

# STATE OF NEW YORK

4709

2023-2024 Regular Sessions

## IN SENATE

February 13, 2023

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to authorizing a tax exemption and a tax abatement for alterations and improvements to multiple dwellings for purposes of preserving habitability in affordable housing

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

Section 1. Section 489 of the real property tax law is amended by adding a new subdivision 21 to read as follows:

21. Affordable housing rehabilitation program. (a) Definitions. For the purposes of this subdivision:

(1) "Affordable rent" shall mean the maximum rent within the marketing band that is allowed for an affordable rental unit as such rent is established by the local housing agency.

(2) "Affordable rental unit" shall mean a dwelling unit in an eligible rental building that:

(A) is affordable to individuals or families whose household income does not exceed eighty percent of the area median income, adjusted for family size; and

(B) upon each subsequent rental following a vacancy during the restriction period, is rented at or below the applicable affordable rent and occupied by an individual or family whose household income does not exceed eighty percent of the area median income, adjusted for family size, at the time that such household initially occupies such dwelling unit, provided that nothing in this subdivision shall prohibit occupancy by individuals or families whose household income is less than eighty percent of the area median income, adjusted for family size, nor prohibit the owner from requiring occupancy by individuals or families with such lower household income.

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

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(3) "Certificate of eligibility and reasonable cost" shall mean a document issued by the local housing agency that establishes that a property is eligible for rehabilitation program benefits and sets forth the certified reasonable cost of the eligible construction for which such benefits shall be received.

(4) "Certified reasonable cost schedule" shall mean a table providing maximum dollar limits for specified alterations and improvements, established, and updated as necessary, by the local housing agency.

(5) "Checklist" shall mean a document that the local housing agency issues requesting additional information or documentation that is necessary for further assessment of an application for a certificate of eligibility and reasonable cost where such application contained all information and documentation required at the initial filing.

(6) "Commencement date" shall mean, with respect to eligible construction, the date on which any physical operation undertaken for the purpose of performing such eligible construction lawfully begins.

(7) "Completion date" shall mean, with respect to eligible construction, the date on which:

(A) every physical operation undertaken for the purpose of all eligible construction has concluded; and

(B) all such eligible construction has been completed to a reasonable and customary standard that renders such eligible construction capable of use for the purpose for which such eligible construction was intended.

(8) "Dwelling unit" shall mean any residential accommodation in a class A multiple dwelling that:

(A) is arranged, designed, used or intended for use by one or more persons living together and maintaining a common household;

(B) contains at least one room; and

(C) contains within such accommodation lawful sanitary and kitchen facilities reserved for its occupants.

(9) "Eligible building" shall mean an eligible rental building, an eligible homeownership building, or an eligible regulated homeownership building, provided that such building contains three or more dwelling units.

(10) "Eligible construction" shall mean alterations or improvements to an eligible building that:

(A) are specifically identified on the certified reasonable cost schedule;

(B) meet the minimum scope of work threshold;

(C) have a completion date that is after June twenty-ninth, two thousand twenty-two and prior to June thirtieth, two thousand twenty-six and that is not more than thirty months after their commencement date; and

(D) are not attributable to any increased cubic content in such eligible building.

(11) "Eligible homeownership building" shall mean an existing building that:

(A) is a class A multiple dwelling operated as condominium or cooperative housing;

(B) is not operating in whole or in part as a hotel; and

(C) has an average assessed valuation, including the valuation of the land, that as of the commencement date does not exceed the applicable homeownership average assessed valuation limitation.

(12) "Eligible regulated homeownership building" shall mean an existing building that is a class A multiple dwelling owned and operated by either:

1 (A) a mutual company that continues to be organized and operated as a  
2 mutual company and that has entered into and recorded a mutual company  
3 regulatory agreement; or

4 (B) a mutual redevelopment company that continues to be organized and  
5 operated as a mutual redevelopment company and that has entered into and  
6 recorded a mutual redevelopment company regulatory agreement.

7 (13) "Eligible rental building" shall mean an existing building that:  
8 (A) is a class A multiple dwelling in which all of the dwelling units  
9 are operated as rental housing;

10 (B) is not operating in whole or in part as a hotel; and

11 (C) satisfies one of the following conditions:

12 (i) not less than fifty percent of the dwelling units in such building  
13 are affordable rental units;

14 (ii) such building is owned and operated by a limited-profit housing  
15 company; or

16 (iii) such building is the recipient of substantial governmental  
17 assistance.

18 (14) "Existing building" shall mean an enclosed structure which:

19 (A) is permanently affixed to the land;

20 (B) has one or more floors and a roof;

21 (C) is bounded by walls;

22 (D) has at least one principal entrance utilized for day-to-day pedes-  
23 trian ingress and egress;

24 (E) has a certificate of occupancy or equivalent document that is in  
25 effect prior to the commencement date; and

26 (F) exclusive of the land, has an assessed valuation of more than one  
27 thousand dollars for the fiscal year immediately preceding the commence-  
28 ment date.

29 (15) "Homeownership average assessed valuation limitation" shall mean:

30 (A) for the final assessment roll to be completed in two thousand  
31 twenty-two, an average assessed valuation of thirty-five thousand  
32 dollars per dwelling unit.

33 (B) for the final assessment roll to be completed in two thousand  
34 twenty-three, an average assessed valuation of thirty-five thousand  
35 dollars per dwelling unit increased by the cost-of-living adjustment  
36 percentage of two thousand twenty-three. For the purposes of this compu-  
37 tation, the cost-of-living adjustment percentage of two thousand twen-  
38 ty-three shall be equal to the "applicable increase percentage" used by  
39 the United States commissioner of social security to determine the  
40 monthly social security benefits payable in two thousand twenty-three to  
41 individuals, as provided by subsection (i) of section four hundred  
42 fifteen of title forty-two of the United States code.

43 (C) for final assessment rolls to be completed in each year after two  
44 thousand twenty-three, an average assessed valuation dollar amount per  
45 dwelling unit computed by increasing the homeownership average assessed  
46 valuation limitation applicable for the final assessment roll completed  
47 in the previous calendar year by the new cost-of-living adjustment  
48 percentage. For the purposes of this computation, the new cost-of-living  
49 adjustment percentage shall be equal to the "applicable increase  
50 percentage" used by the United States commissioner of social security to  
51 determine the monthly social security benefits payable in such calendar  
52 year to individuals, as provided in subsection (i) of section four  
53 hundred fifteen of title forty-two of the United States code. In any  
54 year for which there is no applicable increase percentage due to a  
55 general benefit increase as defined by paragraph three of such  
56 subsection (i), the applicable increase percentage for purposes of the

1 computation required by this definition shall be deemed to be the  
2 percentage which would have yielded that general benefit increase.

3 (D) Notwithstanding anything to the contrary contained in this subdi-  
4 vision, the homeownership average assessed valuation limitation per  
5 dwelling unit shall not at any time exceed forty thousand dollars.

6 (16) "Limited-profit housing company" shall have the same meaning as  
7 "company" set forth in section twelve of the private housing finance  
8 law.

9 (17) "Market rental unit" shall mean a dwelling unit in an eligible  
10 rental building other than an affordable rental unit.

11 (18) "Marketing band" shall mean maximum rent amounts ranging from  
12 twenty percent of eighty percent of the area median income, adjusted for  
13 family size, to thirty percent of eighty percent of the area median  
14 income, adjusted for family size.

15 (19) "Minimum scope of work threshold" shall mean a total amount of  
16 certified reasonable cost established by rules and regulations of the  
17 local housing agency, provided that such amount shall be no less than  
18 one thousand five hundred dollars for each dwelling unit in existence on  
19 the completion date.

20 (20) "Multiple dwelling" shall have the meaning set forth in section  
21 four of the multiple dwelling law.

22 (21) "Mutual company" shall have the meaning set forth in section  
23 twelve of the private housing finance law.

24 (22) "Mutual company regulatory agreement" shall mean a binding and  
25 irrevocable agreement between a mutual company and the commissioner of  
26 housing, the mutual company supervising agency, the New York city hous-  
27 ing development corporation, or the New York state housing finance agen-  
28 cy prohibiting the dissolution or reconstitution of such mutual company  
29 pursuant to section thirty-five of the private housing finance law for  
30 not less than fifteen years from the commencement of rehabilitation  
31 program benefits for the existing building owned and operated by such  
32 mutual company.

33 (23) "Mutual company supervising agency" shall have the same meaning,  
34 with respect to any mutual company, as "supervising agency" set forth in  
35 section two of the private housing finance law.

36 (24) "Mutual redevelopment company" shall have the same meaning as  
37 "mutual" when applied to a redevelopment company as set forth in section  
38 one hundred two of the private housing finance law.

39 (25) "Mutual redevelopment company regulatory agreement" shall mean a  
40 binding and irrevocable agreement between a mutual redevelopment company  
41 and the commissioner of housing, the redevelopment company supervising  
42 agency, the New York city housing development corporation, or the New  
43 York state housing finance agency prohibiting the dissolution or recon-  
44 stitution of such mutual redevelopment company pursuant to section one  
45 hundred twenty-three of the private housing finance law until the earli-  
46 er of: (A) fifteen years from the commencement of rehabilitation program  
47 benefits for the existing building owned and operated by such mutual  
48 redevelopment company; or (B) the expiration of any tax exemption grant-  
49 ed to such mutual redevelopment company pursuant to section one hundred  
50 twenty-five of the private housing finance law.

51 (26) "Redevelopment company" shall have the meaning set forth in  
52 section one hundred two of the private housing finance law

53 (27) "Redevelopment company supervising agency" shall have the same  
54 meaning, with respect to any redevelopment company, as "supervising  
55 agency" set forth in section one hundred two of the private housing  
56 finance law.

1     (28) "Rehabilitation program benefits" shall mean exemption from or  
2 abatement of real property taxes pursuant to this subdivision.

3     (29) "Rent regulation" shall mean, collectively, the emergency housing  
4 rent control law, any local law enacted pursuant to the local emergency  
5 housing rent control act, the rent stabilization law of nineteen hundred  
6 sixty-nine, the rent stabilization code, and the emergency tenant  
7 protection act of nineteen seventy-four, all as in effect as of the  
8 effective date of this subdivision, or as any such statute is amended  
9 thereafter, together with any successor statutes or regulations address-  
10 ing substantially the same subject matter.

11     (30) "Restriction period" shall mean, notwithstanding any termination  
12 or revocation of rehabilitation program benefits prior to the period  
13 described in clause (A) or (B) of this subparagraph, the following:

14     (A) the period commencing on the restrictive declaration date and  
15 expiring on the fifteenth anniversary thereof, or such additional period  
16 of time as may be imposed pursuant to clause (A) of subparagraph six of  
17 paragraph (f) of this subdivision; or

18     (B) for an exemption granted pursuant to clause (B) of subparagraph  
19 one of paragraph (b) of this subdivision, the period commencing upon the  
20 restrictive declaration date and expiring on the date of the expiration  
21 of such exemption, or such additional period of time as may be imposed  
22 pursuant to clause (A) of subparagraph six of paragraph (f) of this  
23 subdivision.

24     (31) "Restrictive declaration" shall mean the document executed by all  
25 parties in interest to an eligible rental building, other than one owned  
26 and operated by a limited-profit housing company, which provides that  
27 such eligible rental building shall comply with the applicable require-  
28 ments of this subdivision, any local law or ordinance enacted pursuant  
29 to this subdivision, and any rules and regulations of the local housing  
30 agency.

31     (32) "Restrictive declaration date" shall mean the date upon which a  
32 restrictive declaration is recorded and effective against an eligible  
33 rental building, other than one owned and operated by a limited-profit  
34 housing company.

35     (33) "Substantial governmental assistance" shall mean grants, loans,  
36 or subsidies from the local housing agency in furtherance of a program  
37 for the development of affordable housing provided in accordance with a  
38 regulatory agreement entered into with such local housing agency that is  
39 in effect as of the filing date of the application for a certificate of  
40 eligibility and reasonable cost.

41     (34) "Substantial interest" shall mean an ownership interest of ten  
42 percent or more.

43     (b) Exemption. (1) Notwithstanding the provisions of any other subdi-  
44 vision of this section or of any general, special or local law to the  
45 contrary, any city to which the multiple dwelling law is applicable,  
46 acting through its local legislative body or other governing agency, is  
47 hereby authorized and empowered, to and including June thirtieth, two  
48 thousand twenty-five, to adopt and amend local laws or ordinances  
49 providing that:

50     (A) an eligible rental building in which eligible construction has  
51 been completed, and which is not the recipient of substantial govern-  
52 mental assistance, shall be exempt from real property taxation for local  
53 purposes as provided herein equal to five percent of the assessed valu-  
54 ation of such building as of the commencement date;

55     (B) an eligible rental building in which eligible construction has  
56 been completed, and which is the recipient of substantial governmental



1 assistance, shall be exempt from real property taxation for local  
2 purposes as provided herein equal to fifteen percent of the assessed  
3 valuation of such building as of the commencement date; and

4 (C) an eligible rental building owned by a limited-profit housing  
5 company or redevelopment company, shall not be eligible for an exemption  
6 from real property taxation for local purposes pursuant to this subdivi-  
7 sion.

8 (2) Such exemption shall begin with the first quarterly tax bill imme-  
9 diately following the restrictive declaration date and shall continue  
10 for a period not to exceed fifteen years in the aggregate, as follows:

11 (A) except as otherwise provided herein, for ten years, such exemption  
12 shall be equal to the amount of assessed valuation that is subject to  
13 exemption under this paragraph as of the commencement date;

14 (B) followed by one year of exemption from eighty-three and one-third  
15 percent of such amount;

16 (C) followed by one year of exemption from sixty-six and two-thirds  
17 percent of such amount;

18 (D) followed by one year of exemption from fifty percent of such  
19 amount;

20 (E) followed by one year of exemption from thirty-three and one-third  
21 percent of such amount;

22 (F) followed by one year of exemption from sixteen and two-thirds  
23 percent of such amount;

24 (G) after which the amount of assessed valuation that had been exempt  
25 is fully taxable.

26 (3) Notwithstanding subparagraphs one and two of this paragraph:

27 (A) the owner of any such eligible rental building, shall pay, in each  
28 year in which rehabilitation program benefits are in effect, real prop-  
29 erty taxes on any amount of the assessed valuation of such building that  
30 is not exempt from real property taxation pursuant to subparagraph two  
31 of this paragraph and for which there is no abatement thereof in  
32 accordance with paragraph (c) of this subdivision, as well as any such  
33 real property taxes related to the land portion of such real property;  
34 and

35 (B) if eligible construction is completed on an eligible rental build-  
36 ing that is the recipient of substantial governmental assistance, the  
37 exemption under this paragraph shall continue for a period not to  
38 exceed, in the aggregate, the greater of fifteen years or the remaining  
39 term, up to forty years, of the relevant regulatory agreement with the  
40 local housing agency in effect as of the filing date of the application  
41 for a certificate of eligibility and reasonable cost, with the final  
42 five years of such exemption to be implemented in accordance with claus-  
43 es (B) through (F) of subparagraph two of this paragraph, after which  
44 the assessed value is fully taxable.

45 (4) Notwithstanding any other provision of this paragraph, no eligible  
46 rental building shall receive concurrent exemptions under this para-  
47 graph, and upon the commencement of an exemption under this paragraph  
48 for an eligible rental building, any prior exemption under this para-  
49 graph for such eligible rental building still in effect shall immediate-  
50 ly terminate.

51 (c) Abatement. Any such local law or ordinance may also provide an  
52 abatement of real property taxes on an eligible building in which eligi-  
53 ble construction has been completed, provided that:

54 (1) Such abatement shall not exceed seventy percent of the certified  
55 reasonable cost of the eligible construction, as determined under rules  
56 and regulations of the local housing agency;

1     (2) Such abatement shall not be effective for more than twenty years;

2     (3) The annual abatement of real property taxes on such eligible  
3 building shall not exceed eight and one-third percent of the total  
4 certified reasonable cost of such eligible construction;

5     (4) The annual abatement of real property taxes on such eligible  
6 building in any consecutive twelve-month period shall in no event exceed  
7 the amount of real property taxes payable in such twelve-month period  
8 for such building, provided, however, that such abatement shall not  
9 exceed fifty percent of the amount of real property taxes payable in  
10 such twelve-month period for any of the following:

11     (A) an eligible rental building owned by a limited-profit housing  
12 company or a redevelopment company;

13     (B) an eligible homeownership building; and

14     (C) an eligible regulated homeownership building; and

15     (5) Such abatement shall become effective:

16     (A) for eligible rental buildings other than those owned and operated  
17 by limited-profit housing companies, beginning with the first quarterly  
18 tax bill immediately following the restrictive declaration date;

19     (B) for all other eligible buildings, including eligible rental build-  
20 ings owned and operated by limited-profit housing companies, beginning  
21 with the first quarterly tax bill immediately following the date of  
22 issuance of the certificate of eligibility and reasonable cost.

23     (d) Authority of city to adopt rules and regulations. Any such local  
24 law or ordinance shall authorize the adoption of rules and regulations,  
25 not inconsistent with this subdivision, by the local housing agency and  
26 any other local agency necessary for the implementation of this subdivi-  
27 sion.

28     (e) Applications. (1) Any such local law or ordinance shall require  
29 that an application for a certificate of eligibility and reasonable cost  
30 pursuant to this subdivision be made after the completion date and no  
31 later than four months from such completion date.

32     (2) Such application shall include evidence of eligibility for reha-  
33 bilitation program benefits and evidence of reasonable cost as shall be  
34 satisfactory to the local housing agency including, but not limited to,  
35 evidence showing the cost of eligible construction.

36     (3) The local housing agency shall require a non-refundable filing fee  
37 that shall be paid by a certified check or cashier's check upon the  
38 filing of an application for a certificate of eligibility and reasonable  
39 cost. Such fee shall be (A) one thousand dollars, plus (B) seventy-five  
40 dollars for each dwelling unit in excess of six dwelling units in the  
41 eligible building that is the subject of such application.

42     (4) Any application that is filed pursuant to this paragraph that is  
43 missing any of the information and documentation required at initial  
44 filing by such local law or ordinance and any rules and regulations of  
45 the local housing agency shall be denied, provided that a new applica-  
46 tion for the same eligible construction, together with a new non-refund-  
47 able filing fee, may be filed within fifteen days of the date of issu-  
48 ance of such denial. If such second application is also missing any such  
49 required information and documentation, it shall be denied and no  
50 further applications for the same eligible construction shall be permit-  
51 ted.

52     (5) The failure of an applicant to respond to any checklist within  
53 thirty days of the date of its issuance by the local housing agency  
54 shall result in denial of such application, and no further applications  
55 for the same eligible construction shall be permitted. The local housing  
56 agency shall issue not more than three checklists per application. An

1 application for a certificate of eligibility and reasonable cost shall  
2 be denied when the local housing agency does not have a sufficient basis  
3 to issue a certificate of eligibility and reasonable cost after the  
4 timely response of an applicant to the third checklist concerning such  
5 application. After the local housing agency has denied an application  
6 for the reason described in the preceding sentence, such agency shall  
7 permit no further applications for the same eligible construction.

8 (6) An application for a certificate of eligibility and reasonable  
9 cost shall also include an affidavit of no harassment.

10 (A) Such affidavit shall set forth the following information:

11 (i) the name of every owner of record and owner of a substantial  
12 interest in the eligible building or entity owning the eligible building  
13 or sponsoring the eligible construction; and

14 (ii) a statement that none of such persons had, within the five years  
15 prior to the completion date, been found to have harassed or unlawfully  
16 evicted tenants by judgment or determination of a court or agency,  
17 including a non-governmental agency having appropriate legal jurisdic-  
18 tion under the penal law, any state or local law regulating rents or any  
19 state or local law relating to harassment of tenants or unlawful  
20 eviction.

21 (B) No eligible building shall be eligible for an exemption pursuant  
22 to paragraph (b) of this subdivision or an abatement pursuant to para-  
23 graph (c) of this subdivision where:

24 (i) any affidavit required under this subparagraph has not been filed;  
25 or

26 (ii) any such affidavit contains a willful misrepresentation or omis-  
27 sion of any material fact; or

28 (iii) any owner of record or owner of a substantial interest in the  
29 eligible building or entity owning the eligible building or sponsoring  
30 the eligible construction has been found, by judgment or determination  
31 of a court or agency, including a non-governmental agency having appro-  
32 priate legal jurisdiction under the penal law, any state or local law  
33 regulating rents or any state or local law relating to harassment of  
34 tenants or unlawful eviction, to have, within the five years prior to  
35 the completion date, harassed or unlawfully evicted tenants, until and  
36 unless the finding is reversed on appeal.

37 (C) Notwithstanding the provisions of any general, special or local  
38 law to the contrary, the corporation counsel or other legal represen-  
39 tative of a city having a population of one million or more or the  
40 district attorney of any county, may institute an action or proceeding  
41 in any court of competent jurisdiction that may be appropriate or neces-  
42 sary to determine whether any owner of record or owner of a substantial  
43 interest in the eligible building or entity owning the eligible building  
44 or sponsoring the eligible construction has harassed or unlawfully  
45 evicted tenants as described in this subparagraph.

46 (7) Notwithstanding the provisions of any general, special or local  
47 law to the contrary, the local housing agency may require by rules and  
48 regulations that an application for a certificate of eligibility and  
49 reasonable cost be filed electronically.

50 (f) Additional requirements for an eligible rental building other than  
51 one owned and operated by a limited-profit housing company. Any such  
52 local law or ordinance shall, in addition to all other conditions of  
53 eligibility for rehabilitation program benefits set forth in this subdivi-  
54 sion, require that an eligible rental building, other than one owned  
55 and operated by a limited-profit housing company, also comply with all  
56 provisions of this paragraph. Notwithstanding the foregoing, an eligible



1 rental building that is the recipient of substantial governmental  
2 assistance shall not be required to comply with the provisions of  
3 subparagraph three of this paragraph.

4 (1) Notwithstanding any provision of rent regulation to the contrary,  
5 any market rental unit within such eligible rental building subject to  
6 rent regulation as of the filing date of the application for a certifi-  
7 cate of eligibility and reasonable cost and any affordable rental unit  
8 within such eligible rental building shall be subject to rent regulation  
9 until such unit first becomes vacant after the expiration of the  
10 restriction period at which time such unit, unless it would be subject  
11 to rent regulation for reasons other than the provisions of this subdivi-  
12 vision, shall be deregulated, provided, however, that during the  
13 restriction period, no exemption or exclusion from any requirement of  
14 rent regulation shall apply to such dwelling unit.

15 (2) The owner of an eligible rental building shall execute and record  
16 a restrictive declaration, in a form satisfactory to the local housing  
17 agency, that requires compliance with the provisions of this subdivi-  
18 sion, such local law or ordinance, and the rules and regulations of the  
19 local housing agency. Such restrictive declaration shall bind the owner  
20 of such eligible rental building and its successors and assignees, and  
21 may include such other terms and conditions as the local housing agency  
22 shall determine.

23 (3) Additional requirements for an eligible rental building that is  
24 not a recipient of substantial governmental assistance:

25 (A) Not less than fifty percent of the dwelling units in such eligible  
26 rental building shall be designated as affordable rental units. The  
27 restrictive declaration for any such eligible rental building shall not  
28 be executed and recorded until leases in accordance with the applicable  
29 provisions of rent regulation have been executed with respect to all  
30 affordable rental units within such eligible rental building and all  
31 affordable rental units have been registered in accordance with such  
32 rent regulation provisions.

33 (B) The owner of such eligible rental building shall ensure that no  
34 affordable rental unit is held off the market for a period that is long-  
35 er than reasonably necessary. To that end, such owner shall notify the  
36 local housing agency of a vacancy of an affordable rental unit within  
37 such rental building during the restriction period no later than seven  
38 days following such vacancy, after which such affordable rental unit  
39 shall be marketed in accordance with the rules and regulations of the  
40 local housing agency and shall be rented by the owner in a prompt and  
41 timely manner. The local housing agency may impose requirements upon  
42 such owner to facilitate such prompt and timely rental, as set forth in  
43 rules and regulations of the local housing agency.

44 (C) The owner of such eligible rental building shall, during the  
45 restriction period, waive the collection of any major capital improve-  
46 ment rent increase granted by the New York state division of housing and  
47 community renewal pursuant to rent regulation that is attributable to  
48 eligible construction for which such eligible rental building receives  
49 rehabilitation program benefits, and shall file a declaration with the  
50 New York state division of housing and community renewal providing such  
51 waiver.

52 (D) An affordable rental unit shall not be rented on a temporary,  
53 transient or short-term basis. Every lease and renewal thereof for an  
54 affordable rental unit shall be for a term of one or two years, at the  
55 option of the tenant, and shall include a notice in at least twelve-  
56 point type informing such tenant of their rights pursuant to this subdivi-

1 vision, including an explanation of the restrictions on rent increases  
2 that may be imposed on such affordable rental unit.

3 (E) The local housing agency may establish by rules and regulations  
4 such requirements as the local housing agency deems necessary or appro-  
5 priate for the following:

6 (i) designating affordable rental units, including, but not limited  
7 to, designating the unit mix and distribution requirements of such  
8 affordable rental units in an eligible building;

9 (ii) marketing affordable rental units upon any vacancy; and

10 (iii) monitoring compliance with the provisions of this subdivision.  
11 Such requirements may include, but need not be limited to, retaining a  
12 monitor approved by the local housing agency and paid for by the owner  
13 of the eligible rental building.

14 (4) The owner of such eligible rental building shall not engage in or  
15 cause any harassment of the tenants of such eligible rental building or  
16 unlawfully evict any such tenants during the restriction period.

17 (5) No dwelling units within such eligible rental building shall be  
18 converted to cooperative or condominium ownership during the restriction  
19 period.

20 (6) Any non-compliance of an eligible rental building with the  
21 provisions of this paragraph shall permit the local housing agency to  
22 take the following action:

23 (A) extend the restriction period;

24 (B) increase the number of affordable rental units in such eligible  
25 rental building;

26 (C) impose a penalty of not more than the product of one thousand  
27 dollars per instance of non-compliance and the number of dwelling units  
28 contained in such eligible rental building; and

29 (D) terminate or revoke any rehabilitation program benefits in accord-  
30 ance with paragraph (n) of this subdivision.

31 (g) Compliance with applicable law. Any such local law or ordinance  
32 may also provide that rehabilitation program benefits shall not be  
33 allowed for any eligible building unless and until such eligible build-  
34 ing complies with all applicable provisions of law.

35 (h) Implementation of rehabilitation program benefits. Upon issuance  
36 of a certificate of eligibility and reasonable cost and payment of  
37 outstanding fees, the local housing agency shall be authorized to trans-  
38 mit such certificate of eligibility and reasonable cost to the local  
39 agency responsible for real property tax assessment. Upon receipt of a  
40 certificate of eligibility and reasonable cost, the local agency respon-  
41 sible for real property tax assessment shall certify the amount of value  
42 to be exempt from taxation and the amount of taxes to be abated pursuant  
43 to paragraphs (b) and (c) of this subdivision, respectively, and pursu-  
44 ant to such certificate of eligibility and reasonable cost provided by  
45 the local housing agency.

46 (i) Outstanding taxes and charges. Any such local law or ordinance  
47 shall also provide that rehabilitation program benefits shall not be  
48 allowed for an eligible building in either of the following cases:

49 (1) there are outstanding real estate taxes or water and sewer charges  
50 or payments in lieu of taxes that are due and owing as of the last day  
51 of the tax period preceding the date of the receipt of the certificate  
52 of eligibility and reasonable cost by the local agency responsible for  
53 real property tax assessment; or

54 (2) real estate taxes or water and sewer charges due at any time  
55 during the authorized term of such benefits remain unpaid for one year  
56 after the same are due and payable.

1 (j) Additional limitations on eligibility. Any such local law or  
2 ordinance shall also provide that:

3 (1) rehabilitation program benefits shall not be allowed for any  
4 eligible building receiving tax exemption or abatement concurrently for  
5 rehabilitation or new construction under any other provision of state or  
6 local law or ordinance with the exception of any eligible construction  
7 to an eligible building receiving a tax exemption or abatement under the  
8 provisions of the private housing finance law;

9 (2) rehabilitation program benefits shall not be allowed for any item  
10 of eligible construction in an eligible building if such eligible build-  
11 ing is receiving tax exemption or abatement for the same or a similar  
12 item of eligible construction as of the December thirty-first preceding  
13 the date of application for a certificate of eligibility and reasonable  
14 cost for such rehabilitation program benefits;

15 (3) where the eligible construction includes or benefits a portion of  
16 an eligible building that is not occupied for dwelling purposes, the  
17 assessed valuation of such eligible building and the cost of the eligi-  
18 ble construction shall be apportioned so that rehabilitation program  
19 benefits shall not be provided for eligible construction made for other  
20 than dwelling purposes; and

21 (4) rehabilitation program benefits shall not be applied to abate or  
22 reduce the taxes upon the land portion of real property, which shall  
23 continue to be taxed based upon the assessed valuation of the land and  
24 the applicable tax rate at the time such taxes are levied.

25 (k) Re-inspection penalty. Any such local law or ordinance shall also  
26 provide that if the local housing agency cannot verify the eligible  
27 construction claimed by an applicant upon the first inspection by the  
28 local housing agency of the eligible building, such applicant shall be  
29 required to pay ten times the actual cost of any additional inspection  
30 needed to verify such eligible construction.

31 (l) Strict liability for inaccurate applications. Any such local law  
32 or ordinance shall also provide that if the local housing agency deter-  
33 mines that an application for a certificate of eligibility and reason-  
34 able cost contains a material misstatement of fact, the local housing  
35 agency may reject such application and bar the submission of any other  
36 application pursuant to this subdivision with respect to such eligible  
37 building for a period not to exceed three years. An applicant shall not  
38 be relieved from liability under this paragraph because it submitted its  
39 application under a mistaken belief of fact. Furthermore, any person or  
40 entity that files more than six applications containing such a material  
41 misstatement of fact within any twelve-month period shall be barred from  
42 submitting any new application for rehabilitation program benefits on  
43 behalf of any eligible building for a period not to exceed five years.

44 (m) Investigatory authority. Any such local law or ordinance shall  
45 also allow the local housing agency to require such certifications and  
46 consents necessary to access records, including other tax records, as  
47 may be deemed appropriate to enforce the eligibility requirements of  
48 this subdivision. Any such local law or ordinance shall further provide  
49 that, for purposes of determining and certifying eligibility for reha-  
50 bilitation program benefits and the reasonable cost of any eligible  
51 construction, the local housing agency shall be authorized to:

52 (1) administer oaths to and take the testimony of any person, includ-  
53 ing, but not limited to, the owner of such eligible building;

54 (2) issue subpoenas requiring the attendance of such persons and the  
55 production of any bills, books, papers or other documents as it may deem  
56 necessary;

1 (3) make preliminary estimates of the maximum reasonable cost of such  
2 eligible construction;

3 (4) establish maximum allowable costs of specified units, fixtures or  
4 work in such eligible construction;

5 (5) require the submission of plans and specifications of such eligi-  
6 ble construction before the commencement thereof;

7 (6) require physical access to inspect the eligible building; and

8 (7) on an annual basis, require the submission of leases for any  
9 dwelling unit in a building granted a certificate of eligibility and  
10 reasonable cost.

11 (n) Termination or revocation. Any such local law or ordinance shall  
12 provide that failure to comply with the provisions of this subdivision,  
13 any such local law or ordinance, any rules and regulations promulgated  
14 thereunder, or any restrictive declaration, mutual company regulatory  
15 agreement, or mutual redevelopment company regulatory agreement entered  
16 into thereunder, may result in revocation of any rehabilitation program  
17 benefits retroactive to the commencement thereof. Such termination or  
18 revocation shall not exempt such eligible building from continued  
19 compliance with the requirements of this subdivision, such local law or  
20 ordinance, such rules and regulations, and such restrictive declaration,  
21 mutual company regulatory agreement, or mutual redevelopment company  
22 regulatory agreement.

23 (o) Criminal liability for unauthorized uses. Any such local law or  
24 ordinance shall also provide that in the event that any recipient of  
25 rehabilitation program benefits uses any dwelling unit in such eligible  
26 building in violation of the requirements of such local law or ordinance  
27 as adopted pursuant to this subdivision and any rules and regulations  
28 promulgated pursuant thereto, such recipient shall be guilty of an  
29 unclassified misdemeanor punishable by a fine in an amount equivalent to  
30 double the value of the gain of such recipient from such unlawful use or  
31 imprisonment for not more than ninety days, or both.

32 (p) Private right of action. Any prospective, present, or former  
33 tenant of an eligible rental building may sue to enforce the require-  
34 ments and prohibitions of this subdivision, any such local law or ordi-  
35 nance, any rules and regulations promulgated thereunder, or any restric-  
36 tive declaration entered into thereunder, in the supreme court of New  
37 York. Any such individual harmed by reason of a violation of such  
38 requirements and prohibitions may sue therefor in the supreme court of  
39 New York on behalf of himself or herself, and shall recover threefold  
40 the damages sustained and the cost of the suit, including a reasonable  
41 attorney's fee. The local housing agency may use any court decision  
42 under this paragraph that is adverse to the owner of an eligible build-  
43 ing as the basis for further enforcement action. Notwithstanding any  
44 other provision of law, an action by a tenant of an eligible rental  
45 building under this paragraph shall be commenced within six years from  
46 the date of the latest violation.

47 (q) Appointment of receiver. In addition to the remedies for non-com-  
48 pliance provided for in subparagraph six of paragraph (f) of this subdivi-  
49 vision, any such local law or ordinance may also provide that the local  
50 housing agency may make application for the appointment of a receiver in  
51 accordance with the procedures contained in such local law or ordinance.  
52 Any receiver appointed pursuant to this paragraph shall be authorized,  
53 in addition to any other powers conferred by law, to effect compliance  
54 with the provisions of this subdivision, such local law or ordinance,  
55 and rules and regulations of the local housing agency. Any expenditures  
56 incurred by the receiver to effect such compliance shall constitute a

1 debt of the owner and a lien upon the property, and upon the rents and  
2 income thereof, in accordance with the procedures contained in such  
3 local law or ordinance. The local housing agency in its discretion may  
4 provide funds to be expended by the receiver, and such funds shall  
5 constitute a debt recoverable from the owner in accordance with applica-  
6 ble local laws or ordinances.

7 (r) Authority of city to limit local law. Where a city enacts or  
8 amends a local law or ordinance under this subdivision, such local law  
9 or ordinance may restrict, limit or condition the eligibility, scope or  
10 amount of rehabilitation program benefits under the local law or ordi-  
11 nance in any manner, provided that the local law or ordinance may not  
12 grant rehabilitation program benefits beyond those provided in this  
13 subdivision.

14 § 2. This act shall take effect immediately.