STATE OF NEW YORK

5050

2023-2024 Regular Sessions

IN ASSEMBLY

February 27, 2023

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

AN ACT to amend the real property tax law, in relation to establishing an abatement and exemption from real property taxes for capital improvements to reduce carbon emissions; and to repeal such provisions upon the expiration thereof

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

Section 1. Legislative intent. New York's nation leading climate law, the climate leadership and community protection act of 2019 (CLCPA), requires the state to reduce its greenhouse gas emissions to 40 percent below 1990 levels by 2030, and 85 percent below 1990 levels by 2050, among other goals. At the same time, New York city's local law number 97 for the year 2019 requires buildings over 25,000 square feet to reduce their carbon emissions to comply with increasingly stringent emissions limits. While New York's building stock accounts for more than 25 percent of statewide greenhouse gas emissions and transportation is a top emitter, in New York city that ratio is reversed, with buildings accounting for approximately 70 percent of greenhouse gas emissions. As such, reaching the state and city's climate goals will require significant investment to decarbonize buildings including through electrification, energy efficiency, and the use of new technologies and energy sources. The use of this targeted abatement, which would be available to support all property owners that are meaningfully engaged in reducing carbon emissions will ensure the success of the CLCPA and local law 97. This legislation will benefit all New Yorkers by ensuring that our buildings can play a vital role in decarbonization.

§ 2. The real property tax law is amended by adding a new section 488-b to read as follows:

§ 488-b. Abatement and exemption from real property taxes for capital improvements to reduce carbon emissions. 1. For the purposes of this

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

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

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

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

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

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

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

(iv) any single family private dwelling; or

(v) any two-family private dwelling.

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

(i) design, permitting, and technical analysis work required to identify, measure, and complete eligible work including the development of carbon emissions reduction strategies and plans;

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

(iii) pointing, waterproofing and repair of building envelope, including cleaning of entire building exterior surface to prepare for such work, in the course of the replacement, installation or upgrading of eligible systems or equipment;

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

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

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

(vii) replacement or installation of thermostats to control temperature and building management systems;

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

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

(x) appurtenant labor, equipment and supplies; and

(xi) any other categories of work established by the board in regulations that results in a net reduction in greenhouse gas emissions for the building.

c. "Board" shall mean the energy efficiency improvement board established by this section.

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

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

3. There is hereby established an energy efficiency improvement board within the office of real property services, which shall consist of four members appointed by the governor, one of whom shall be the commissioner of taxation and finance, ex-officio, one of whom shall be the president of the New York state energy research and development authority, ex-officio, one of whom shall be the commissioner of homes and community renewal, ex-officio, and a fourth member who shall have experience in the construction of multiple dwellings. The board shall additionally have two, non-voting members appointed by the mayor of the city of New York. The board shall be responsible for administering the benefits conferred by this section. The board shall appoint staff, within amounts appropriated therefor, to assist it in the execution of its duties. The board members shall be entitled to reimbursement of their actual and necessary expenses in the discharge of their duties, but shall not otherwise be entitled to any compensation for their service. The board shall promulgate a regulation to establish a methodology to determine the greenhouse gas emissions of a building, and by regulation establish a formula that applicants can utilize to determine the reduction in emissions created by any improvements permitted by this section. The improvements described in subparagraphs (i), (ii) and (x) of paragraph b of subdivision one of this section which do not inherently reduce emissions, may only be approved if they are part of an application which includes other projects which have the net effect of reducing the net greenhouse gas emissions of the building if the building is characterized as an eligible real property pursuant to subparagraph (i), (ii) or (iii) of paragraph a of subdivision one of this section. For an eligible real property defined in subparagraph (iv) or (v) of paragraph a of subdivision one of this section, the benefits of subparagraph (i) of paragraph b of subdivision one of this section may be claimed independently at a reduced benefit of fifty percent of actual costs as provided further in this section. The board shall promulgate an application for benefits afforded to owners under this section, and shall establish a process to review applications for the benefits under this section. The board may promulgate regulations to allow for additional classes or categories of work that should entitle an individual to an exemption and abatement under this section, upon a finding that such work has a beneficial impact on greenhouse gas emissions. The board shall approve reasonable costs associated with the work proposed and may use as a guide the typical costs of such improvements, and update such information annually. Any application for benefits shall be approved or denied within one year of submission, or if an affirmative approval or denial has not been given, then such application shall be deemed approved. The board shall establish a process to communicate with the department of finance in the city of New York as to their determinations, such that it may promptly update the tax rolls.

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

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

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

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

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

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

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

5. Eligible real property which qualifies for exemption from taxation for local purposes for eligible improvements shall also be eligible for a ten or twenty year abatement of real property taxes not to exceed the cost of eligible improvements certified by the board, which abatement may commence on the first day of the first tax quarter following the filing with the local agency responsible for real property tax assessment of a certification of eligibility issued by the board for such abatement; provided, however that if the rehabilitation is carried out with substantial government assistance as part of a program for affordable housing the abatement may commence no sooner than the first day of the first tax quarter following the commencement of construction of eligible improvements, provided that:

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

b. the amount of such abatement shall not exceed the following amounts and durations, which shall be determined by regulations establishing a methodology to calculate the annual abatement for such applicable work. Such methodology shall establish a base year for calculating the percentage on the building's prior calendar year building emissions report as required by article three hundred twenty of chapter three of title twenty-eight of the administrative code of the city of New York, or if not required to file a building emissions report, then a benchmarking report required by article three hundred nine of chapter three of title twenty-eight of the administrative code of the city of New York:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. all such other information required by the board.

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

8. The benefits of this section may be revoked or reduced upon a finding by the board that:

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

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

c. the eligible real property fails to provide the annual certification required by this section; and

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

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

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