§ 489-d. Exemption of railroad real property from taxation. 1. Subsidized railroad real property shall be exempt from taxation. The exemption shall be granted each year only upon (a) application by the owner of said property on a form prescribed by the commissioner and (b) submission of such proof as may be required by the commissioner that the property is subsidized railroad real property. The application and proof shall be filed with the appropriate assessing authority on or before the appropriate taxable status date, with copies thereof simultaneously filed with the commissioner and the department of transportation.

2. Bridges, viaducts, and other similar structures constructed on or after January first, nineteen hundred fifty-nine as the result of the creation, pursuant to article twelve-B of the highway law, of a new highway, street, or roadway carrying railroad facilities over such new highway, street, or roadway shall be exempt from taxation. No assessment of any bridges, viaducts, and other similar structures lengthened or reconstructed on or after January first, nineteen hundred fifty-nine as the result of the widening, relocation, or reconstruction of an existing highway, street, or roadway, pursuant to article twelve-B of the highway law, shall be increased by reason of such reconstruction or relocation, notwithstanding the provisions of any general, special, or local law to the contrary; provided, however, that the assessment on the original portion of such bridges, viaducts, and other similar structures may be varied in accordance with the changes made generally in assessments on other local real property. Whenever any new construction of property is exempt pursuant to the provisions of this subdivision and the provisions of subdivision three-a or three-b of this section, such property shall receive the exemption provided by subdivision three-a or three-b of this section.

3. Railroad real property shall be exempt from taxation to the extent of any increase in value thereof by reason of any of the following additions, betterments, improvements, or reconstructions made or installed thereon after the last preceding taxable status date prior to April twenty-first, nineteen hundred fifty-nine: (a) the installation of automatic grade crossing protective devices, such as flashing lights or automatic gates and their attendant facilities; (b) the reconstruction

or the replacement of signals, railroad bridges, stations, freight houses, classification yards, repair shops, or any other facility used for transportation purposes; provided that the property as reconstructed or replaced is the same general type of facility and is located in the same city or town as the property reconstructed or replaced; and (c) the construction or reconstruction pursuant to the grade crossing elimination acts, the railroad law, or the highway law of any grade separation structure, such as bridges, viaducts, tunnels, retaining walls, and embankments constructed for the purpose of eliminating or avoiding highway-railroad crossings at grade. Whenever any new construction of property is exempt pursuant to the provisions of this subdivision and the provisions of subdivision three-a or three-b of this section, such property shall receive the exemption provided by subdivision three-a or three-b of this section.

3-a. Whenever a railroad company makes any improvements, enhancements, or upgrades to any existing railroad real property in order to improve freight service or to provide improved or new passenger service, the cost of such project shall not be included in the calculation of any subsequent railroad ceilings for a period of ten years from the date of completion of such project; provided that such project's improvements, enhancements, or upgrades were made pursuant to a capital project proposal approved by the commissioner of the department of transportation, as provided in section four hundred eighty-nine-v of this title. The department of transportation shall certify to the commissioner the location and cost of any such improvements, enhancements, or upgrades in a manner that provides the commissioner with sufficient time to carry out its responsibilities pursuant to this chapter.

3-b. The cost of bridges, viaducts, other structures, or improvements and new rail lines, including any new rail lines built to replace existing rail lines, shall not be included in the calculation of any subsequent railroad ceilings for a period of ten years from the date of completion of such project; provided that such construction was pursuant to a capital project proposal approved by the commissioner of the department of transportation as provided in section four hundred

eighty-nine-v of this title. The department of transportation shall certify to the commissioner the location and cost of any such construction in a manner that provides the commissioner with sufficient time to carry out its responsibilities pursuant to this chapter.

4. Except as provided in subdivision five of this section, railroad real property other than subsidized railroad real property shall be exempt from taxation to the extent that the assessed valuation thereof exceeds the railroad ceiling determined in accordance with the earnings ratio as hereinafter prescribed.

5. Railroad real property other than subsidized railroad real property of a railroad company shall not be exempt from taxation under this title on an assessment roll of any assessing unit if the company failed for any reason to pay within thirty days of the date when due the tax levied upon the taxable portion of the assessment of any railroad real property of the company set forth on the immediately preceding assessment roll of any assessing unit, provided, however, that this subdivision shall not apply if the payment or enforcement of such taxes was restrained or prohibited by an order issued by a court of competent jurisdiction under the bankruptcy act of the United States.