§ 499-cc. Eligibility requirements. 1. No abatement shall be granted pursuant to this title unless:

(a) the landlord enters into a lease for eligible premises with a new tenant or a renewal tenant and:

(1) the lease commencement date is within the eligibility period;

(2) (i) if, by the sixtieth day following the rent commencement date, such new or renewal tenant employs one hundred twenty-five or fewer employees in the eligible premises, the initial lease term is for a period of at least five years or, with respect to a lease commencing on or after April first, nineteen hundred ninety-seven, the initial lease term is for a period of at least three years; or (ii) if, by the sixtieth day following the rent commencement date, such new or renewal tenant employs more than one hundred twenty-five employees in the eligible premises, the initial lease term is for a period of at least ten years; or (iii) with respect to a lease for eligible premises as defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of section four hundred ninety-nine-aa of this title commencing on or after July first, two thousand five, the initial lease term is for a period of at least three years; and

(3) (i) if the lease is with a new tenant required to sign a lease with an initial lease term of at least five years, expenditures on improvements to the eligible premises and the common areas of the eligible building are in an amount at least equal to five dollars per square foot, provided, however, that with respect to a lease commencing on or after April first, nineteen hundred ninety-seven, if, by the sixtieth day following the rent commencement date, the new tenant employs one hundred twenty-five or fewer employees in the eligible premises, expenditures on improvements to the eligible premises and the common areas of the eligible building are in an amount at least equal to two dollars and fifty cents per square foot; or (ii) if the lease is with a new tenant required to sign a lease with an initial lease term of at least ten years, expenditures on improvements to the eligible premises and the common areas of the eligible building are in an amount at least equal to twenty-five dollars per square foot; or (iii) if the lease is with a renewal tenant, expenditures on improvements to the eligible premises and the common areas of the eligible building are in an amount at least equal to five dollars per square foot for any

premises previously occupied by such renewal tenant, provided, however, that with respect to a lease commencing on or after April first, nineteen hundred ninety-seven, if, by the sixtieth day following the rent commencement date, the renewal tenant employs one hundred twenty-five or fewer employees in the eligible premises previously occupied by such renewal tenant, expenditures on improvements to the eligible premises and the common areas of the eligible building are in an amount at least equal to two dollars and fifty cents per square foot; and in an amount at least equal to the amount specified in clause (i) or (ii) of this subparagraph, depending upon the required initial lease term, for any premises not previously occupied by such renewal tenant; or (iv) if the lease is with a new tenant for eligible premises as defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of section four hundred ninety-nine-aa of this title, expenditures on improvements to the eligible premises and the common areas of the eligible building are in an amount at least equal to two dollars and fifty cents per square foot; or (v) if the lease is with a renewal tenant for eligible premises as defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of section four hundred ninety-nine-aa of this title, expenditures on improvements are in an amount at least equal to five dollars per square foot for any premises previously occupied by such renewal tenant, and in an amount at least equal to two dollars and fifty cents per square foot for any premises not previously occupied by such renewal tenant; or

(b) the landlord enters into a lease with an expansion tenant for expansion premises and:

(1) the lease commencement date is within the eligibility period;

(2) (i) if, by the sixtieth day following the rent commencement date, such expansion tenant employs one hundred twenty-five or fewer employees in the expansion premises, the initial lease term for the expansion premises is for a period of at least five years or, with respect to a lease commencing on or after April first, nineteen hundred ninety-seven, the initial lease term is for a period of at least three years; or (ii) if, by the sixtieth day following the rent commencement date, such expansion tenant employs more than one hundred twenty-five employees in such expansion premises, the initial lease term for the expansion premises is for a period of at least ten years; or (iii) with respect to

a lease commencing on or after July first, two thousand five for eligible premises as defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of section four hundred ninety-nine-aa of this title, the initial lease term is for a period of at least three years; and

(3) (i) if the lease is with an expansion tenant required to sign a lease with an initial lease term of at least five years, expenditures on improvements to the expansion premises and the common areas of the eligible building are in an amount at least equal to five dollars per square foot, provided, however, that with respect to a lease commencing on or after April first, nineteen hundred ninety-seven, if, by the sixtieth day following the rent commencement date, the expansion tenant employs one hundred twenty-five or fewer employees in the expansion premises, expenditures on improvements to the expansion premises and the common areas of the eligible building are in an amount at least equal to two dollars and fifty cents per square foot; or (ii) if the lease is with an expansion tenant required to sign a lease with an initial lease term of at least ten years, expenditures on improvements to the expansion premises and the common areas of the eligible building are in an amount at least equal to twenty-five dollars per square foot; or if the lease is with an expansion tenant for eligible premises as defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of section four hundred ninety-nine-aa of this title, expenditures on improvements to the expansion premises and the common areas of the eligible building are in an amount at least equal to two dollars and fifty cents per square foot.

2. No abatement shall be granted pursuant to this title if an applicant shall fail to meet any of the requirements of this title within sixty days of the rent commencement date; provided that for a lease with a renewal tenant, the expenditures on improvements required by subdivision one of this section shall be made within one year of the lease commencement date.

3. (a) (i) With respect to the abatement zone defined in paragraph (a) of subdivision two of section four hundred ninety-nine-aa of this title and for purposes of determining whether the amount of expenditures

required by subdivision one of this section have been satisfied, expenditures on improvements to the common areas of an eligible building shall be included only if work on such improvements commenced and the expenditures are made on or after April first, nineteen hundred ninety-five and on or before September thirtieth, two thousand one; provided, however, that expenditures on improvements to the common areas of an eligible building made prior to three years before the lease commencement date shall not be included.

(ii) With respect to the eligible premises defined in subparagraph (i) of paragraph (b) of subdivision ten of section four hundred ninety-nine-aa of this title and for purposes of determining whether the amount of expenditures required by subdivision one of this section have been satisfied, expenditures on improvements to the common areas of an eligible building shall be included only if work on such improvements commenced and the expenditures are made on or after July first, two thousand and on or before December thirty-first, two thousand ten; provided, however, that expenditures on improvements to the common areas of an eligible building made prior to three years before the lease commencement date shall not be included.

(iii) With respect to the eligible premises defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of section four hundred ninety-nine-aa of this title and for purposes of determining whether the amount of expenditures required by subdivision one of this section have been satisfied, expenditures on improvements to the common areas of an eligible building shall be included only if work on such improvements commenced and the expenditures are made on or after July first, two thousand five and on or before December thirty-first, two thousand twenty-eight; provided, however, that expenditures on improvements to the common areas of an eligible building made prior to three years before the lease commencement date shall not be included.

(b) The landlord may allocate expenditures on improvements to the common areas of an eligible building to eligible tenants in such manner as reasonably relates to such eligible tenants.

4. For purposes of this title, the expiration date of a lease shall be determined by the expiration date set forth in such lease, without giving effect to any rights of the landlord or the tenant to terminate

such lease prior to the expiration date set forth therein.

5. The lease for the eligible premises shall contain the following provisions:

(a) a statement of the tenant's percentage share;

(b) a statement certifying the percentage of eligible premises occupied or used for industrial and manufacturing activities, as defined in subdivision fourteen-a of section four hundred ninety-nine-aa of this title, and the percentage of eligible premises occupied or used for ancillary purposes where the lease is for eligible premises defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of section four hundred ninety-nine-aa of this title;

(c) a statement informing the tenant in at least twelve-point type that:

(1) an application for abatement of real property taxes pursuant to this title will be made for the premises;

(2) the rent, including amounts payable by the tenant for real property taxes, will accurately reflect any abatement of real property taxes granted pursuant to this title for the premises;

(3) at least five dollars per square foot or twenty-five dollars per square foot must be spent on improvements to the premises and the common areas, the amount being dependent upon the length of the lease and whether it is a new or a renewal lease, provided, however, that with respect to a lease commencing on or after April first, nineteen hundred ninety-seven, if, by the sixtieth day following the rent commencement date, the tenant employs one hundred twenty-five or fewer employees in the relevant premises, at least two dollars and fifty cents per square foot must be spent on improvements to the premises and the common areas; and

(4) all abatements granted with respect to a building pursuant to this title will be revoked if, during the benefit period, real estate taxes or water or sewer charges or other lienable charges are unpaid for more than one year, unless such delinquent amounts are paid as provided in subdivision four of section four hundred ninety-nine-ff of this title; and

(5) all benefits granted with respect to eligible premises as defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision

ten of section four hundred ninety-nine-aa of this title will be reduced if, during the benefit period, the aggregate floor area of such eligible premises occupied or used for industrial and manufacturing activities, as defined in subdivision fourteen-a of section four hundred ninety-nine-aa of this title, is reduced.

6. No abatement shall be granted pursuant to this title if:

(a) the lease for the eligible premises provides that during the initial lease term required by subdivision one of this section either the landlord or the tenant may terminate such lease prior to the expiration date of such required initial lease term; provided that such lease may provide that either the landlord or the tenant may terminate such lease if (1) the other party is in default of any of such party's obligations under the lease, (2) the eligible premises are damaged or destroyed by fire or other casualty, (3) the eligible premises are rendered unusable for any reason not attributable to any act or failure to act of either tenant or landlord, or (4) the eligible premises are acquired by eminent domain; and

(b) there are real property taxes, water or sewer charges or other lienable charges currently due and owing on the eligible building which is the subject of an application for abatement pursuant to this title, unless such real property taxes or charges are currently being paid in timely installments pursuant to a written agreement with the department of finance or other appropriate agency.

7. No abatement shall be granted pursuant to this title unless the applicant shall file, together with the application, an affidavit setting forth the following information:

(a) a statement that within the seven years immediately preceding the date of application for a certificate of abatement, neither the applicant nor any person owning a substantial interest in the eligible building as defined in paragraph (c) of this subdivision, nor any officer, director or general partner of the applicant or such person was finally adjudicated by a court of competent jurisdiction to have violated section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another jurisdiction with respect to any building, or was

an officer, director or general partner of a person at the time such person was finally adjudicated to have violated such law; and

(b) a statement setting forth any pending charges alleging violation of section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another jurisdiction with respect to any building by the applicant or any person owning a substantial interest in the eligible building as defined in paragraph (c) of this subdivision, or any officer, director or general partner of the applicant or such person, or any person for whom the applicant or person owning a substantial interest in the eligible building is an officer, director or general partner.

(c) for purposes of this subdivision and subdivision seven of section four hundred ninety-nine-ff of this title, "substantial interest" shall mean ownership and control of an interest of ten per centum or more in the eligible building or in any person owning the eligible building.