

# STATE OF NEW YORK

5450

2023-2024 Regular Sessions

## IN SENATE

March 6, 2023

Introduced by Sens. JACKSON, CLEARE, COMRIE, HOYLMAN-SIGAL, SALAZAR, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1

AN ACT to amend the real property tax law, in relation to providing a tax abatement for facility-integrated carbon-to-value equipment

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

1 Section 1. Article 4 of the real property tax law is amended by adding  
2 a new title 3-A to read as follows:

### TITLE 3-A

#### CARBON-TO-VALUE TAX ABATEMENT FOR CERTAIN PROPERTIES IN A CITY OF ONE MILLION OR MORE PERSONS

##### Section 498. Definitions.

498-a. Tax abatement terms and amounts.

498-b. Tax abatement application guidelines and rules.

498-c. Tax abatement continuing requirements.

498-d. Tax abatement revocation rules.

498-e. Tax abatement enforcement and administration.

498-f. Tax lien and interest rules.

##### § 498. Definitions. When used in this title:

1. "Anthropogenic carbon dioxide emissions" shall refer to the release of heat-trapping carbon dioxide pollution into the atmosphere as a result of human activities.

2. "Application for tax abatement" shall mean an application for a facility-integrated carbon-to-value equipment tax abatement pursuant to section four hundred ninety-eight-b of this title.

3. "Carbon dioxide beneficial use" shall refer to a practice that involves the utilization of carbon dioxide in a process to manufacture a product or operate equipment that: (a) results in a net reduction in operational and/or embodied carbon dioxide at a facility or property;

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

LBD01156-01-3

1 and (b) is verified by a life cycle assessment in compliance with Inter-  
2 national Standard ISO 14040.

3 4. "Carbon dioxide capture" shall refer to the process of capturing  
4 carbon dioxide at emissions point sources located at facilities and  
5 buildings.

6 5. "Carbon dioxide removal" shall refer to the process of removing  
7 carbon dioxide from the atmosphere.

8 6. "Carbon dioxide storage" shall refer to the process of chemically  
9 and/or physically sequestering carbon dioxide emissions from post-indus-  
10 trial or atmospheric sources in materials, products or geological forma-  
11 tions for periods of time equal to or greater than one hundred years.

12 7. "Compliance period" shall mean the tax year in which a tax abate-  
13 ment commences and the three tax years immediately thereafter. For  
14 eligible carbon-to-value applications placed in service at eligible  
15 buildings for which annual property tax liability for the eligible  
16 building is less than one hundred thousand dollars, and for which five  
17 percent of the eligible carbon-to-value equipment expenditures exceeds  
18 one hundred thousand dollars, the compliance period shall be extended to  
19 a maximum of eight tax years to allow eligible building owners to avail  
20 a tax abatement equal to the lesser of twenty percent of eligible  
21 carbon-to-value equipment expenditures, or eight hundred thousand  
22 dollars.

23 8. "Designated agency" shall mean one or more agencies or departments  
24 of a city having a population of one million or more persons that are  
25 designated by the mayor of such city to exercise the functions, powers  
26 and duties of a designated agency pursuant to this title, including  
27 certification of eligible carbon-to-value equipment, applications and  
28 buildings.

29 9. "Eligible carbon-to-value application" shall mean the application  
30 of carbon-to-value equipment at facilities for the purposes of mitigat-  
31 ing carbon dioxide emissions that are: (a) generated as a result of the  
32 operation of that facility; and/or (b) the manufacture of materials that  
33 are prepared or produced at that facility, by technologies that remove,  
34 capture and/or beneficially use carbon dioxide, resulting in a net  
35 reduction of carbon dioxide emissions.

36 10. "Eligible building" shall mean class four real property located  
37 within a city having a population of one million or more persons. Desig-  
38 nated agencies shall be empowered to exclude property tax abatement  
39 eligibility of certain building types on the basis of carbon dioxide  
40 emissions reduction and/or environmental justice considerations if the  
41 latter are determined to contradict the intent of existing local laws  
42 that have been established to reduce the carbon dioxide emissions of  
43 such buildings. No building shall be eligible for the property tax  
44 abatement, under this provision, if the designated agencies empowered to  
45 administer such abatement, deem that such building has not exhausted  
46 other viable methods to reduce the building's carbon emissions in align-  
47 ment with rules, objectives and programs established pursuant to exist-  
48 ing local laws. No building shall be eligible for more than one tax  
49 abatement pursuant to this title.

50 11. "Eligible carbon-to-value equipment expenditures" shall mean  
51 reasonable expenditures for materials, labor costs properly allocable to  
52 on-site preparation, assembly and original installation, architectural  
53 and engineering services, and designs and plans directly related to the  
54 construction or installation of carbon-to-value equipment installed in  
55 connection with an eligible building. Such eligible expenditures shall

1 not include interest or other finance charges, or any expenditures  
2 incurred using a federal, state or local grant.

3 12. "Environmental justice areas" shall mean low-income communities or  
4 minority communities located in a city of one million or more persons  
5 that have been designated and defined pursuant to local law based on  
6 United States census data.

7 13. "Facility-integrated carbon-to-value equipment" refers to technol-  
8 ogies placed in service at buildings within a city of one million or  
9 more persons that remove carbon dioxide from the ambient air, capture  
10 carbon dioxide from emissions point sources located at the property,  
11 and/or utilize carbon dioxide in the production of goods and materials.  
12 Qualified carbon-to-value equipment must perform functions that result  
13 either in verifiable carbon dioxide removal and storage or constitute a  
14 verifiable carbon dioxide beneficial use that results in reduced or  
15 avoided carbon dioxide emissions.

16 § 498-a. Tax abatement terms and amounts. 1. If the facility-integrat-  
17 ed carbon-to-value equipment is placed in service on or after January  
18 first, two thousand twenty-three, and not after December thirty-first,  
19 two thousand twenty-eight, for each year of the compliance period such  
20 tax abatement shall be the lesser of: (a) five percent of eligible  
21 facility-integrated carbon-to-value equipment expenditures; (b) the  
22 amount of taxes payable in such tax year; or (c) one hundred thousand  
23 dollars.

24 2. For facility-integrated carbon-to-value equipment that captures  
25 carbon dioxide from boiler systems that combust fossil-based hydrocarbon  
26 fuels eligibility for the property tax abatement shall be restricted to  
27 properties that meet the following conditions:

28 (a) Boiler systems that are located at the property were placed in  
29 service between January first, two thousand fifteen and April twenty-  
30 second, two thousand twenty.

31 (b) The carbon dioxide captured at the property by the proposed  
32 carbon-to-value application shall:

33 (i) be utilized subsequent to capture within the physical jurisdiction  
34 of the city with a population of one million or more people; and

35 (ii) result in the storage of carbon dioxide in materials for periods  
36 of no less than one hundred years in duration.

37 (c) The carbon-to-value application at the property shall demonstrate  
38 net carbon dioxide reductions as verified by a life cycle assessment in  
39 compliance with International Standard ISO 14040.

40 (d) The equipment shall not be located at buildings located within  
41 designated environmental justice areas as defined by a city of one  
42 million or more persons pursuant to local law.

43 § 498-b. Tax abatement application guidelines and rules. 1. To obtain  
44 a tax abatement pursuant to this title, an applicant must file an appli-  
45 cation for tax abatement, which may be filed on or after January first,  
46 two thousand twenty-four, and on or before March fifteenth, two thousand  
47 twenty-nine.

48 2. Such an application shall contain the following:

49 (a) The name and address of the applicant and the location of the  
50 facility-integrated carbon-to-value equipment.

51 (b) The type of facility-integrated carbon-to-value equipment.

52 (c) A description of the specific utilization or utilizations of the  
53 carbon dioxide that will be removed or captured by the facility-inte-  
54 grated carbon-to-value equipment.

1 (d) Proof that the applicant received all required certifications,  
2 permits and other approvals to construct the facility-integrated  
3 carbon-to-value equipment.

4 (e) Certifications in a form prescribed by a designated agency, from  
5 an architect, engineer or other certified or licensed professional whom  
6 a designated agency designates by rule, that: (i) a facility-integrated  
7 carbon-to-value equipment has been placed in service in connection with  
8 an eligible building in accordance with this title, the rules promulgat-  
9 ed hereunder, and local construction and fire codes; and (ii) if deemed  
10 applicable by a designated agency, the facility-integrated carbon-to-va-  
11 lue equipment has been placed on the roof of a building or other struc-  
12 ture, that a structural analysis has been performed establishing that  
13 such building or structure can sustain the load of such facility-inte-  
14 grated carbon-to-value equipment. All certifications required by this  
15 title or the rules promulgated hereunder shall set forth the specific  
16 findings upon which the certification is based, and shall include infor-  
17 mation sufficient to identify the eligible building, the certifying  
18 engineer, architect or other professional, and such other information as  
19 may be prescribed by a designated agency.

20 (f) If deemed applicable, an agreement to permit a designated agency  
21 or its designee to inspect the facility-integrated carbon-to-value  
22 equipment and any related structures and equipment upon reasonable  
23 notice.

24 (g) Any other information or certifications required by a designated  
25 agency pursuant to this title and the rules promulgated hereunder.

26 § 498-c. Tax abatement continuing requirements. The tax abatement  
27 shall be conditioned upon:

28 1. continuing compliance during the compliance period with all appli-  
29 cable provisions of law, including without limitation the local  
30 construction and fire codes, maintaining the facility-integrated  
31 carbon-to-value equipment in such a manner that it continuously consti-  
32 tutes a facility-integrated carbon-to-value equipment within the meaning  
33 of this title and the rules promulgated hereunder, and permitting a  
34 designated agency or its designee to inspect the facility-integrated  
35 carbon-to-value equipment and any related structures and equipment upon  
36 reasonable notice; and

37 2. property taxes, water and sewer charges, payments in lieu of taxes  
38 or other municipal charges with respect to an eligible building not  
39 having been due and owing during the compliance period for a period of  
40 six months or more.

41 § 498-d. Tax abatement revocation rules. 1. The department of taxation  
42 and finance shall revoke, in whole or in part, any tax abatement granted  
43 pursuant to this title whenever a designated agency has determined and  
44 notified the department of taxation and finance that:

45 (a) an applicant has failed to comply with a requirement of this title  
46 or any rule promulgated hereunder at any time during the compliance  
47 period including, but not limited to, any of the continuing requirements  
48 set forth in subdivision one of section four hundred ninety-nine-c of  
49 this title;

50 (b) an eligible building has not been in compliance at any time during  
51 the compliance period with a requirement of this title or any rule  
52 promulgated hereunder;

53 (c) the facility-integrated carbon-to-value equipment for which a tax  
54 abatement was granted has at any time during the compliance period  
55 failed to meet any requirement for a facility-integrated carbon-to-value  
56 equipment pursuant to this title or any rule promulgated hereunder;

1 (d) facility-integrated carbon-to-value equipment has become a fire or  
2 safety hazard at any time during the compliance period; or

3 (e) an application, certification, report or other document submitted  
4 by the applicant contains a false or misleading statement as to a mate-  
5 rial fact or omits to state any material fact necessary in order to make  
6 the statement therein not false or misleading.

7 2. The department of taxation and finance may revoke, in whole or in  
8 part, any tax abatement granted pursuant to this title whenever it has  
9 determined that an applicant has failed to comply with the continuing  
10 requirements set forth in section four hundred ninety-nine-c of this  
11 title.

12 3. Where it has been determined by a designated agency, after notice  
13 and an opportunity to be heard, that any of the provisions of subdivi-  
14 sion one of this section have not been complied with, such designated  
15 agency shall notify the department of taxation and finance no later than  
16 the ninetieth day after the last day of the compliance period.

17 4. An applicant shall pay, with interest, such part of any tax abate-  
18 ment received pursuant to this title that represents the period of non-  
19 compliance as determined by the designated agency or the department of  
20 taxation and finance. In addition, a designated agency may declare any  
21 applicant ineligible for future tax abatement pursuant to this title if  
22 any application, certification, report or other document submitted by  
23 the applicant contains a false or misleading statement as to a material  
24 fact or omits to state any material fact necessary in order to make the  
25 statement therein not false or misleading.

26 § 498-e. Tax abatement enforcement and administration. 1. The depart-  
27 ment of taxation and finance shall have, in addition to any other func-  
28 tions, powers and duties that have been or may be conferred on it by  
29 law, the following functions, powers and duties to be exercised in  
30 accordance with this title:

31 (a) to apply a tax abatement;

32 (b) to revoke all or part of any such tax abatement;

33 (c) to make and promulgate rules to carry out the purposes of this  
34 title; and

35 (d) any other function, power or duty necessarily implied by this  
36 title.

37 2. A designated agency shall have, in addition to any other functions,  
38 powers and duties that have been or may be conferred on it by law, the  
39 following functions, powers and duties to be exercised in accordance  
40 with this title:

41 (a) to receive, review, approve and deny applications for tax abate-  
42 ment;

43 (b) to inspect facility-integrated carbon-to-value equipment and any  
44 related structures and equipment;

45 (c) to establish permit or certification requirements to determine  
46 when the facility-integrated carbon-to-value equipment has been placed  
47 in service, such as certification by an architect, engineer or other  
48 certified or licensed professional whom a designated agency designates  
49 by rule;

50 (d) to establish guidance and procedures for determining or certifying  
51 eligible facility-integrated carbon-to-value equipment expenditures;

52 (e) to prescribe forms and make and promulgate rules to carry out the  
53 purposes of this title;

54 (f) to make the determinations provided for in this title and to noti-  
55 fy the department of taxation and finance of such determinations; and

1 (g) any other function, power or duty necessarily implied by this  
2 title.

3 3. If a designated agency determines that an architect or engineer or  
4 other certified or licensed professional whom a designated agency desig-  
5 nates by rule, in making any certification under this title or any rule  
6 promulgated hereunder, engaged in professional misconduct, then such  
7 agency shall so inform the education department or other appropriate  
8 certifying or licensing authority.

9 4. A designated agency may provide for reasonable administrative  
10 charges or fees necessary to defray expenses of administering the tax  
11 abatement program established by this title.

12 5. A designated agency and the department of taxation and finance  
13 shall establish procedures that are necessary or appropriate for: (a)  
14 the timely notification to the department of taxation and finance by a  
15 designated agency of an approval of an application for tax abatement or  
16 of any noncompliance pursuant to section four hundred ninety-nine-d of  
17 this title; and (b) any other interagency coordination to facilitate the  
18 purposes of this title.

19 § 498-f. Tax lien and interest rules. All taxes, with interest,  
20 required to be paid retroactively pursuant to this title shall consti-  
21 tute a tax lien as of the date it is determined such taxes and interest  
22 are owed. All interest shall be calculated from the date the taxes would  
23 have been due but for the tax abatement granted pursuant to this title  
24 at the applicable rate or rates of interest imposed generally for non-  
25 payment of real property tax with respect to the eligible building for  
26 the period in question.

27 § 2. This act shall take effect immediately.