**§ 485-x. Affordable neighborhoods for New Yorkers tax incentive.** 1. Definitions. For purposes of this section:

(a) "Affordability option A" shall mean:

(i) for a large rental project, that, within any eligible site: (A) not less than twenty-five percent of the dwelling units are affordable housing units; (B) the weighted average of all income bands for all of the affordable housing units does not exceed eighty percent of the area median income, adjusted for family size; (C) there are no more than three income bands for all of the affordable housing units; and (D) no income band for affordable housing units exceeds one hundred percent of the area median income, adjusted for family size;

(ii) for a very large rental project, that, within any eligible site: (A) not less than twenty-five percent of the dwelling units are affordable housing units; (B) the weighted average of all income bands for all of the affordable housing units does not exceed sixty percent of the area median income, adjusted for family size; (C) there are no more than three income bands for all of the affordable housing units; and (D) no income band for affordable housing units exceeds one hundred percent of the area median income, adjusted for family size.

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

(c) "Affordability option C" shall mean that, within any eligible site, not less than fifty percent of the dwelling units are subject to rent stabilization for the restriction period.

(d) "Affordability option D" shall mean a homeownership project in which one hundred percent of the units shall have an average assessed value per square foot that does not exceed eighty-nine dollars upon the first assessment following the completion date and where each owner of any such unit shall agree, in writing, to maintain such unit as their primary residence for no less than five years from the acquisition of such unit.

(e) "Affordability percentage" shall mean a fraction, the numerator of which is the number of affordable housing units in an eligible site and the denominator of which is the total number of dwelling units in such eligible site.

(f) "Affordable neighborhoods for New Yorkers tax incentive benefits (hereinafter referred to as "ANNY Program benefits")" shall mean the exemption from real property taxation pursuant to this section.

(g) "Affordable housing unit" shall mean a dwelling unit that: (i) is situated within the eligible site for which ANNY Program benefits are granted; and (ii) upon initial rental and upon each subsequent rental following a vacancy during the applicable restriction period, is affordable to and restricted to occupancy by a household whose income does not exceed a prescribed percentage of the area median income, adjusted for family size, at the time that such household initially occupies such dwelling unit.

(h) "Agency" shall mean the department of housing preservation and development.

(i) "Application" shall mean an application for ANNY Program benefits.

(j) "Building service employee" shall mean any person who is regularly employed at, and performs work in connection with the care or maintenance of, an eligible site, including, but not limited to, a watchperson, guard, doorperson, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, elevator operator and starter, and window cleaner, but not including persons regularly scheduled to work fewer than eight hours per week at the eligible site.

(k) "Collective bargaining agreement" shall mean an agreement entered into pursuant to section eight-f or section nine-a of the National Labor Relations Act (29 U.S.C. Sections 159(a) and 158(f)) between a contractor or subcontractor and a labor organization setting forth terms and conditions of employment for those construction employees represented by the labor organization and employed by the contractor or subcontractor to perform construction work on an eligible site.

(l) "Commencement date" shall mean, with respect to any eligible multiple dwelling, the date upon which excavation and construction of initial footings and foundations lawfully begins in good faith or, for an eligible conversion, the date upon which the actual construction of the conversion, alteration or improvement of the pre-existing building

or structure lawfully begins in good faith.

(m) "Completion date" shall mean, with respect to any eligible multiple dwelling, the date upon which the local department of buildings issues the first temporary or permanent certificate of occupancy covering all residential areas of an eligible multiple dwelling.

(n) "Construction employee" shall mean any person performing construction work who is a laborer, worker, or mechanic.

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

(p) "Construction work" shall mean the provision of labor performed on an eligible site between the commencement date and the completion date, whereby materials and constituent parts are combined to initially form, make or build an eligible multiple dwelling, including without limitation, painting, or providing of material, articles, supplies or equipment in the eligible multiple dwelling, but excluding security personnel and work related to the fit-out of commercial spaces.

(q) "Eligible conversion" shall mean the conversion, alteration or improvement of a pre-existing building or structure resulting in a multiple dwelling in which no more than forty-nine percent of the floor area consists of such pre-existing building or structure.

(r) "Eligible multiple dwelling" shall mean a multiple dwelling or homeownership project containing six or more dwelling units created through new construction or eligible conversion for which the commencement date is after June fifteenth, two thousand twenty-two and on or before June fifteenth, two thousand thirty-four and the completion date is on or before June fifteenth, two thousand thirty-eight.

(s) "Eligible site" shall mean either: (i) a tax lot containing an eligible multiple dwelling; or (ii) a zoning lot containing two or more eligible multiple dwellings that are part of a single application.

(t) "Employee benefits" shall mean all supplemental compensation paid by the employer, on behalf of construction employees, other than wages, including, without limitation, any premiums or contributions made into plans or funds that provide health, welfare, non-occupational disability

coverage, retirement, vacation benefits, holiday pay, life insurance and apprenticeship training. The value of any employee benefits received shall be determined based on the prorated hourly cost to the employer of the employee benefits received by construction employees.

(u) "Extended construction period" shall mean, with respect to any very large rental project located in Zone A, a period: (i) beginning on the later of the commencement date of such eligible multiple dwelling or five years before the completion date of such eligible multiple dwelling; and (ii) ending on the day preceding the completion date of such eligible multiple dwelling.

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

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

(x) "Forty year benefit" shall mean: (i) for the construction period or extended construction period, as applicable, a one hundred percent exemption from real property taxation, other than assessments for local improvements; and (ii) for the first forty years of the restriction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements.

(y) "Homeownership project" shall mean a multiple dwelling operated as condominium or cooperative housing; however, it shall not include a multiple dwelling or portion thereof operated as condominium or cooperative housing located within the borough of Manhattan.

(z) "Hourly wage" shall mean the amount equal to the aggregate amount of wages and employee benefits paid to, or on behalf of, a construction employee for each hour of construction work.

(aa) "Jobsite agreement" shall mean a collective bargaining agreement that only sets forth terms and conditions of employment for construction employees performing construction work under the agreement at one specific eligible site.

(bb) "Large rental project" shall mean an eligible site consisting of one hundred or more residential dwelling units in which all dwelling units included in any application are operated as rental housing.

(cc) "Market unit" shall mean a dwelling unit in an eligible multiple

dwelling other than a restricted unit.

(dd) "Marketing band" shall mean maximum rent ranging from twenty percent to thirty percent of the area median income applicable to a specific affordable housing unit.

(ee) "Modest rental project" shall mean an eligible site consisting of more than five and less than one hundred residential dwelling units in which all dwelling units included in any application are operated as rental housing, other than a small rental project.

(ff) "Multiple dwelling" shall have the same meaning set forth in subdivision seven of section four of the multiple dwelling law.

(gg) "Neighborhood tabulation area" shall mean a geographical area defined by the department of city planning for the purposes of providing neighborhood-level data.

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

(ii) "Project labor agreement" shall mean a pre-hire collective bargaining agreement between a contractor and a bona fide building and construction trade labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform construction work on an eligible site, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform construction work on an eligible site.

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

(kk) "Rental project" shall mean, collectively, a very large rental project, large rental project, modest rental project, and small rental project.

(ll) "Residential tax lot" shall mean a tax lot that contains dwelling units.

(mm) "Restricted unit" shall mean, individually and collectively: (i) affordable housing units; and (ii) dwelling units that are subject to

rent stabilization in accordance with affordability option C.

(nn) "Restriction period" shall mean, notwithstanding any earlier termination or revocation of affordable citywide construction program benefits: (i) with respect to a rental project, a period commencing on the completion date and extending in perpetuity; and (ii) with respect to a homeownership project, a period commencing on the completion date and expiring on the twentieth anniversary of the completion date.

(oo) "Small rental project" shall mean an eligible site consisting of more than five and less than eleven residential dwelling units, located outside the borough of Manhattan on a zoning lot that permits a residential floor area not exceeding twelve-thousand five hundred square feet, in which all dwelling units included in any application are operated as rental housing and that elects to comply with affordability option C.

(pp) "Ten year benefit" shall mean: (i) for the construction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements; (ii) for the first ten years of the restriction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements.

(qq) "Thirty-five year benefit" shall mean: (i) for the construction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements; (ii) for the first twenty-five years of the restriction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements; and (iii) for the ten years of the restriction period subsequent to such twenty-five years, (A) with respect to modest rental projects, an exemption from real property taxation, other than assessments for local improvements, equal to the affordability percentage, and (B) with respect to large rental projects, a one hundred percent exemption from real property taxation, other than assessments for local improvements.

(rr) "Twenty year benefit" shall mean: (i) for the construction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements; (ii) for the first fourteen years of the restriction period, a one hundred percent exemption from real property taxation, other than assessments for local improvements, provided, however, that no exemption shall be given for

any portion of the square footage of a unit with an assessed value that exceeds eighty-nine dollars per square foot; and (iii) for the final six years of the restriction period, a twenty-five percent exemption from real property taxation, other than assessments for local improvements, provided, however, that no exemption shall be given for any portion of the square footage of a unit with an assessed value that exceeds eighty-nine dollars per square foot.

(ss) "Very large rental project" shall mean an eligible site located in Zone A or Zone B consisting of one hundred fifty or more residential dwelling units in which all dwelling units included in any application are operated as rental housing.

(tt) "Wages" shall mean all compensation, remuneration or payments of any kind paid to, or on behalf of, construction employees, including, without limitation, any hourly compensation paid directly to the construction employee, together with employee benefits, such as health, welfare, non-occupational disability coverage, retirement, vacation benefits, holiday pay, life insurance and apprenticeship training, and payroll taxes, including, to the extent permissible by law, all amounts paid for New York state unemployment insurance, New York state disability insurance, metropolitan commuter transportation mobility tax, federal unemployment insurance and pursuant to the federal insurance contributions act or any other payroll tax that is paid by the employer.

(uu) "Zone A" shall mean any tax lot now existing or hereafter created which is located entirely south of 96th street in the borough of Manhattan or in any of the following neighborhood tabulation areas as most recently defined by the department of New York City planning: Brooklyn 0101, Brooklyn 0102, Brooklyn 0103, Brooklyn 0104, and Queens 0201.

(vv) "Zone B" shall mean any tax lot now existing or hereafter created which is located entirely in any of the following neighborhood tabulation areas as most recently defined by the department of New York City planning: Brooklyn 0201, Brooklyn 0202, Brooklyn 0203, Brooklyn 0204, Brooklyn 0601, Brooklyn 0602, Brooklyn 0801, Queens 0105, and Queens 0102.

2. Benefit. In cities having a population of one million or more, notwithstanding the provisions of any general, special or local law to

the contrary, new eligible multiple dwellings, except hotels, that comply with the provisions of this section shall be exempt from real property taxation, other than assessments for local improvements, in the amounts and for the periods specified as follows:

(a) a small rental project that complies with all of the requirements of this subdivision shall receive a ten year benefit;

(b) a modest rental project that complies with all of the requirements of this subdivision shall receive a thirty-five year benefit;

(c) a large rental project that complies with all of the requirements of this subdivision shall receive a thirty-five year benefit;

(d) a very large rental project that complies with all of the requirements of this subdivision shall receive a forty year benefit; and

(e) a homeownership project that complies with all of the requirements of this subdivision shall receive a twenty year benefit.

3. Construction work requirements. In addition to all other requirements set forth in this section, any eligible site containing one hundred or more dwelling units within the city of New York shall comply with the requirements set forth in this subdivision except as otherwise provided in any paragraph of this subdivision.

(a) Construction work on any eligible site containing one hundred units or more shall be subject to requirements in accordance with sections two hundred twenty and two hundred twenty-b of the labor law; provided, however, that the minimum hourly rate of wages and supplements required to be paid to construction employees shall be forty dollars, which shall increase by two and one-half percent on the first day of July in the year two thousand twenty-five and by two and one-half percent on the first day of July in each year thereafter.

(b) Construction work on any eligible site containing one hundred fifty units or more, within Zone A, shall be subject to requirements in accordance with sections two hundred twenty and two hundred twenty-b of the labor law; provided, however, that the minimum hourly rate of wages and supplements required to be paid to construction employees shall be the lesser of seventy-two dollars and forty-five cents, which shall increase by two and one-half percent on the first day of July in the year two thousand twenty-five and by two and one-half percent on the first day of July in each year thereafter, or sixty-five percent of the

greatest prevailing rate of wages and supplements within a classification.

(c) Construction work on any eligible site containing one hundred fifty units or more, within Zone B, shall be subject to requirements in accordance with sections two hundred twenty and two hundred twenty-b of the labor law; provided, however, that the minimum hourly rate of wages and supplements required to be paid to construction employees shall be the lesser of sixty-three dollars, which shall increase by two and one-half percent on the first day of July in the year two thousand twenty-five and by two and one-half percent on the first day of July in each year thereafter, or sixty percent of the greatest prevailing rate of wages and supplements within a classification.

(d) The owner of an eligible site shall be responsible for notifying the fiscal officer and the agency at least three months prior to the commencement of construction work of the location of the project, the anticipated construction start date, the anticipated construction end date, and the existence of any project labor agreement on the eligible site. Failure to provide such notice in the time and manner required shall subject the owner to fines and penalties not to exceed five-thousand dollars per day. In addition to the fines and penalties set forth herein, an owner shall forfeit the tax abatements and exemptions provided under this section if construction commences prior to providing the notice required under this section.

(e) The owner of an eligible site shall be responsible for retaining original payroll records in accordance with section two hundred twenty of the labor law, as modified by paragraph (a) of this subdivision, for a period of six years from the completion date. All payroll records maintained by an owner pursuant to this subdivision shall be subject to inspection on request of the fiscal officer. Such owner may authorize the prime contractor on the eligible site to take responsibility for retaining and maintaining payroll records, but will be held jointly and severally liable for any violations of such contractor. All records obtained by the fiscal officer shall be subject to the freedom of information law.

(f) The fiscal officer may issue rules and regulations governing the provisions of this subdivision. Violations of this subdivision shall be grounds for determinations and orders pursuant to section two hundred

twenty-b of the labor law.

(g) Where a complaint is received pursuant to this subdivision, if the fiscal officer finds cause to believe that an applicant or any person acting on behalf of or as an agent of an applicant, in connection with the performance of any contract for construction work pursuant to this subdivision, has committed a violation of the provisions of this subdivision, the fiscal officer may recapture tax abatements or exemptions provided pursuant to this section and/or terminate future tax abatements or exemptions made available pursuant to this section pursuant to the following:

(i) If an applicant or any person acting on behalf of or as an agent of an applicant, in connection with the performance of any contract for construction work pursuant to this subdivision, has committed three violations of the requirements of paragraph (a), (b), or (c) of this subdivision within a five-year period, the fiscal officer may recapture tax abatements or exemptions provided pursuant to this section and/or terminate future tax abatements or exemptions made available pursuant to this section, provided, however, that after a second such violation, the applicant shall be notified that any further violation may result in the recapture of tax abatements or exemptions provided pursuant to this section and/or termination of future tax abatements or exemptions made available pursuant to this section and that the fiscal officer shall publish on its website a list of all applicants with two violations as defined in this paragraph.

(ii) For purposes of this subdivision, a "violation" of paragraph (a), (b), or (c) of this subdivision shall be deemed a finding by the fiscal officer that the applicant or any person acting on behalf of or as an agent of an applicant has failed to comply with paragraph (a), (b), or (c) of this subdivision and has failed to cure the deficiency within three months of such finding.

(iii) If the fiscal officer recaptures tax abatements or exemptions provided pursuant to this section and/or terminates future tax abatements or exemptions made available pursuant to this section for noncompliance with paragraph (a), (b), or (c) of this subdivision pursuant to this paragraph: (a) all of the restricted units shall remain subject to rent stabilization and all other requirements of this section for the restriction period, and any additional period expressly provided

in this section, as if the ANNY Program benefits had not been recaptured or terminated; or (b) for a homeownership project, such project shall continue to comply with affordability requirements set forth in this section and all other requirements of this section for the restriction period and any additional period expressly provided in this section, as if the ANNY Program benefits had not been recaptured or terminated.

(h) An eligible site shall be excluded from the requirements of paragraphs (a), (b), (c) and (d) of this subdivision where the performance of all construction work on the eligible site is covered by a project labor agreement.

(i) A contractor and owner may be excluded from the requirements of paragraphs (a), (b), (c) and (d) of this subdivision with respect to only those construction employees of the contractor that are performing construction work on the eligible site under a collective bargaining agreement or a jobsite agreement that has expressly waived the provisions of paragraphs (a), (b), (c) and (d) of this subdivision.

4. In addition to all other requirements set forth in this section, an eligible site must, over the course of the design and construction of such eligible site, make all reasonable efforts to spend on contracts with minority and women owned business enterprises at least twenty-five percent of the total applicable costs, as such enterprises and costs are defined in rules of the agency. Such rules shall set forth required measures with respect to contracts for design and construction that are comparable, to the extent practicable, to the measures used by agencies of the city of New York to enhance minority and women owned business enterprise participation in agency contracts pursuant to applicable law, including section 6-129 of the administrative code of the city of New York.

5. Tax payments. In addition to any other amounts payable pursuant to this section, the owner of any eligible site receiving ANNY Program benefits shall pay, in each tax year in which such ANNY Program benefits are in effect, real property taxes and assessments as follows:

(a) with respect to each eligible multiple dwelling constructed on such eligible site, real property taxes on the assessed valuation of such land and any improvements thereon in effect during the tax year

prior to the commencement date of such eligible multiple dwelling, without regard to any exemption from or abatement of real property taxation in effect during such tax year, which real property taxes shall be calculated using the tax rate in effect at the time such taxes are due, provided, however, that this paragraph shall not apply to any very large rental project during the construction period or extended construction period, as applicable; and

(b) all assessments for local improvements.

6. Limitation on benefits for non-residential space. If the aggregate floor area of commercial, community facility and accessory use space in an eligible site, other than parking which is located not more than twenty-three feet above the curb level, exceeds twelve percent of the aggregate floor area in such eligible site, any ANNY Program benefits shall be reduced by a percentage equal to such excess. If an eligible site contains multiple tax lots, the tax arising out of such reduction in ANNY Program benefits shall first be apportioned pro rata among any non-residential tax lots. After any such non-residential tax lots are fully taxable, the remainder of the tax arising out of such reduction in ANNY Program benefits, if any, shall be apportioned pro rata among the remaining residential tax lots.

7. Calculation of benefit. Based on the certification of the agency certifying the applicant's eligibility for ANNY Program benefits, the assessors shall certify to the collecting officer the amount of taxes to be exempted.

8. Affordability and rent stabilization requirements. During the restriction period, a large rental project and a very large rental project shall comply with affordability option A, a modest rental project shall comply with affordability option B, a small rental project shall comply with the requirements of affordability option C, and a homeownership project shall comply with affordability option D. Such election shall be made in the application and shall not thereafter be changed.

(a) All rental dwelling units in an eligible multiple dwelling shall share the same common entrances and common areas as market rate units in

such eligible multiple dwelling and shall not be isolated to a specific floor or area of an eligible multiple dwelling. Common entrances shall mean any area regularly used by any resident of a rental dwelling unit in the eligible multiple dwelling for ingress and egress from such eligible multiple dwelling.

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

(c) Notwithstanding any provision of rent stabilization to the contrary, (i) all restricted units shall remain fully subject to rent stabilization both during and subsequent to the restriction period, and (ii) any restricted unit occupied by a tenant whose eligibility has been approved by the agency shall remain subject to rent stabilization until such tenant vacates such affordable housing unit where, (A) such approval occurred prior to the agency's denial of an application for ANNY program benefits for the multiple dwelling containing such restricted unit, or (B) such restricted unit is in a multiple dwelling for which an application for ANNY program benefits has not been filed or has been withdrawn after filing.

(d) All rent stabilization registrations required to be filed shall: (i) contain a designation that specifically identifies affordable housing units created pursuant to this section as "ANNY Program affordable housing units"; (ii) contain a designation that specifically identifies dwelling units that are subject to rent stabilization in accordance with affordability option C; and (iii) contain an explanation of the requirements that apply to all such restricted units.

(e) Failure to comply with the provisions of this subdivision that require the creation, maintenance, rent stabilization compliance and occupancy of restricted units or for purposes of a homeownership project the failure to comply with the affordable homeownership project requirements shall result in the exercise of the agency's enforcement powers in accordance with this section, which include, but are not limited to, revocation of any ANNY Program benefits.

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

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

(h) A restricted unit shall not be rented on a temporary, transient or short-term basis. Every lease and renewal thereof for a restricted unit shall be for a term of one or two years, at the option of the tenant.

(i) A restricted unit shall not be converted to cooperative or condominium ownership.

(j) The agency may establish by rule such requirements as the agency deems necessary or appropriate for (i) the marketing of restricted units, both upon initial occupancy and upon any vacancy, (ii) monitoring compliance with the provisions of this subdivision, and (iii) the establishment of marketing bands for affordable housing units, and (iv) the marketing and monitoring of any homeownership project that is granted an exemption pursuant to this subdivision. Such requirements may include, but need not be limited to, retaining a monitor approved by the agency and paid for by the owner.

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

9. Building service employees. (a) For the purposes of this subdivision, (i) "applicant" shall mean an applicant for ANNY Program benefits and/or any successor to such applicant; and (ii) "covered building service employer" shall mean any applicant and/or any employer of building service employees for such applicant, including, but not limited to, a property management company or contractor.

(b) All building service employees employed by the covered building service employer at the eligible site shall receive the applicable prevailing wage for the duration of the applicable benefit period, regardless of whether such benefits are revoked or terminated.

(c) The fiscal officer shall have the power to enforce the provisions of this subdivision. In enforcing such provisions, the fiscal officer shall have the power:

(i) to investigate or cause an investigation to be made to determine the prevailing wages for building service employees; in making such investigation, the fiscal officer may utilize wage and fringe benefit data from various sources, including, but not limited to, data and determinations of federal, state or other governmental agencies, provided, however, that the provision of a dwelling unit shall not be considered wages or a fringe benefit;

(ii) to institute and conduct inspections at the site of the work or elsewhere;

(iii) to examine the books, documents and records pertaining to the wages paid to, and the hours of work performed by, building service employees;

(iv) to hold hearings and, in connection therewith, to issue subpoenas, administer oaths and examine witnesses; the enforcement of a subpoena issued under this subdivision shall be regulated by the civil practice law and rules;

(v) to make a classification by craft, trade or other generally recognized occupational category of the building service employees and to determine whether such work has been performed by the building service employees in such classification;

(vi) to require the applicant to file with the fiscal officer a record of the wages actually paid to the building service employees and of their hours of work;

(vii) to delegate any of the foregoing powers to such fiscal officer's

deputy or other authorized representative;

(viii) to promulgate rules as such fiscal officer shall consider necessary for the proper execution of the duties, responsibilities and powers conferred upon such fiscal officer by the provisions of this paragraph; and

(ix) to prescribe appropriate sanctions for failure to comply with the provisions of this subdivision. For each violation of paragraph (b) of this subdivision, the fiscal officer may require the payment of: (A) back wages and fringe benefits; (B) liquidated damages up to three times the amount of the back wages and fringe benefits for willful violations; and/or (C) reasonable attorney's fees. If the fiscal officer finds that the applicant has failed to comply with the provisions of this subparagraph, he or she shall present evidence of such non-compliance to the agency.

(d) Paragraph (b) of this subdivision shall not be applicable to:

(i) an eligible multiple dwelling containing less than thirty dwelling units; or

(ii) an eligible multiple dwelling in which all of the dwelling units are affordable housing units and not less than fifty percent of such affordable housing units, upon initial rental and upon each subsequent rental following a vacancy are affordable to and restricted to occupancy by individuals or families whose household income does not exceed ninety percent of the area median income, adjusted for family size, at the time that such household initially occupies such dwelling unit.

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

(f) The agency shall annually publish a list of all eligible sites subject to the requirements of this paragraph and the affidavits required pursuant to paragraph (e) of this subdivision.

10. Replacement ratio. If the land on which an eligible site is

located contained any dwelling units three years prior to the commencement date of the first eligible multiple dwelling thereon, then such eligible multiple dwelling or dwellings built thereon shall contain at least one affordable housing unit for each dwelling unit that existed on such date and was thereafter demolished, removed or reconfigured, provided that if such eligible multiple dwelling or dwellings built thereon is a small rental project, then such eligible multiple dwelling or dwellings built thereon shall contain at least one restricted unit for each dwelling unit that existed on such date and was thereafter demolished, removed or reconfigured.

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

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

13. Termination or revocation. The agency may terminate or revoke ANNY Program benefits for failure to comply with this section; provided, however, that the agency shall not terminate or revoke ANNY Program benefits for a failure to comply with subdivision three of this section. If a covered building service employer has committed three violations of the requirements of paragraph (b) of subdivision nine of this section within a five-year period, the agency may revoke any benefits associated with such eligible multiple dwelling under this section. For purposes of this subdivision, a "violation" of paragraph (b) of subdivision nine of this section shall be deemed a finding by the fiscal officer that the covered building service employer has failed to comply with paragraph (b) of subdivision nine of this section and has failed to cure the deficiency within three months of such finding. Provided, however, that after a second such violation, the applicant shall be notified that any

further violation may result in the revocation of benefits under this section and that the fiscal officer shall publish on its website a list of all applicants with two violations as defined in this subdivision. If ANNY Program benefits are terminated or revoked for noncompliance with this section: (a) all of the restricted units shall remain subject to rent stabilization and all other requirements of this section for the applicable restriction period, and any additional period expressly provided in this section, as if the ANNY Program benefits had not been terminated or revoked; or (b) for a homeownership project, such project shall continue to comply with affordability requirements set forth in this section and all other requirements of this section for the restriction period and any additional period expressly provided in this section, as if the ANNY Program benefits had not been terminated or revoked.

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

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

16. Applicant registration. (a) Prospective applicants for ANNY Program benefits pursuant to this section shall file with the agency a form supplied by the agency which: (i) states an intention to file for such benefits under the provisions of this subdivision; (ii) includes the commencement date; and (iii) establishes the intended number of total dwelling units and, if applicable, restricted units. The agency shall promulgate such form no later than ninety days after the effective date of this section.

(b) The form described in paragraph (a) of this subdivision shall be filed: (i) for projects with a commencement date before the effective

date of this section, no later than six months after such effective date or six months after the agency promulgates the form described in paragraph (a) of this subdivision, whichever is later; or (ii) for projects with a commencement date on or after the effective date of this section, no later than six months after such commencement date or six months after the agency promulgates the form described in paragraph (a) of this subdivision, whichever is later.

(c) Applicants who fail to comply with the requirements of this subdivision shall be subject to a penalty not to exceed one hundred percent of the application filing fee otherwise payable pursuant to subdivision eighteen of this section.

17. Applications. (a) The application with respect to any eligible multiple dwelling shall be filed with the agency not later than one year after the completion date of such eligible multiple dwelling.

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

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

(d) The agency shall not require that the applicant demonstrate compliance with the requirements of subdivision three of this section as a condition to approval of the application.

18. Filing fee. (a) The agency may require a filing fee of: (i) three thousand dollars per dwelling unit in connection with any application for an eligible site consisting of more than five and less than eleven residential rental dwelling units; (ii) four thousand dollars per dwelling unit in connection with any application for an eligible site

consisting of more than eleven units and less than one hundred residential dwelling units; (iii) four thousand dollars per dwelling unit in connection with any application for a homeownership project; and (iv) five thousand dollars per dwelling unit in connection with any application for an eligible site consisting of one hundred or more residential dwelling units.

(b) Notwithstanding the provisions contained in paragraph (a) of this subdivision, the agency may promulgate rules: (i) imposing a lesser fee for eligible sites containing eligible multiple dwellings constructed with the substantial assistance of grants, loans or subsidies provided by a federal, state or local governmental agency or instrumentality pursuant to a program for the development of affordable housing; and (ii) requiring a portion of the filing fee to be paid upon the submission of the information the agency requires in advance of approving the commencement of the marketing process for a modest rental project, a large rental project, or a very large rental project.

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

20. Reporting. On or before June thirtieth of each year, the commissioner of the agency shall issue a report to the governor, the temporary president of the senate and the speaker of the assembly setting forth the number of total projects and units created by this section by year, level of affordability, and community board, the cost of the ANNY Program, and other such factors as the commissioner of the New York city department of housing preservation and development deems appropriate. The New York city department of housing preservation and development may request and shall receive cooperation and assistance from all departments, divisions, boards, bureaus, commissions, public benefit corporations or agencies of the state of New York, the city of New York or any other political subdivisions thereof, or any entity receiving benefits pursuant to this section.

21. Penalties for violations of affordability and rent stabilization

requirements. (a) On and after the expiration date of the ten year benefit, twenty year benefit, thirty-five year benefit, or forty year benefit, as applicable, the agency may impose, after notice and an opportunity to be heard, a fine for any violation of the affordability and rent stablization requirements established pursuant to subdivision eight of this section by such small rental project, modest rental project, large rental project, very large rental project, or homeownership project. The agency shall establish a schedule and method of calculation of such fines pursuant to subdivision nineteen of this section.

(b) A fine under this subdivision may be imposed against the owner of the eligible site containing such small rental project, modest rental project, large rental project, very large rental project, or homeownership project at the time the violation occurred, even if such owner no longer owns such eligible site. A failure to pay such fine may result in a lien and such other remedies as may be available pursuant to applicable law and regulation.