

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:

1 Section 1. This act enacts into law major components of legislation
2 necessary to facilitate the conversion of commercial buildings to resi-
3 dential uses in New York city and to authorize property tax exemptions
4 of converted buildings that include affordable housing. Each component
5 is wholly contained within a Part identified as Parts A through C. The
6 effective date for each particular provision contained within such Part
7 is set forth in the last section of such Part. Any provision in any
8 section contained within a Part, including the effective date of the
9 Part, which makes a reference to a section "of this act", when used in
10 connection with that particular component, shall be deemed to mean and
11 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.

LBD09278-09-3

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

3 PART A

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

7 11. Notwithstanding any other provision of this section, the following
8 enumerated articles, sections and subdivisions of sections of this chap-
9 ter shall not apply to the construction or alteration of multiple dwell-
10 ings for which an application for a permit is made to the department
11 after December sixth, nineteen hundred sixty-nine in a city having a
12 population of one million or more [~~which adopts or has adopted local
13 laws, ordinances, resolutions or regulations providing protection from
14 fire hazards and making provision for escape from fire in the
15 construction and alteration of multiple dwellings and in other respects
16 as protective as local law seventy-six of the laws of the city of New
17 York for nineteen hundred sixty-eight and covering the same subject
18 matter as the following~~]: subdivisions twenty-five, twenty-seven, twen-
19 ty-eight, thirty-five-c, thirty-six and thirty-nine of section four,
20 subdivision three of section twenty-eight, sections thirty-six, thirty-
21 seven, fifty, fifty-one, fifty-two, fifty-three, fifty-five, sixty,
22 sixty-one, sixty-seven, subdivisions one, two, four and five of section
23 seventy-five, article four, article five, article five-A[7] and article
24 six [~~and article seven-B~~]; except that after December sixth, nineteen
25 hundred sixty-nine where a multiple dwelling erected prior to December
26 sixth, nineteen hundred sixty-nine is altered, or a building erected
27 prior to December sixth, nineteen hundred sixty-nine is converted to a
28 multiple dwelling pursuant to a permit applied for to the department
29 having jurisdiction, the foregoing articles, sections and subdivisions
30 of sections shall remain applicable where a local law of such city
31 authorizes such alteration or conversion to be made, at the option of
32 the owner, either in accordance with the requirements of the building
33 law and regulations in effect in such city prior to December sixth,
34 nineteen hundred sixty-eight or the requirements of the building law and
35 regulations in effect after such date, and the owner elects to comply
36 with the requirements of the building law and regulations in effect
37 prior to December sixth, nineteen hundred sixty-eight.

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

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

52 There is a public purpose to be served by making accommodations readi-
53 ly available for joint living-work quarters for artists for the follow-
54 ing reasons: persons regularly engaged in the arts require larger

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

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

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

29 2. It is hereby additionally declared and found that in cities with a
30 population in excess of one million, large numbers of commercial build-
31 ings have lost, and continue to lose, their tenants to more modern prem-
32 ises and to the changing nature and increased prevalence of remote
33 office work in the wake of the COVID-19 pandemic; that the untenanted
34 portions of such buildings constitute a potential housing stock within
35 such cities which is capable, when appropriately altered, of accommodat-
36 ing general residential use, thereby contributing to an alleviation of
37 the housing shortage, especially the shortage of affordable housing, is
38 a critical problem that threatens the economic, environmental, and
39 social quality of life throughout New York state and disproportionately
40 burdens certain New Yorkers including, but not limited to, low- and
41 moderate-income, racial and ethnic minority, and elderly households;
42 that the geographic areas with the greatest number of commercial build-
43 ings most suitable for conversion to residential use are areas with a
44 particularly acute shortage of affordable housing; that in furtherance
45 of overall housing production goals and affordable housing production
46 goals, and to promote the greatest efficiency, it is both a matter of
47 state concern and the policy of the state to permit conversions of
48 commercial buildings to residential uses under the terms of this arti-
49 cle, including the terms that require affordable housing to be included
50 in such buildings; and that in order to prevent housing insecurity,
51 hardship, and dislocation, the provisions of this article are designed
52 to protect the public health, safety, and general welfare of the resi-
53 dents of New York state.

54 § 3. Section 276 of the multiple dwelling law, as amended by chapter
55 420 of the laws of 2022, is amended to read as follows:

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

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

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

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

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

34 2. Occupancy pursuant to this section shall be permitted only if the
35 conditions in subdivisions one through sixteen of section two hundred
36 seventy-seven of this article are complied with, except that the conver-
37 sion shall not be required to include joint living-work quarters for
38 artists, and provided further that conversions undertaken pursuant to
39 this section shall not be subject to subdivision three of section twen-
40 ty-six of this chapter.

41 3. Notwithstanding any provision of this section to the contrary, any
42 restriction based on the year a building was constructed or occupied,
43 any limit on the number of allowable dwelling units in a building, or
44 any prohibition on the conversion of rooming units as set forth in chap-
45 ter five of article I of the zoning resolution of the city of New York,
46 shall not prohibit the conversion to, or occupancy of, a building pursu-
47 ant to this section.

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

1 § 6. This act shall take effect immediately; provided, however, that
2 subdivision 3 of section 279 of the multiple dwelling law as added by
3 section four of this act shall expire and be deemed repealed on December
4 31, 2030; provided further, however, that the repeal of subdivision 3 of
5 section 279 of the multiple dwelling law as added by section four of
6 this act shall not affect the use of any building for general residen-
7 tial purposes, as such term is defined in article 7-B of the multiple
8 dwelling law, permitted prior to such repeal.

9

PART B

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

13 c. Money loaned by the public entity that is to be repaid on a contin-
14 gent basis; ~~[or]~~

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

17 e. Benefits under section four hundred sixty-seven-m of the real prop-
18 erty tax law.

19 § 2. The real property tax law is amended by adding a new section
20 467-m to read as follows:

21 § 467-m. Exemption from local real property taxation of certain multi-
22 ple dwellings in a city having a population of one million or more. 1.
23 Definitions. For purposes of this section, the following terms shall
24 have the following meanings:

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

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

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

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

1 e. "Agency" shall mean the New York city department of housing preser-
2 vation and development.

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

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

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

13 i. "Completion date" shall mean the date upon which the local depart-
14 ment of buildings issues the first temporary or permanent certificate of
15 occupancy covering all residential areas of an eligible multiple dwell-
16 ing.

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

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

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

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

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

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

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

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

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

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

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

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

1 ment area, a sixty-five percent exemption from real property taxation,
2 other than assessments for local improvements, and (B) outside of the
3 Manhattan prime development area, a fifty percent exemption from real
4 property taxation, other than assessments for local improvements; (iii)
5 for the sixteenth year of the restriction period, (A) within the Manhat-
6 tan prime development area, a fifty-two percent exemption from real
7 property taxation, other than assessments for local improvements, and
8 (B) outside of the Manhattan prime development area, a forty percent
9 exemption from real property taxation, other than assessments for local
10 improvements; (iv) for the seventeenth year of the restriction period,
11 (A) within the Manhattan prime development area, a thirty-nine percent
12 exemption from real property taxation, other than assessments for local
13 improvements, and (B) outside of the Manhattan prime development area, a
14 thirty percent exemption from real property taxation, other than assess-
15 ments for local improvements; (v) for the eighteenth year of the
16 restriction period, (A) within the Manhattan prime development area, a
17 twenty-six percent exemption from real property taxation, other than
18 assessments for local improvements, and (B) outside of the Manhattan
19 prime development area, a twenty percent exemption from real property
20 taxation, other than assessments for local improvements; and (vi) for
21 the nineteenth year of the restriction period, (A) within the Manhattan
22 prime development area, a thirteen percent exemption from real property
23 taxation, other than assessments for local improvements, and (B) outside
24 of the Manhattan prime development area, a ten percent exemption from
25 real property taxation, other than assessments for local improvements.

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

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

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

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

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

49 2. Benefit. In cities having a population of one million or more,
50 notwithstanding the provisions of any other general, special or local
51 law to the contrary, a new eligible multiple dwelling, except a hotel or
52 other building designated as use groups 5 and 7a by the zoning resol-
53 ution of the city of New York, that complies with the provisions of this
54 section shall be exempt from real property taxation, other than assess-
55 ments for local improvements, in the amounts and for the periods speci-
56 fied in this section, provided that such eligible multiple dwelling is

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

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

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

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

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

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

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

44 c. Notwithstanding any provision of rent stabilization to the contra-
45 ry: (i) all affordable housing units shall remain fully subject to rent
46 stabilization during the restriction period; and (ii) any affordable
47 housing unit occupied by a tenant that has been approved by the agency
48 prior to the agency's denial of an eligible multiple dwelling's applica-
49 tion for AHCC program benefits shall remain subject to rent stabiliza-
50 tion until such tenant vacates such affordable housing unit.

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

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

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

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

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

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

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

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

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

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

55 9. Building service employees. a. For the purposes of this subdivi-
56 sion, "applicant" shall mean an applicant for AHCC program benefits, any

1 successor to such applicant, or any employer of building service employ-
2 ees for such applicant including, but not limited to, a property manage-
3 ment company or contractor.

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

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

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

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

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

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

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

28 13. Powers cumulative. The enforcement provisions of this section
29 shall not be exclusive, and are in addition to any other rights, reme-
30 dies or enforcement powers set forth in any other law or available at
31 law or in equity.

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

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

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

45 c. The agency may rely on certification by an architect or engineer
46 submitted by an applicant in connection with the filing of an applica-
47 tion. A false certification by such architect or engineer shall be
48 deemed to be professional misconduct pursuant to section sixty-five
49 hundred nine of the education law. Any architect or engineer found
50 guilty of such misconduct under the procedures prescribed in section
51 sixty-five hundred ten of the education law shall be subject to the
52 penalties prescribed in section sixty-five hundred eleven of the educa-
53 tion law and shall thereafter be ineligible to submit a certification
54 pursuant to this section.

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

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

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

7 a. imposing a lesser fee for an eligible multiple dwelling whose
 8 eligible conversion is carried out with the substantial assistance of
 9 grants, loans or subsidies provided by a federal, state or local govern-
 10 mental agency or instrumentality pursuant to a program for the develop-
 11 ment of affordable housing; and

12 b. requiring a portion of the filing fee to be paid upon the
 13 submission of the information the agency requires in advance of approv-
 14 ing the commencement of the marketing process for such eligible conver-
 15 sion.

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

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

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

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

35 d. A person or entity who fails to pay a penalty imposed pursuant to
 36 this subdivision shall be guilty of a misdemeanor punishable by impri-
 37 sonment not to exceed six months.

38 § 3. This act shall take effect immediately.

39 PART C

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

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

46 e. Benefits under section four hundred sixty-seven-m of the real prop-
 47 erty tax law[~~r~~]; or

48 f. Benefits under section four hundred twenty-one-p of the real prop-
 49 erty tax law.

50 § 2. The real property tax law is amended by adding a new section
 51 421-p to read as follows:

52 § 421-p. Exemption of eligible newly constructed multiple dwellings
 53 or conversions to rental multiple dwellings. 1. (a) A city other than a
 54 city with a population of one million or more, a town, or a village may,

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

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

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

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

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

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

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

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

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

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

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

6 (a) The square footage of the portion used as a rental multiple dwell-
7 ing represents at least fifty percent of the square footage of the
8 entire property;

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

12 (c) The requirements of this section are otherwise satisfied with
13 respect to the portion of the property used as a rental multiple dwell-
14 ing.

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

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

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

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

37 7. A rental multiple dwelling unit shall not be converted to cooper-
38 ative or condominium ownership.

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

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

51 § 3. This act shall take effect immediately.

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

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

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