the arts; that the high cost of land within such cities makes it particularly difficult for persons regularly engaged in the arts to obtain the use of the amounts of space required for their work as aforesaid; and that the residential use of the space is secondary or accessory to the primary use as a place of work.

It is further declared that the legislation governing the alteration of such buildings to accommodate general residential use must of necessity be more restrictive than statutes heretofore in effect, which affected only joint living-work quarters for artists.

It is the intention of this legislation to promulgate statewide minimum standards for all alterations of non-residential buildings to residential use, but the legislature is cognizant that the use of such buildings for residential purposes must be consistent with local zoning ordinances. The legislature further recognizes that it is the role of localities to adopt regulations which will define in further detail the manner in which alterations should be carried out where building types and conditions are peculiar to their local environment.

2. It is hereby additionally declared and found that in cities with a population in excess of one million, large numbers of commercial buildings have lost, and continue to lose, their tenants to more modern premises and to the changing nature and increased prevalence of remote office work in the wake of the COVID-19 pandemic; that the untenanted portions of such buildings constitute a potential housing stock within such cities which is capable, when appropriately altered, of accommodating general residential use, thereby contributing to an alleviation of the housing shortage, especially the shortage of affordable housing, is a critical problem that threatens the economic, environmental, and social quality of life throughout New York state and disproportionately burdens certain New Yorkers including, but not limited to, low- and moderate-income, racial and ethnic minority, and elderly households; that the geographic areas with the greatest number of commercial buildings most suitable for conversion to residential use are areas with a particularly acute shortage of affordable housing; that in furtherance of overall housing production goals and affordable housing production goals, and to promote the greatest efficiency, it is both a matter of state concern and the policy of the state to permit conversions of commercial buildings to residential uses under the terms of this article, including the terms that require affordable housing to be included in such buildings; and that in order to prevent housing insecurity, hardship, and dislocation, the provisions of this article are designed to protect the public health, safety, and general welfare of the residents of New York state.

§ 3. Section 276 of the multiple dwelling law, as amended by chapter 420 of the laws of 2022, is amended to read as follows:

§ 276. [~~Definition of an artist~~] Definitions. As used in this article, the following terms shall have the following meanings:

1. The word "artist" means a person who is regularly engaged in the fine arts, such as painting and sculpture or in the performing or creative arts, including choreography and filmmaking, or in the composition of music on a professional basis, and is so certified by the city department of cultural affairs and/or state council on the arts. For joint living-work quarters for artists limited to artists' occupancy by local zoning resolution, any permanent occupant whose residence therein began on or before December fifteenth, two thousand twenty-one shall be deemed to meet such occupancy requirements under the same rights as an artist so certified in accordance with applicable law.

2. The term "general residential purposes" means use of a building as a class A multiple dwelling, except that such term shall not include a rooming unit as defined in section 27-2004 of the administrative code of the city of New York other than a rooming unit in a class A or class B multiple dwelling that is authorized pursuant to section 27-2077 of such administrative code.

§ 4. The multiple dwelling law is amended by adding a new section 279 to read as follows:

§ 279. Occupancy of commercial buildings. 1. Any building, except a transient hotel, boatel, motel, or tourist cabin as described in sections 32-14 and 32-16 of the zoning resolution of the city of New York, in a city with a population of one million or more persons which was occupied for loft, commercial, institutional, public, community facility or manufacturing purposes at any time prior to December thirty-first, nineteen hundred ninety, may be occupied, in whole or in part, for general residential purposes if such occupancy is in compliance with this article and in compliance with the requirements of section four hundred sixty-seven-m of the real property tax law, notwithstanding any other article of this chapter, or any provision of law covering the same subject matter, except as otherwise required by the zoning resolution of such city.

2. Occupancy pursuant to this section shall be permitted only if the conditions in subdivisions one through sixteen of section two hundred seventy-seven of this article are complied with, except that the conversion shall not be required to include joint living-work quarters for artists, and provided further that conversions undertaken pursuant to this section shall not be subject to subdivision three of section twenty-six of this chapter.

3. Notwithstanding any provision of this section to the contrary, any restriction based on the year a building was constructed or occupied, any limit on the number of allowable dwelling units in a building, or any prohibition on the conversion of rooming units as set forth in chapter five of article I of the zoning resolution of the city of New York, shall not prohibit the conversion to, or occupancy of, a building pursuant to this section.

§ 5. Where a complete application for construction document approval for the conversion of a building pursuant to the provisions of this act is filed prior to December 31, 2030, such conversion shall be authorized to proceed as if subdivision 3 of section 279 of the multiple dwelling law, as added by section four of this act, remained in effect, so long as construction of such project begins within the earlier to occur of three years from December 31, 2030 or the date the initial permit for such construction expires.

§ 6. This act shall take effect immediately; provided, however, that subdivision 3 of section 279 of the multiple dwelling law as added by section four of this act shall expire and be deemed repealed on December 31, 2030; provided further, however, that the repeal of subdivision 3 of section 279 of the multiple dwelling law as added by section four of this act shall not affect the use of any building for general residential purposes, as such term is defined in article 7-B of the multiple dwelling law, permitted prior to such repeal.

PART B

Section 1. Paragraphs c and d of subdivision 2 of section 224-a of the labor law, as added by section 1 of part FFF of chapter 58 of the laws of 2020, are amended and a new paragraph e is added to read as follows:

c. Money loaned by the public entity that is to be repaid on a contingent basis; [~~or~~]

d. Credits that are applied by the public entity against repayment of obligations to the public entity[~~.~~]; or

e. Benefits under section four hundred sixty-seven-m of the real property tax law.

§ 2. The real property tax law is amended by adding a new section 467-m to read as follows:

§ 467-m. Exemption from local real property taxation of certain multiple dwellings in a city having a population of one million or more. 1. Definitions. For purposes of this section, the following terms shall have the following meanings:

a. "Affordable housing from commercial conversions tax incentive benefits" hereinafter referred to as "AHCC program benefits", shall mean the exemption from real property taxation authorized pursuant to this section.

b. "Affordability requirement" shall mean that within any eligible multiple dwelling: (i) not less than twenty percent of the dwelling units are affordable housing units; (ii) not less than five percent of the dwelling units are affordable housing forty percent units; (iii) the weighted average of all income bands for all of the affordable housing units does not exceed seventy percent of the area median income, adjusted for family size; (iv) there are no more than three income bands for all of the affordable housing units; and (v) no income band for affordable housing units exceeds one hundred percent of the area median income, adjusted for family size.

c. "Affordable housing forty percent unit" shall mean a dwelling unit that: (i) is situated within the eligible multiple dwelling for which AHCC program benefits are granted; and (ii) upon initial rental and upon each subsequent rental following a vacancy during the restriction period, is affordable to and restricted to occupancy by individuals or families whose household income does not exceed forty percent of the area median income, adjusted for family size, at the time that such household initially occupies such dwelling unit.

d. "Affordable housing unit" shall mean, collectively and individually: (i) an affordable housing forty percent unit; and (ii) any other unit that meets the affordability requirement upon initial occupancy and upon each subsequent rental following a vacancy during the restriction period, and is affordable to and restricted to occupancy by individuals or families whose household income does not exceed the income bands established in conjunction with such affordability requirement.

e. "Agency" shall mean the New York city department of housing preservation and development.

f. "Application" shall mean an application for AHCC program benefits.

g. "Building service employee" shall mean any person who is regularly employed at, and performs work in connection with the care or maintenance of, an eligible multiple dwelling, including, but not limited to, a watchman, guard, doorman, building cleaner, porter, handyman, janitor, gardener, groundskeeper, elevator operator and starter, and window cleaner, but not including persons regularly scheduled to work fewer than eight hours per week at such eligible multiple dwelling.

h. "Commencement date" shall mean the date upon which the actual construction of the eligible conversion lawfully begins in good faith.

i. "Completion date" shall mean the date upon which the local department of buildings issues the first temporary or permanent certificate of occupancy covering all residential areas of an eligible multiple dwelling.

j. "Construction period" shall mean, with respect to any eligible multiple dwelling, a period: (i) beginning on the later of the commencement date or three years before the completion date; and (ii) ending on the day preceding the completion date.

k. "Dwelling" or "dwellings" shall have the same meaning as set forth in subdivision four of section four of the multiple dwelling law.

l. "Eligible conversion" shall mean the conversion of a non-residential building, except a transient hotel, boatel, motel, or tourist cabin as described in sections 32-14 and 32-16 of the zoning resolution of the city of New York, to an eligible multiple dwelling.

m. "Eligible multiple dwelling" shall mean a multiple dwelling which was subject to an eligible conversion and in which: (i) all dwelling units included in any application are operated as rental housing; (ii) six or more dwelling units have been created through an eligible conversion; (iii) the commencement date is after December thirty-first, two thousand twenty-two and on or before December thirty-first, two thousand thirty-two; and (iv) the completion date is on or before December thirty-first, two thousand thirty-eight.

n. "Fiscal officer" shall mean the comptroller or other analogous officer in a city having a population of one million or more.

o. "Floor area" shall mean the horizontal areas of the several floors, or any portion thereof, of a dwelling or dwellings, and accessory structures on a lot measured from the exterior faces of exterior walls, or from the center line of party walls.

p. "Income band" shall mean a percentage of the area median income, adjusted for family size, that is a multiple of ten percent.

q. "Manhattan prime development area" shall mean any tax lot now existing or hereafter created which is located entirely south of 96th street in the borough of Manhattan.

r. "Market unit" shall mean a dwelling unit in an eligible multiple dwelling other than an affordable housing unit.

s. "Marketing band" shall mean maximum rent amounts ranging from twenty percent to thirty percent of the area median income or income band, respectively, that is applicable to a specific affordable housing unit.

t. "Multiple dwelling" shall have the same meaning as set forth in subdivision seven of section four of the multiple dwelling law.

u. "Nineteen-year benefit" shall mean: (i) for the construction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements; (ii) for the first fifteen years of the restriction period, (A) within the Manhattan prime develop-

ment area, a sixty-five percent exemption from real property taxation, other than assessments for local improvements, and (B) outside of the Manhattan prime development area, a fifty percent exemption from real property taxation, other than assessments for local improvements; (iii) for the sixteenth year of the restriction period, (A) within the Manhattan prime development area, a fifty-two percent exemption from real property taxation, other than assessments for local improvements, and (B) outside of the Manhattan prime development area, a forty percent exemption from real property taxation, other than assessments for local improvements; (iv) for the seventeenth year of the restriction period, (A) within the Manhattan prime development area, a thirty-nine percent exemption from real property taxation, other than assessments for local improvements, and (B) outside of the Manhattan prime development area, a thirty percent exemption from real property taxation, other than assessments for local improvements; (v) for the eighteenth year of the restriction period, (A) within the Manhattan prime development area, a twenty-six percent exemption from real property taxation, other than assessments for local improvements, and (B) outside of the Manhattan prime development area, a twenty percent exemption from real property taxation, other than assessments for local improvements; and (vi) for the nineteenth year of the restriction period, (A) within the Manhattan prime development area, a thirteen percent exemption from real property taxation, other than assessments for local improvements, and (B) outside of the Manhattan prime development area, a ten percent exemption from real property taxation, other than assessments for local improvements.

v. "Non-residential building" shall mean a structure or portion of a structure, except a transient hotel, boatel, motel, or tourist cabin as described in sections 32-14 and 32-16 of the zoning resolution of the city of New York, having at least one floor, a roof and at least three walls enclosing all or most of the space used in connection with the structure or portion of the structure, which has a certificate of occupancy for commercial, manufacturing or other non-residential use for not less than ninety percent of the aggregate floor area of such structure or portion of such structure, or other proof of such non-residential use as is acceptable to the agency.

w. "Non-residential tax lot" shall mean a tax lot that does not contain any dwelling units.

x. "Rent stabilization" shall mean, collectively, the rent stabilization law of nineteen hundred sixty-nine, the rent stabilization code, and the emergency tenant protection act of nineteen seventy-four, all as in effect as of the effective date of this section or as amended thereafter, together with any successor statutes or regulations addressing substantially the same subject matter.

y. "Residential tax lot" shall mean a tax lot that contains dwelling units.

z. "Restriction period" shall mean a period commencing on the completion date and extending in perpetuity, notwithstanding any earlier termination or revocation of AHCC program benefits.

2. Benefit. In cities having a population of one million or more, notwithstanding the provisions of any other general, special or local law to the contrary, a new eligible multiple dwelling, except a hotel or other building designated as use groups 5 and 7a by the zoning resolution of the city of New York, that complies with the provisions of this section shall be exempt from real property taxation, other than assessments for local improvements, in the amounts and for the periods specified in this section, provided that such eligible multiple dwelling is

used or held out for use for dwelling purposes. An eligible multiple dwelling that meets all of the requirements of this section shall receive a nineteen-year benefit.

3. Tax payments. In addition to any other amounts payable pursuant to this section, the owner of any eligible multiple dwelling receiving AHCC program benefits shall pay, in each tax year in which such AHCC program benefits are in effect, all assessments for local improvements.

4. Limitation on benefits for non-residential space. If the aggregate floor area of commercial, community facility and accessory use space in an eligible multiple dwelling exceeds twelve percent of the aggregate floor area in such eligible multiple dwelling, any AHCC program benefits shall be reduced by a percentage equal to such excess. If an eligible multiple dwelling contains multiple tax lots, the tax arising out of such reduction in AHCC program benefits shall first be apportioned pro rata among any non-residential tax lots. After any such non-residential tax lots are fully taxable, the remainder of the tax arising out of such reduction in AHCC program benefits, if any, shall be apportioned pro rata among the remaining residential tax lots. For the purposes of this section, accessory use space shall not include home occupation space or accessory parking space located not more than twenty-three feet above the curb level.

5. Application of benefit. Based on the certification of the agency certifying eligibility for AHCC program benefits, the department of finance shall determine the amount of the exemption pursuant to subdivisions two and four of this section and shall apply the exemption to the assessed value of the eligible multiple dwelling.

6. Affordability requirements. An eligible multiple dwelling shall comply with the following affordability requirements during the restriction period:

a. All affordable housing units in an eligible multiple dwelling shall share the same common entrances and common areas as rental market rate units in such eligible multiple dwelling and shall not be isolated to a specific floor or area of an eligible multiple dwelling. Common entrances shall mean any means of ingress or egress regularly used by any resident of a rental dwelling unit in the eligible multiple dwelling.

b. Unless preempted by the requirements of a federal, state or local housing program, either: (i) the affordable housing units in an eligible multiple dwelling shall have a unit mix proportional to the rental market units; or (ii) at least fifty percent of the affordable housing units in an eligible multiple dwelling shall have two or more bedrooms and no more than twenty-five percent of the affordable housing units shall have less than one bedroom.

c. Notwithstanding any provision of rent stabilization to the contrary: (i) all affordable housing units shall remain fully subject to rent stabilization during the restriction period; and (ii) any affordable housing unit occupied by a tenant that has been approved by the agency prior to the agency's denial of an eligible multiple dwelling's application for AHCC program benefits shall remain subject to rent stabilization until such tenant vacates such affordable housing unit.

d. All rent stabilization registrations required to be filed shall contain a designation that specifically identifies affordable housing units created pursuant to this section as "AHCC program affordable housing units" and shall contain an explanation of the requirements that apply to all such affordable housing units.

e. Failure to comply with the provisions of this subdivision that require the creation, maintenance, rent stabilization compliance, and occupancy of affordable housing units shall result in revocation of AHCC program benefits.

f. Nothing in this section shall: (i) prohibit the occupancy of an affordable housing unit by individuals or families whose income at any time is less than the maximum percentage of the area median income or income band, as applicable, adjusted for family size, specified for such affordable housing unit pursuant to this section; or (ii) prohibit the owner of an eligible multiple dwelling from requiring, upon initial rental or upon any rental following a vacancy, the occupancy of any affordable housing unit by such lower income individuals or families.

g. Following issuance of a temporary certificate of occupancy and upon each vacancy thereafter, an affordable housing unit shall promptly be offered for rental by individuals or families whose income does not exceed the maximum percentage of the area median income or income band, as applicable, adjusted for family size, specified for such affordable housing unit pursuant to this section and who intend to occupy such affordable housing unit as their primary residence. An affordable housing unit shall not be: (i) rented to a corporation, partnership or other entity; or (ii) held off the market for a period longer than is reasonably necessary to perform repairs needed to make such affordable housing unit available for occupancy.

h. An affordable housing unit shall not be rented on a temporary, transient or short-term basis. Every lease and renewal thereof for an affordable housing unit shall be for a term of one or two years, at the option of the tenant.

i. An affordable housing unit shall not be converted to cooperative or condominium ownership.

j. The agency may establish by rule such requirements as the agency deems necessary or appropriate for: (i) the marketing of affordable housing units, both upon initial occupancy and upon any vacancy; (ii) monitoring compliance with the provisions of this subdivision; and (iii) the establishment of marketing bands for affordable housing units. Such requirements may include, but need not be limited to, retaining a monitor approved by the agency and paid for by the owner of the eligible multiple dwelling.

k. Notwithstanding any provision of this section to the contrary, a market unit shall not be subject to rent stabilization unless, in the absence of AHCC program benefits, the unit would be subject to rent stabilization.

7. Public funds. Notwithstanding any law to the contrary, the incentives provided for in paragraph a of subdivision three of section two hundred twenty-four-a of the labor law shall be deemed "public funds" pursuant to subdivision two of section two hundred twenty-four-a of the labor law. As such, any project that meets the definition of a "covered project" pursuant to subdivisions one and four of section two hundred twenty-four-a of the labor law shall comply with all requirements of such law.

8. Building service work. Building service work shall be subject to prevailing wage under article nine of the labor law where the project receives AHCC program benefits. Any project that receives AHCC program benefits pursuant to this section shall comply with all requirements of such law.

9. Building service employees. a. For the purposes of this subdivision, "applicant" shall mean an applicant for AHCC program benefits, any

successor to such applicant, or any employer of building service employees for such applicant including, but not limited to, a property management company or contractor.

b. All building service employees employed by the applicant at the eligible multiple dwelling shall receive the applicable prevailing wage for the duration of the nineteen-year benefit period, regardless of whether such benefits are revoked or terminated.

c. The fiscal officer shall have the power to enforce the provisions of this subdivision. In enforcing such provisions, the fiscal officer shall have the power: (i) to investigate or cause an investigation to be made to determine the prevailing wages for building service employees, and in making such investigation, the fiscal officer may utilize wage and fringe benefit data from various sources, including, but not limited to, data and determinations of federal, state or other governmental agencies; provided, however, that the provision of a dwelling unit shall not be considered wages or a fringe benefit; (ii) to institute and conduct inspections at the site of the work or elsewhere; (iii) to examine the books, documents and records pertaining to the wages paid to, and the hours of work performed by, building service employees; (iv) to hold hearings and, in connection therewith, to issue subpoenas, the enforcement of which shall be regulated by the civil practice law and rules, administer oaths and examine witnesses; (v) to make a classification by craft, trade or other generally recognized occupational category of the building service employees and to determine whether such work has been performed by the building service employees in such classification; (vi) to require the applicant to file with the fiscal officer a record of the wages actually paid by such applicant to the building service employees and of their hours of work; (vii) to delegate any of the foregoing powers to his or her deputy or other authorized representative; (viii) to promulgate rules as he or she shall consider necessary for the proper execution of the duties, responsibilities and powers conferred upon him or her by the provisions of this subdivision; and (ix) to prescribe appropriate sanctions for failure to comply with the provisions of this subdivision. For each violation of paragraph b of this subdivision, the fiscal officer may require the payment of (A) back wages and fringe benefits; (B) liquidated damages up to three times the amount of the back wages and fringe benefits for willful violations; and/or (C) reasonable attorneys' fees. If the fiscal officer finds that the applicant has failed to comply with the provisions of this subdivision, he or she shall present evidence of such non-compliance to the agency.

d. Paragraph b of this subdivision shall not be applicable to: (i) an eligible multiple dwelling containing less than thirty dwelling units; or (ii) an eligible multiple dwelling whose eligible conversion is carried out with the substantial assistance of grants, loans or subsidies provided by a federal, state or local governmental agency or instrumentality pursuant to a program for the development of affordable housing.

e. The applicant shall submit a sworn affidavit with its application certifying that it shall comply with the requirements of this subdivision or is exempt in accordance with paragraph d of this subdivision. Upon the agency's approval of such application, the applicant who is not exempt in accordance with paragraph d of this subdivision shall submit annually a sworn affidavit to the fiscal officer certifying that it shall comply with the requirements of this subdivision.

10. Concurrent exemptions or abatements. An eligible multiple dwelling receiving AHCC program benefits shall not receive any exemption from or abatement of real property taxation under any other law.

11. Voluntary renunciation or termination. Notwithstanding the provisions of any general, special or local law to the contrary, an owner shall not be entitled to voluntarily renounce or terminate AHCC program benefits unless the agency authorizes such renunciation or termination in connection with the commencement of a tax exemption pursuant to the private housing finance law or section four hundred twenty-c of this title.

12. Termination or revocation. The agency may terminate or revoke AHCC program benefits for noncompliance with this section. If an applicant has committed three violations of the requirements of subdivision nine of this section within a five-year period, the agency may revoke any benefits under this section. For purposes of this subdivision, a "violation" of subdivision nine of this section shall be deemed a finding by the fiscal officer that the applicant has failed to comply with subdivision nine of this section and has failed to cure the deficiency within three months of such finding. Provided, however, that after a second violation, the applicant shall be notified that any further violation may result in the revocation of benefits under this section and that the fiscal officer shall publish on its website a list of all applicants with two violations as defined in this subdivision. All of the affordable housing units shall remain subject to rent stabilization and all other requirements of this section for the duration of the restriction period, regardless of whether such benefits have been terminated or revoked.

13. Powers cumulative. The enforcement provisions of this section shall not be exclusive, and are in addition to any other rights, remedies or enforcement powers set forth in any other law or available at law or in equity.

14. Multiple tax lots. If an eligible multiple dwelling contains multiple tax lots, an application may be submitted with respect to one or more of such tax lots. The agency shall determine eligibility for AHCC program benefits based upon the tax lots included in such application and benefits for each such eligible multiple dwelling shall be based upon the completion date of each such multiple dwelling.

15. Applications. a. The application with respect to any eligible multiple dwelling shall be filed with the agency no earlier than the completion date and not later than one year after the completion date of such eligible multiple dwelling.

b. Notwithstanding the provisions of any general, special, or local law to the contrary, the agency may require by rule that applications be filed electronically.

c. The agency may rely on certification by an architect or engineer submitted by an applicant in connection with the filing of an application. A false certification by such architect or engineer shall be deemed to be professional misconduct pursuant to section sixty-five hundred nine of the education law. Any architect or engineer found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten of the education law shall be subject to the penalties prescribed in section sixty-five hundred eleven of the education law and shall thereafter be ineligible to submit a certification pursuant to this section.

d. Such application shall also certify that all taxes, water charges, and sewer rents currently due and owing on the property which is the

subject of the application have been paid or are currently being paid in timely installments pursuant to a written agreement with the department of finance or other appropriate agency.

16. Filing fee. The agency may require a filing fee of no less than three thousand dollars per dwelling unit in connection with any application, except that the agency may promulgate rules:

a. imposing a lesser fee for an eligible multiple dwelling whose eligible conversion is carried out with the substantial assistance of grants, loans or subsidies provided by a federal, state or local governmental agency or instrumentality pursuant to a program for the development of affordable housing; and

b. requiring a portion of the filing fee to be paid upon the submission of the information the agency requires in advance of approving the commencement of the marketing process for such eligible conversion.

17. Rules. Except as provided in subdivision nine of this section, the agency shall have the sole authority to enforce the provisions of this section and may promulgate rules to carry out the provisions of this section.

18. Penalties for violations of affordability requirements. a. On or after the expiration date of the nineteen-year benefit, the agency may impose, after notice and an opportunity to be heard, a penalty for any violation by an eligible multiple dwelling of the affordability requirements of subdivision six of this section.

b. A penalty imposed under this subdivision shall be computed as a percentage of the capitalized value of all AHCC program benefits on the eligible multiple dwelling, calculated as of the first year that benefits were granted, not to exceed one thousand percent. The agency shall establish a schedule and method of calculation of such penalties pursuant to subdivision seventeen of this section.

c. A penalty imposed under this subdivision shall be imposed against the owner of the eligible multiple dwelling at the time the violation occurred, even if such owner no longer owns such eligible multiple dwelling at the time of the agency's determination.

d. A person or entity who fails to pay a penalty imposed pursuant to this subdivision shall be guilty of a misdemeanor punishable by imprisonment not to exceed six months.

§ 3. This act shall take effect immediately.

PART C

Section 1. Paragraphs d and e of subdivision 2 of section 224-a of the labor law, paragraph d as amended and paragraph e as added by section 1 of part B of this act, are amended and a new paragraph f is added to read as follows:

d. Credits that are applied by the public entity against repayment of obligations to the public entity; [~~or~~]

e. Benefits under section four hundred sixty-seven-m of the real property tax law[~~.~~]; or

f. Benefits under section four hundred twenty-one-p of the real property tax law.

§ 2. The real property tax law is amended by adding a new section 421-p to read as follows:

§ 421-p. Exemption of eligible newly constructed multiple dwellings or conversions to rental multiple dwellings. 1. (a) A city other than a city with a population of one million or more, a town, or a village may,

by local law, provide for the exemption of rental multiple dwellings newly constructed or converted from existing non-residential buildings in a benefit area designated in such local law from taxation and special ad valorem levies, as provided in this section. Subsequent to the adoption of such a local law, any other municipal corporation in which the designated benefit area is located may likewise exempt such property from its taxation and special ad valorem levies by local law, or in the case of a school district, by resolution.

(b) As used in this section, the term "benefit area" means the area within a city, town or village, designated by local law, to which an exemption, established pursuant to this section, applies.

(c) The term "rental multiple dwelling" means a structure, other than a hotel, consisting of twenty or more dwelling units, where all of the units are rented for residential purposes, and at least twenty percent of such units, upon initial rental and upon each subsequent rental following a vacancy during the restriction period is affordable to and restricted to occupancy by individuals or families whose household income does not exceed eighty percent of the area median income, adjusted for family size, on average, at the time that such households initially occupy such dwelling units, provided further that all of the income restricted units upon initial rental and upon each subsequent rental following a vacancy during the restriction period shall be affordable to and restricted to occupancy by individuals or families whose household income does not exceed one hundred percent of the area median income, adjusted for family size, at the time that such households initially occupy such dwelling units.

(d) The term "non-residential building" means a structure or portion of a structure having at least one floor, a roof and at least three walls enclosing all or most of the space used in connection with the structure or portion of the structure, which has a certificate of occupancy for commercial, manufacturing or other non-residential use for not less than ninety percent of the aggregate floor area of such structure or portion of such structure, or other proof of such non-residential use as is acceptable to the city, town, or village.

(e) The term "eligible conversion" shall mean the conversion of a non-residential building to an eligible multiple dwelling.

(f) The term "restriction period" shall mean a period commencing on the completion date and extending in perpetuity, notwithstanding any earlier termination or revocation of an exemption provided pursuant to this section.

2. Eligible newly constructed rental multiple dwellings or non-residential buildings converted to rental multiple dwellings in a designated benefit area shall be wholly exempt from taxation while under construction, subject to a maximum of three years. Such property shall then be exempt for thirty years at fifty percent. Provided, however:

(a) Taxes shall be paid during the exemption period in an amount at least equal to the taxes paid on such land and any improvements thereon during the tax year preceding the commencement of such exemption.

(b) No other exemption may be granted concurrently to the same improvements under any other section of law.

3. To be eligible for exemption under this section as a newly constructed rental multiple dwelling, such construction shall take place on vacant, predominantly vacant or underutilized land, or on land improved with a non-conforming use or on land containing one or more substandard or structurally unsound dwellings, or a dwelling that has been certified as unsanitary by the local health agency.

4. In the case of newly constructed property which is used partially as a rental multiple dwelling and partially for commercial or other purposes, the portion of the newly constructed property that is used as a rental multiple dwelling shall be eligible for the exemption authorized by this section if:

(a) The square footage of the portion used as a rental multiple dwelling represents at least fifty percent of the square footage of the entire property;

(b) The rental units are affordable to individuals or families as determined according to the criteria set forth in paragraph (c) of subdivision one of this section; and

(c) The requirements of this section are otherwise satisfied with respect to the portion of the property used as a rental multiple dwelling.

5. Affordability requirements. An eligible newly constructed rental multiple dwelling or conversion to a rental multiple dwelling shall comply with the following affordability requirements during the restriction period:

(a) All income-restricted dwelling units in a rental multiple dwelling shall share the same common entrances and common areas as non-restricted units in such eligible conversion and shall not be isolated to a specific floor or area of an eligible rental multiple dwelling. Common entrances shall mean any means of ingress or egress regularly used by any resident of a rental dwelling unit in the eligible rental multiple dwelling.

(b) Unless preempted by the requirements of a federal, state or local housing program, in an eligible newly constructed rental multiple dwelling or an eligible conversion, either: (i) the income-restricted units shall have a unit mix proportional to the non-restricted units; or (ii) at least fifty percent of the income-restricted units shall have two or more bedrooms and no more than twenty-five percent of the income-restricted units shall have less than one bedroom.

6. A rental multiple dwelling unit shall not be rented on a temporary, transient or short-term basis. Every lease and renewal thereof for an income-restricted unit shall be for a term of one or two years, at the option of the tenant.

7. A rental multiple dwelling unit shall not be converted to cooperative or condominium ownership.

8. Application for exemption under this section shall be made on a form prescribed by the commissioner of the division of homes and community renewal and filed with the assessor on or before the applicable taxable status date.

9. Any recipient of the exemption authorized by this section or their designee shall certify compliance with the provisions of this section under penalty of perjury, at such time or times and in such manner as may be prescribed in the local law adopted by the city, town or village pursuant to paragraph (a) of subdivision one of this section, or by a subsequent local law. Such city, town or village may establish such procedures as it deems necessary for monitoring and enforcing compliance of an eligible building with the provisions of this section.

§ 3. This act shall take effect immediately.

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof

directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through C of this act shall be as specifically set forth in the last section of such Parts.