

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9598 SENATE JUDICIARY

238

FISCAL NOTE

No: 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: HB 383
(H) Publish Date: 2/27/98

Revision Date: _____ Department Affected: Dept of Health & Social
 Title: An Act relating to expected deaths BRU: Services
that occur at home or in a health care facility
 Sponsor: Rep G. Davis Component: Medical Examiner
 Requestor: HL&C

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: NONE

ANALYSIS: (Attach a separate page if necessary)

Prepared by: House Labor and Commerce Committee Phone: 465-4954
 Division: _____ Date: 2/25/98

Approved by: Representative Norman Hokeberg, Chair
 Agency: House Labor and Commerce Committee Date: 2/25/98

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov. , & Impacted Agency(ies).

Chapter 65. Death Investigations and Medical Examiners.

Section

- 05. Duty to notify state medical examiner
- 15. State medical examiner
- 20. Medical death investigations
- 25. Post mortem examinations

Section

- 100. Unclaimed bodies
- 105. Release of property to temporary custodian
- 110. Inventory and disposition of property

Cross references. — For inquests, see AS 09.55.062 — 09.55.069.

Collateral references. — 18 Am. Jur. 2d, Coroners or Medical Examiners, § 1 et seq.

18 C.J.S., Coroners, § 1 et seq.; 80 C.J.S., Sheriffs and Constables, § 38.

Liability for wrongful autopsy, 18 ALR4th 858.

Sec. 12.65.005. Duty to notify state medical examiner. (a) Unless the person has reasonable grounds to believe that notice has already been given, a person who attends a death or has knowledge of a death, in addition to notifying a peace officer, shall immediately notify the state medical examiner when the death appears to have

(1) been caused by unknown or criminal means, during the commission of a crime, or by suicide, accident, or poisoning;

(2) occurred under suspicious or unusual circumstances or occurred suddenly when the decedent was in apparent good health;

(3) been unattended by a practicing physician or occurred less than 24 hours after the deceased was admitted to a medical facility;

(4) been associated with a diagnostic or therapeutic procedure;

(5) resulted from a disease that constitutes a threat to public health;

(6) been caused by a disease, injury, or toxic agent resulting from employment;

(7) occurred in a jail or corrections facility owned or operated by the state or a political subdivision of the state or in a facility for the placement of persons in the custody or under the supervision of the state;

(8) occurred in a foster home;

(9) occurred in a mental institution or mental health treatment facility; or

(10) occurred while the deceased was in the custody of, or was being taken into the custody of, the state or a political subdivision of the state or a public officer or agent of the state or a political subdivision of the state.

(b) A person who attends a death or has knowledge of a death occurring in circumstances other than those enumerated in (a) of this section may notify the state medical examiners of the death if, in the person's opinion, a death investigation under AS 12.65.020 — 12.65.025 may be appropriate.

§ 12.65.010

CODE OF CRIMINAL PROCEDURE

652

(c) The body of a person whose death has been or should be reported to the state medical examiner under this section may not be moved or otherwise disturbed without the permission of the state medical examiner. (§ 2 ch 103 SLA 1996)

Effective dates. — Section 2, ch. 103, SLA 1996, which enacted this section, took effect on September 23, 1996.

HB

395

Alaska State Legislature

CHAIR
HOUSE HEALTH, EDUCATION
& SOCIAL SERVICES COMMITTEE

VICE-CHAIR
HOUSE JUDICIARY COMMITTEE

MEMBER
LEGISLATIVE BUDGET & AUDIT COMMITTEE
HOUSE SPECIAL COMMITTEE ON OIL & GAS
SELECT COMMITTEE ON LEGISLATIVE ETHICS



REPRESENTATIVE CON BUNDE

District 18

DURING SESSION
STATE CAPITOL, ROOM 104
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843

DURING INTERIM
716 W. FOURTH AVE.
ANCHORAGE, AK 99501-2133
(907) 258-8168

E-MAIL
Representative_Con_Bunde@legis.state.ak.us

Sponsor Statement

HB 395

“ An Act relating to civil liability resulting from the use of a defibrillator in providing emergency aid”

Every day nearly 1,000 people in the united states die unnecessarily due to sudden cardiac arrest. Most people die before they reach the hospital, usually within two hours. Research shows that early defibrillation, delivering an electrical current to the heart within minutes after sudden cardiac arrest, can raise survival rates to 30% or higher. That is 25% more lives (250 per day) than the current national survival rate of 5%.

The American Heart Association estimates that 20,000 or more unnecessary deaths could be prevented each year if automatic external defibrillators (AEDs) were more widely available. Implementation of a plan that allows both traditional and non-traditional targeted first responders to have access to and use of an AED in medical emergencies is needed.

HB 395 expands our state's Good Samaritan statute to provide protection from liability for people who are properly trained in the use of an AED. As a general rule, the American legal system does not require someone to rescue a victim. However, all states currently have Good Samaritan statutes that protect a volunteer who is aiding another in good faith. These statutes mainly apply to physicians and other health care providers who assist somebody voluntarily and do not expect any reimbursement for their services, but passersby who happen upon an accident and provide emergency assistance are also protected from liability. HB 395 clearly sets the standard for training and proper use of an automatic external defibrillator. Increased availability of automatic external defibrillators along with proper training will save lives. HB 395 will help make Alaska a safer place.

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: CS# 395 (JUD)
(H) Publish Date: 3/13/98

Revision Date: _____
Title: An Act relating to civil liability resulting from the use of a defibrillator ...
Sponsor: Representative Bunde
Requestor: House (JUD)

Dept. Affected: Health and Social Services
BRU: State Health Services
Component: Community Health/EMS Services
COMPONENT SERIAL NO. 2078
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
---------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (please specify)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

2/20/98
Prepared by: Peter M. Nakamura, MD, MPH
Division: Public Health
Approved by Commissioner: Gren Pardue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3538
Date: 2/25/98
Date: 2/2/98

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

Representative Porter moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

CS FOR HOUSE BILL NO. 395(JUD)

"An Act relating to civil liability resulting from the use of a defibrillator in providing emergency aid or emergency training."

There being no objection, it was so ordered.

Representative Porter moved and asked unanimous consent that CSHB 395(JUD) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 395(JUD) was read the third time.

The question being: "Shall CSHB 395(JUD) pass the House?" The roll was taken with the following result:

CSHB 395(JUD)
Third Reading
Final Passage

YEAS: 38 NAYS: 0 EXCUSED: 0 ABSENT: 2

04/01/98

House Journal

Page 2834

HB 395

Yeas: Austerma, Berkowitz, Brice, Bunde, Cowdery, Croft, Davies, Davis, Dyson, Elton, Foster, Green, Grussendorf, Hanley, Hudson, Ivan, James, Joule, Kelly, Kemplen, Kohring, Kookesh, Kott, Kubina, Martin, Masek, Moses, Mulder, Nicholia, Ogan, Phillips, Porter, Rokeberg, Ryan, Sanders, Therriault, Vezey, Williams

Absent: Barnes, Hodgins

And so, CSHB 395(JUD) passed the House and was referred to the Chief Clerk for engrossment.

04/01/98

House Journal

Page 2842

HB 395

Representative Croft added his name as cosponsor to:

CS FOR HOUSE BILL NO. 395(JUD)

"An Act relating to civil liability resulting from the use of a defibrillator in providing emergency aid or emergency training."

04/01/98

House Journal

Page 2842

HB 395

CSHB 395(JUD) was engrossed, signed by the Speaker and Chief Clerk and transmitted to the Senate for consideration.

Bill Root:

[Return to BASIS Main Menu\(20th Legislature\)](#)

BASIS Last Updated 4/16/98 8:43 AM

DATE: Feb. 19, 1998

ATTN: Senator

ATTN: Representative

Good Morning:

I recently completed a CPR/First Aid class for my job where I was introduced to the AED (Automatic External Defibrillator) technology.

A heart attack doesn't play politics and could happen to anyone at anytime. Please spearhead the necessary changes that would legally allow the first trained person on the scene to have access to this amazing machine. As I understand it, the change should redefine AED as a basic life support skill and provide coverage under the state's Good Samaritan law for the trained person who would assist.

Please make this a top priority of this session. This is a win/win for all Alaskans.

Sincerely,

Name Savanna C. Runnell ^{Mailing} Address P.O. Box 240467
City/Zip Anchorage, AK 99524 Phone 907-344-3451
Employed by Nordstrom

Residence 7312 Huntsman Cir Unit A Anch. AK 99501

RESPOND SYSTEMS

Respond Systems
First Aid and Safety Supplies
9191 Old Seward Highway
Anchorage, Alaska 99515

Post Office Box 220348
Anchorage, Alaska 99522-0348
(907) 344-0302
Fax: (907) 522-2271

February 27, 1998

3 Pages

TO: Jack Evans-Public Relations
ALASKA AIRLINES

FROM: Rose Marie Citti, Director of Training
RESPOND SYSTEMS
P.O. Box 220348
Anchorage, AK 99522-0348

Phone: (907) 344-0302
FAX: (907) 522-2271

Subject: Press release 2/27/98, Anchorage Daily News regarding AED's on aircraft.

I am delighted to see Alaska Airlines has taken a position on this important public issue. However, under current Alaska regulations, the use of an AED by anyone other than someone ETT-D trained or higher would be an unlawful act. We have made AED's a hot topic with the Legislature. Our position is the same as that stated in your press release. Due to the efforts of many, we are hopeful that this matter is resolved this session but time is running out. HB: 395 is in committee and proposed regulation changes are going through the public review process. When passed flight attendants, as well as any trained person with an *expectation, designation, or duty to respond to a medical emergency* would be covered.

Please go beyond your press release.

If Alaska Airlines would draft a letter of support I will make certain it gets into the hands of the appropriate persons.

I look forward to your support.

Sincerely,

Rose Marie

*Attachments: HB 395
Proposed Legislation Change notice
copy of letter sent to legislature*

Airline beefs up safety

Over the next year, Alaska Airlines plans to equip its entire fleet of aircraft with defibrillators and enhanced emergency medical kits containing supplies beyond those required by the Federal Aviation Administration. The equipment will allow flight attendants or medical professionals traveling on Alaska airplanes to provide potentially life-saving care for passengers who might suffer a heart attack while in flight, said Jack Evans, airline spokesman. A defibrillator helps restore a regular heartbeat and can greatly improve the chances of survival for some individuals who suffer sudden cardiac arrest. An in-flight medical study released last month by the Air Transport Association, the trade group representing most U.S. commercial airlines, revealed that such incidents are rare. Data from 1996 when U.S. airlines carried 580 million passengers found just 141 in-flight heart attacks. Despite that finding, the industry trend is to boost on-board emergency supplies, Evans said. Major carriers including American Airlines, Delta Air Lines and United Airlines have recently announced plans to add such equipment to their fleets, Evans said.

2/27/98 - checked July

READER'S DIGEST

emergency vehicle in America.

Last winter police in Cincinnati started testing AEDs in patrol cars. Similar programs have begun in Camden County, Georgia, and Greenwich, Conn. Within two weeks of training, Greenwich police saved two lives with the defibrillators.

Last July 2 fire-brigade members at New York City's Grand Central Terminal were trained to operate a newly purchased AED. The next day they used it to save the life of 42-year-old attorney Bob Adams, who went into cardiac arrest while trying to catch a train.

There are still legal and bureaucratic hurdles to wider AED access. In many states defibrillation is considered a medical procedure limited to doctors and EMTs. Chafing against such hidebound regulations, Dr. Weisfeldt stresses that the new AEDs are fail safe in the hands of trained adults. He predicts that 100,000 people could be saved each year if AED use were expanded to include firefighters, police officers, security guards and family members of heart-disease patients. "We should press ahead to provide defibrillators and training to thousands of people, such as apartment-house custodians, bus drivers and train conductors," Weisfeldt urges.

But the strongest advocates for this innovative technology are those whose lives it has saved.

On the afternoon of Monday, December 30, 1996, Steve Parinisi, 30, and his wife Karen, 31, sat in Boston's Logan Airport. The newlyweds were returning to their Pennsylvania home after a weekend trip. Suddenly Karen saw Steve go pale and his lips turn blue. *Oh, no*, she thought. On their honeymoon in Italy two months earlier, Steve had suffered symptoms of heart trouble, but had seemed in good health since.

But now a massive coronary-artery blockage had triggered ventricular fibrillation. Bystanders administered CPR until medics arrived. They had to shock Steve twice with an AED before his heart resumed spontaneous contractions.

"I was within minutes of death," Parinisi says. "But that defibrillator gave me back my life."

Reflecting on such rescues, David Dutton's widow, Sandra, notes sadly that her husband could also be alive today if AEDs had been available that March night on the commuter train. "David's needless death should be a lesson to all of us," she says. "The equipment to save thousands of lives exists. Now we must demand that it be made available everywhere.

For information on prices and availability of reprints write: Reader's Digest, Reprint Department, Box 100, Pleasantville, NJ 07050 or call (609) 291-6100.

REPRINTED FROM THE NOVEMBER 1997 ISSUE OF READER'S DIGEST

© 1997 THE READER'S DIGEST ASSOCIATION, INC., PLEASANTVILLE, N.Y. 10570 PRINTED IN U.S.A. This reprint does not constitute an endorsement, implied or otherwise, by Reader's Digest. It may not be reprinted by anyone other than Reader's Digest or used in any way for advertising or promotional purposes without prior written permission of Reader's Digest. The reprint may not be sold by anyone other than Reader's Digest and no message, with the exception of the donor's name may be imprinted on it.
Reader's Digest, The Digest and the Pegasus logo are registered trademarks of the Reader's Digest Association, Inc.



This Machine Could Save Your Life

So why isn't it widely available?

BY MALCOLM MCCONNELL

COMMERCIAL ARTIST David Dutton, 56, sat on a commuter train, returning from New York City to his Long Island home on the evening of March 20, 1997. Dutton had no known health problems, but as the train clattered through Queens, he suddenly gasped, his face turned a mottled red, and he slumped unconscious in his seat. It was 7:30 p.m. He had gone into cardiac arrest.

While the train crew called ahead

for medical aid, a passenger performed CPR, alternately doing chest compressions and mouth-to-mouth breathing. But Dutton's heart was seized by the chaotic rhythm called ventricular fibrillation (VF), and CPR alone could not jump-start it.

Dutton's only hope was the process called defibrillation: a brief electrical shock that overpowers the irregular VF rhythm so the heart can resume its natural contractions.

But by the time a rescue team

READER'S DIGEST

carrying a defibrillator reached the train, it had been more than six minutes since Dutton's collapse, and his heart did not respond to attempts to restart it.

The great majority of cardiac-arrest victims die before help can reach them. But these deaths are not inevitable. "Many of the thousand cardiac-arrest incidents each day are clearly survivable," says Dr. Myron Weisfeldt, chairman of the American Heart Association's (AHA) task force on automatic external defibrillation. Time is critical: many cardiac arrests become fatal four to seven minutes after VF begins, so early defibrillation is the single most crucial factor. Every minute that passes before returning the heart to its normal rhythm decreases the chance of survival by ten percent; after just four minutes without defibrillation, only about 60 percent of victims survive. After ten minutes, few survive.

But in congested cities, emergency medical technicians (EMTs) equipped with defibrillators usually arrive too late. For years the cardiac-arrest survival rate in New York City, for example, was just over one percent. Nationwide it averages less than ten percent.

But a safe and effective technology exists that could improve these odds dramatically. It is the automatic external defibrillator (AED), a small computerized, battery-operated device, which can be as small as a book and weigh as little as four pounds. AEDs are nearly foolproof to operate. And

their cost keeps going down: some devices now sell for around \$3000.

In Rochester, Minn., automatic defibrillators have transformed emergency care of cardiac-arrest patients. In 1990 the Mayo Clinic's Dr. Roger D. White, medical director of the city's ambulance service, noted that police cars often reached cardiac-arrest victims two to three minutes before EMTs did. As trained "first responders," police officers gave CPR, but had no way of defibrillating victims, who often died. "What if we equip cars with defibrillators and train patrol officers to use them?" White suggested to the police.

Seven years later Rochester boasts what may be the highest cardiac-arrest survival rate in the world—45 percent. In the program's first five years, police defibrillated 31 cardiac-arrest patients, 18 of whom survived. Their lifesaving efficiency was tested last January 3.

Software designer Peter Czok, 50, had complained to co-worker Doreen Marks that his chest felt congested. "Maybe I'm catching pneumonia," he said. Then after lunch his head dropped, and Marks heard a weird gurgling from his throat. "Peter, don't fool around," she chided.

Czok toppled limply from his swivel chair. His face was a muddy red, his mouth agape, his sightless eyes open and blank. Terrified, Marks called 911 at 2:27 p.m.

Officer Eileen Morrison and his partner, rookie Steve Thompson, arrived at 2:30 p.m. By then Czok's

THIS MACHINE COULD SAVE YOUR LIFE

To Make Sure This Device Is in Your Life:

1. Ask your community police and fire departments if their "first response" vehicles contain AEDs. If not, send a letter or fax requesting them, and suggest they call Leonard Matarese, who heads the International Association of Chiefs of Police defibrillation effort, at 305-865-7586 for more information.

2. Call the nurse or medical department at your workplace to find out if your employer provides AEDs and has trained operators. If not, send a copy of this article. As Dr. Weisfeldt notes, "Thousands of people needlessly die of cardiac arrest each year in our offices and factories."

3. If your state limits access to AEDs (to find out, call the AHA at the number below), write your state senator or legislator, telling them you support changes in the law permitting trained responders to use AEDs, and that sample legislation is available from the AHA.

To learn more about sudden cardiac arrest and what you can do to bring early defibrillation to your community, contact the American Heart Association at 1-800-AHA-USA-1 or on-line at <http://www.arnhrt.org>.

face was a ghastly purple. Probing for a pulse, Thompson announced, "He's in cardiac arrest!"

As Morrison cut open Czok's shirt, Thompson pressed defibrillation pads firmly onto his chest. The computer's voice announced, "Analyzing heart rhythm. Do not touch the patient."

Within seconds the recorded voice intoned, "Shock advised. Stay clear of patient." The orange shock button flashed. "Deliver shock now." Thompson stabbed the button. "Shock delivered," the computer announced. It was 2:31 p.m. Less than five minutes had elapsed since the 911 call.

Peter Czok was released from the hospital a week later. "I was dying when the officers arrived," he says.

"If they hadn't used a defibrillator, I never would have survived."

Rochester's experience has demonstrated that nonmedical professionals equipped with AEDs and proper training can save many cardiac arrest victims. Following this city's lead, other police agencies nationwide have embraced the use of AEDs.

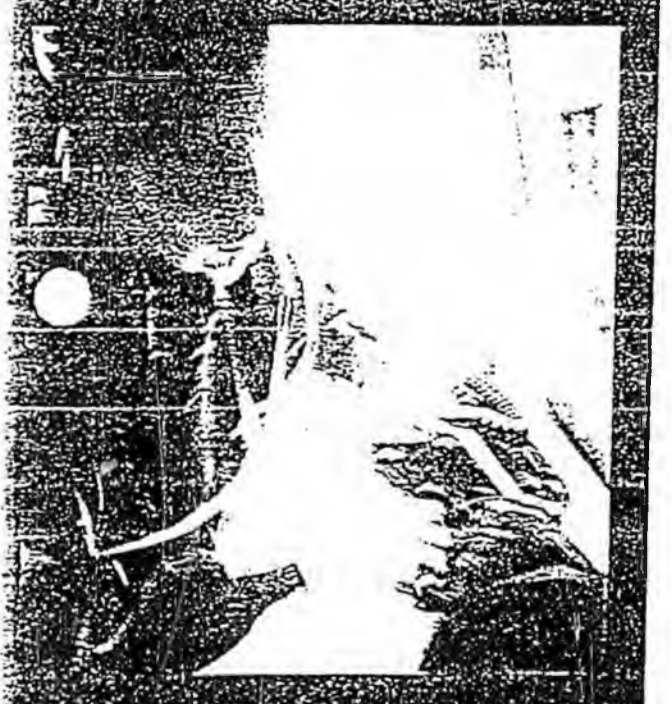
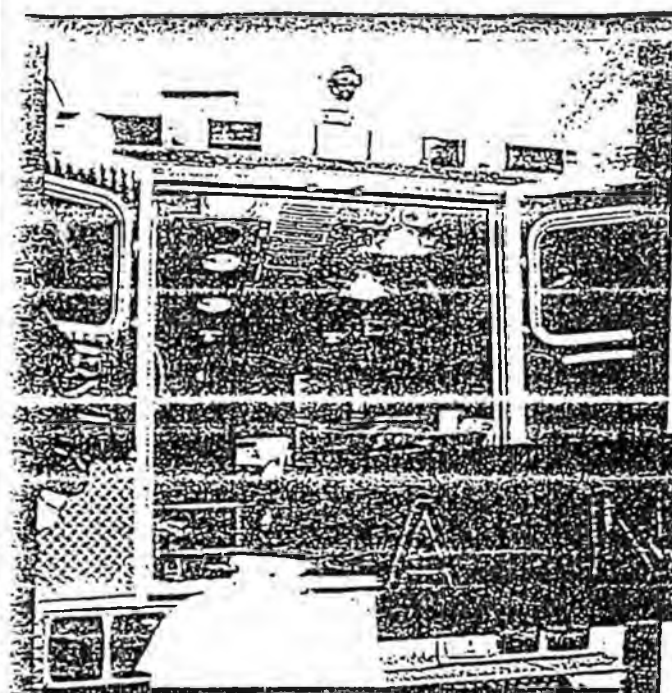
"The Rochester experience has shown that the police can consistently reach cardiac-arrested patients before EMTs do," stresses Leonard Matarese, chief of public safety in Florida's Indian Creek Village. Last year he equipped all of his squad cars and patrol boats with AEDs. And Matarese is helping forge an alliance between the nation's fire and police chiefs that he hopes will soon put an AED in every

RECEIVED

MAY 8 1988

Community Liaison and
Employee Resources

Suicide



Somewhere over the Pacific, aboard Qantas Flight 12 from Los Angeles to Sydney, Australia, Roland Koenig suddenly felt his head "spinning off." He knew something was terribly wrong but blacked out before he could react. Chief purser David Furey hurriedly pulled the stricken passenger to one of the exits for an examination. No pulse, no breathing—cardiac arrest.

Koenig's prognosis could not have been worse: minutes from death and hours from the nearest hospital. Luckily Furey had a secret weapon. He calmly called for the plane's onboard defibrillator, placed its two paddles on Koenig's chest and zapped his heart back to life with a series of electric shocks.

If the American Heart Association (AHA) has its way, such revivals will be repeated tens of thousands of times a year throughout the U.S.—in shopping malls, office buildings and homes too—as defibrillators become as commonplace and easy to use as fire extinguishers.

Koenig, a 73-year-old retiree from South Colleyville, Tex., was in many respects a typical victim of cardiac arrest—an older man with no obvious signs of heart disease. In the most crucial respect, however, Koenig was quite unusual: He survived. Most of the time, emergency medical personnel don't arrive fast enough and lack the portable defibrillators that could save lives. Only 5% of Americans who go into cardiac arrest come out of it alive. The prognosis is even worse in gridlocked urban areas such as New York City, where a scant 1% to 2% of the stricken are revived.

Those who don't survive are said to have suffered sudden

DAVID SELTZER

an Death

Public-access defibrillation could prevent 100,000 deaths a year

By Gary Goldenberg

cardiac death, which accounts for about 350,000 fatalities each year in the U.S. and is the

country's leading medical emergency. In almost all cases, the deceased had some type of underlying heart disease. But it's not correct, as often happens, to label every sudden cardiac death a "massive heart attack," since the two are actually different (see "Heart Attack or Sudden Death?" p. 66).

Typically, cardiac arrest strikes without warning. The heart's built-in electrical system—nerves embedded in the heart muscle that trigger each heartbeat—suddenly goes haywire. The main pumping chamber (the left ventricle) is swiftly reduced to a quivering blob that can no longer propel oxygen-laden blood throughout the body and, most importantly, to the brain. Death within minutes is inevitable, unless the spastic action, known as ventricular fibrillation, is corrected. And that demands a defibrillator.

As you may have seen on TV's *ER* or *Rescue 911*, these devices can shock erratically beating hearts back to a normal rhythm. "The beauty of defibrillation is that almost nothing else needs to be done for the patient if it's done fast enough," says Dr. Myron Weisfeldt, chairman of medicine at Columbia-Presbyterian Medical Center in New York City.

When it comes to saving these victims of cardiac arrest, defibrillation is actually much more helpful than cardiopulmonary resuscitation, in which rescuers alternate between breathing into the mouth and pushing on the chest. CPR oxygenates the blood and keeps it flowing to the brain, buying precious minutes until help arrives. But for the heart to restart, CPR must be followed immediately by defibrillation. In fact, when hospitalized patients go into cardiac arrest,

"the prevailing wisdom is to forget CPR and go ahead with defibrillation," says Dr. William Kava, a critical-care physician at Brown University and an expert in resuscitation training.

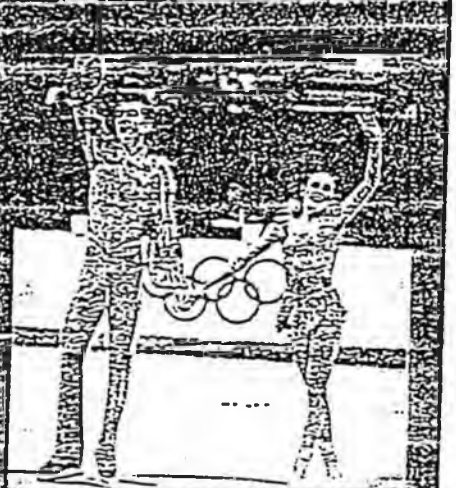
Defibrillation is a proven lifesaver, but it must be performed within 10 minutes of cardiac arrest. "Every minute the heart stays in fibrillation, we lose about 10% of the likelihood that we'll get it restarted," says Dr. Joseph Ornato, a cardiologist at the Medical College of Virginia in Richmond and chairman of the AHA National Emergency Cardiac Care Committee. Unfortunately, poor 911 systems, traffic snarls and slow elevators generally keep emergency personnel from arriving within the magic 10-minute window. Moreover, Ornato says, fewer than one in three U.S. ambulances carries a defibrillator.

Seattle and other cities have poured enormous resources into streamlining their emergency response systems, equipping all rescue personnel with defibrillators and training vast numbers of citizens in CPR. But even in Seattle, arguably the best large city in the country in which to collapse on a street corner, fewer than three in 10 cardiac arrest victims survive.

The AHA has concluded that a radically different strategy is needed to save more people from sudden cardiac death. In a statement issued last November, the organization endorsed what it calls "public-access defibrillation." The initial goal is to put defibrillators in the hands of the people most likely to arrive first at the scene of an emergency and to teach those



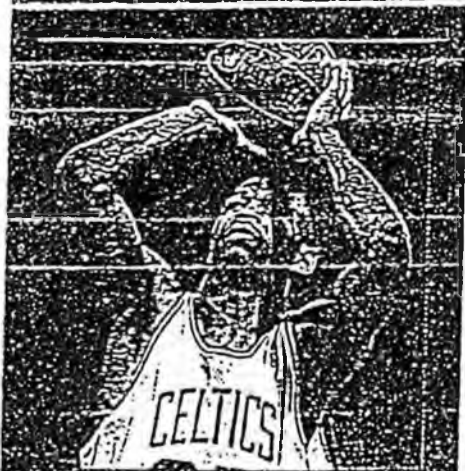
Hank Gathers: cardiomyopathy



Serge Gromov—Alvin Robertson



Jim Fox: heart attack?



Reggie Lewis: cardiomyopathy

people how to use them.

"We want to equip police cars and rescue units with these devices and then provide them to every company that has a nurse's station or employee health service," says Weisfeldt, who is leading the AHA's defibrillator campaign. "Next we would probably target security guards in office buildings and other heavily trafficked areas."

The ultimate goal is to put defibrillators wherever people congregate—retirement communities, apartment buildings, sporting arenas and schools—and to make them so easy to use that even untrained bystanders can operate them. But first some product improvements are needed.

Today's portable defibrillators—the ones aboard Qantas planes as well as fire engines and ambulances—have built-in computers that guide users through the procedure, voicing instructions and also displaying them on a screen. In addition, the devices automatically assess the patient's heart rhythm, judge whether defibrillation is required and then signal the operator to give the shock. But using them still requires some training, they're heavy (up to 25 pounds) and expensive (\$2,500 to \$8,000), and the devices need frequent maintenance.

"What we're looking for is a 'brilliant' defibrillator," says Weisfeldt. This Phi Beta Kappa of resuscitation instruments would weigh a mere five to 10 pounds, cost \$1,500 to \$2,000, fit inside a briefcase, guide the user with multilingual voice prompts and be durable, maintenance free and tamper resistant. Several companies are working intensively to develop such a device, and Weisfeldt predicts it will be available in a few years.

The AHA estimates that public-access defibrillation could save as many as 100,000 lives a year, a number matched by few other public health measures. "The science is fairly straightforward, so it's difficult to argue with the idea that this can help save lives," says S. Elizabeth White, senior associate for health and safety services at the American Red Cross, which, along with many other health and medical organizations, strongly endorses the AHA campaign.

Actually, those at highest risk of cardiac arrest—people who've survived one in the past—are not a target of the

CARDIOVASCULAR

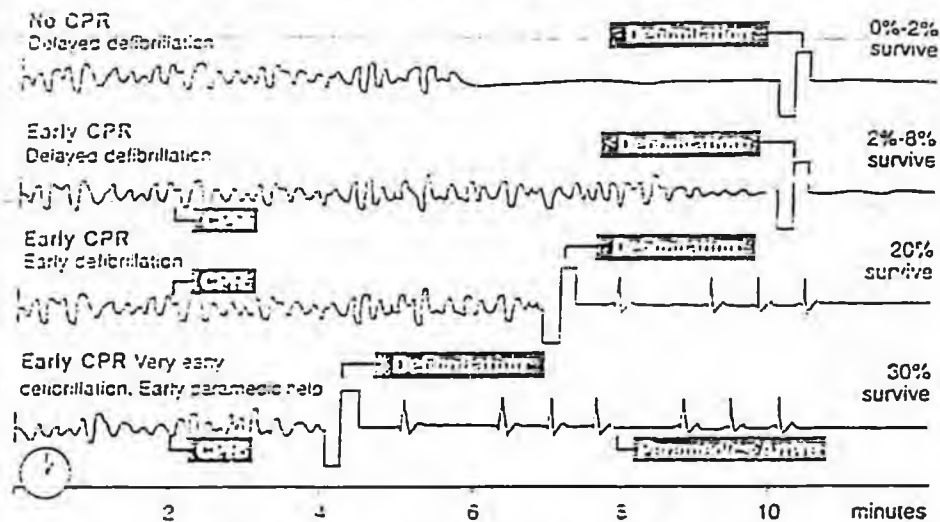
AHA's campaign. Instead they're usually walking around with their own defibrillators: wallet-sized, battery-powered units surgically implanted in the chest or upper abdomen and attached to the heart by electrodes. Like their external cousins, internal defibrillators sense abnormal heart rhythms and, within seconds of detecting a fibrillation, deliver an electrical jolt that feels like a sharp punch to the chest. Developed in the early 1980s, internal defibrillators enable thousands of Americans who are at risk of erratic heartbeats to lead relatively normal lives. (Internal defibrillators are different from those other implanted devices, pacemakers, which regulate and adjust the heartbeat continuously.)

Weisfeldt's ultimate goal is to link portable defibrillators to emergency services through telephones. "The minute the defibrillator is removed from the phone, 911 would automatically be dialed," he explains. "The 911 system would know exactly which phone and which building was using the defibrillator, and within seconds an ambulance would be on its way to the scene."

Anyone who questions defibrillation's value should look to Rochester, Minn. (population: 110,000), home of the Mayo Clinic, which has equipped all its police cars and fire rescue units with the devices. Over a recent two-year period, the two departments encountered 44 people in cardiac arrest and successfully defibrillated 21 of them—only five fewer cardiac arrest victims than were saved in all of New York City in 1991.

Some hurdles must first be overcome if public-access defibrillation is to become reality. New laws will be needed so that Good Samaritans who use defibrillators on their fellow citizens are protected from liability. And even if mass production slashes the price of defibrillators, distributing thousands of them across the country will still cost millions of dollars. Congress and the states will have to provide some of that money. And businesses will have to show more interest in having defibrillators on hand.

Each year, for example, 200 to 300 people die on planes due to cardiac arrest—more than die in most years from commercial air crashes. Yet Qantas remains one of the only airlines to carry defibrillators.



Cardiac arrest means certain death when neither cardiopulmonary resuscitation nor defibrillation is used. If a bystander begins CPR within two minutes, survival chances rise to between 2% and 8%. When both CPR and defibrillation occur within eight minutes, the likelihood of survival goes up to 20%. The figure rises to 30% when the victim receives a combination of CPR and defibrillation within four minutes and paramedic help within eight minutes.

Source: American Heart Association

Of course, making something available won't help unless people are willing to use it. In 1990 basketball star Hank Gathers of Loyola Marymount University in Los Angeles collapsed in cardiac arrest in the middle of a game. Emergency medical personnel worked feverishly, pumping his chest and inflating his lungs in the prescribed CPR manner, all to no avail. Gathers was carried off the court in front of a shocked and silent crowd. Equally shocking was a *Sports Illustrated* photo showing one of the stretcher bearers, a team physician, carrying a defibrillator. It was never used.

Roland Koenig, on the other hand, has recovered well and resumed his daily 1½-mile runs and extensive travel. Since his episode on November 5th, 1994, another Qantas passenger was also saved with a defibrillator, giving the AHA another convert to its cause. Chief purser David Furey, who saved Koenig, is another supporter.

"I can't tune my videocassette recorder at home, but I can use the Heartstart machine," he says, referring to the brand of defibrillator Qantas uses. "I think that says it all." ●

Gary Goldenberg is a freelance writer in Port Chester, N.Y.

Heart Attack or Sudden Death?

When two-time Olympic gold medalist figure skater Sergei Grinkov collapsed and died during practice at a Lake Placid, N.Y., rink in November, 1995, the prevailing reaction was shock: How could that happen to a world-class athlete only 28 years old? But as it turned out, Grinkov had something in common with the great majority of sudden cardiac death victims: underlying heart disease.

Grinkov's heart was enlarged, reportedly due to severe hypertension, which can also damage the coronary arteries. An autopsy revealed that two coronary arteries were almost completely blocked and that the skater had suffered a heart attack less than 4 hours before his collapse.

Sudden cardiac death can result from many heart problems, but heart attack is the most common trigger. Indeed, sudden cardiac death is often labeled "massive heart attack." Despite their frequent interconnection, however, heart attack and sudden cardiac death are distinct events.

Heart attacks generally occur when a clot in a coronary artery shuts off the blood supply to part of the heart muscle. Death can usually be avoided if the clot is cleared (typically with a clot-buster drug or balloon angioplasty) within six hours of the attack. But about one of every six heart attacks results directly in sudden cardiac death by immediately causing the heart to go into ventricular fibrillation, the ineffectual fluttering of its main chamber. To save someone from sudden cardiac death, lifesaving measures must occur within about 10 minutes.

Here's the link between heart attacks and sudden cardiac death: By cutting off blood flow to

the heart and damaging its tissue, the heart attack can interfere with the nerves responsible for the heart's orderly beating. That alone can be enough to trigger cardiac arrest. But even among heart attack survivors, that shutdown of blood may cause a portion of the heart muscle to die. Days or even years later, that scar tissue may disrupt nerve impulses and cause a fatal arrhythmia and sudden death. One reason prompt treatment for heart attack is so crucial is to minimize heart muscle damage and its potential to disrupt the normal heartbeat.

Exertion can play a major role in sudden death. When a middle-aged man dies from shoveling snow or running (as in the case of jogger-catcher Jim Fixx), his rapid heart rate may have dislodged a fatty deposit that clogged a coronary artery, causing a heart attack that in turn triggered immediate fibrillation. Alternatively, when someone with underlying heart disease exerts himself, his rapid heartbeat itself can evolve into a fatal arrhythmia.

Other factors besides exertion can disrupt the heartbeat and cause sudden cardiac death. They include:

- **Fear.** Like exertion, fear also causes the heart to race, which can cause arrhythmic and cardiac death in someone with heart disease. It now appears that some people are especially vulnerable to being literally scared to death—and that a simple test can predict which ones.

Harvard University researchers asked 40,000 male health professionals to take an eight-question test that assessed their "phobic anxiety" level. The researchers focused on the 34,000 men in the group who had not been diagnosed with heart disease (although undiagnosed heart disease could not be ruled out).

When the men without heart disease were evaluated two years later, those with the highest anxiety levels were more than six times as likely to have suffered sudden cardiac death as the least anxious

men. The researchers concluded that high anxiety is a potent risk factor for sudden cardiac death. One possible explanation: Hyperventilation induced by anxiety may cause coronary artery spasms.

- **Alcohol.** Heavy drinking can disrupt the heartbeat, a phenomenon known as "holiday heart syndrome." Even healthy people can experience such arrhythmias, but those most likely to suffer sudden cardiac death from binge drinking are chronic alcoholics with liver disease.

- **Congestive heart failure.** In CHF, the heart has been damaged by heart attack, hypertension or some other condition, and it no longer pumps efficiently. Although people with this usually treatable problem can live with it for many years, they're six to nine times likelier to suffer sudden cardiac death than those without CHF.

- **Cardiomyopathy.** When sudden death strikes a middle-aged athlete, a heart attack or underlying coronary artery disease is almost always responsible. But in young athletes, sudden death is often due to an underlying heart muscle abnormality, also known as cardiomyopathy. Two basketball stars, Hank Gathers of Loyola Marymount University in Los Angeles and Boston Celtic great Reggie Lewis, died from this condition.

Lewis's death was attributed to a virus that inflamed his heart muscle and caused scarring, which ultimately disturbed his heart rhythm.

But often such deaths are due to a genetic disorder known as familial hypertrophic cardiomyopathy, the most common cause of sudden cardiac death in the young, especially athletes. (Hypertrophic means that a chamber of the heart becomes abnormally enlarged and loses its flexibility.) A genetic test carried out on blood cells can now determine whether relatives of a person with the disorder are also at risk of developing it. Those with the trait should be warned against participating in strenuous sports that might trigger sudden cardiac death.

—DCUG BRADLEY



**Citizen CPR
Foundation, Inc.**

Member of the American Heart Association
Chain of Survival

**American Heart
Association**
*Fighting Heart Disease
and Stroke*




Currents

in Emergency Cardiac Care

Public access defibrillation comes of age
PAD conference April 17-19 in DC; American Airlines adds AEDs

Public Access Defibrillation—the AHA initiative begun in October 1993 to enable the use of AEDs by the general public—reaches maturity this spring in Washington, DC. On April 17-19 the AHA will sponsor *Public Access Defibrillation II: Strengthening the Chain of Survival*. This conference will focus on research in public access defibrillation (PAD), results of the PAD initiative to date, and the AHA's plans to continue the initiative.

The conference will be held at the Hyatt Regency Crystal City in Washington, DC. The planning committee for the conference is the AHA's Automatic External Defibrillation Task Force, chaired by Myron L. Weisfeldt, MD.

The conference comprises five state-of-the-art sessions, seven concurrent workshops, and a poster session. (See page 7 for details.)

Since the first PAD conference, in December 1994, the concept of public access defibrillation has gained increasing acceptance nationwide. A milestone for the PAD initiative is the decision by American Airlines to place AEDs on board its international flights and some domestic over-water flights.

First US airline to add AEDs

On November 19, 1996, Robert L. Crandall, chairman and CEO, and David McKenas, MD, American's corporate medical director, announced plans to buy 300 AEDs for its long-haul flights, the first to be delivered in January and the rest in time for the airline's busy summer tourist season. American thus becomes the first US airline to equip its planes with AEDs.



Clay Newlin, emergency procedures instructor, and Linda Camocell, aeromedical lead nurse, helped American Airlines test off CPR-D in the air with a training-trainer program Jan 29 in Fort Worth, Tex. AHA volunteers Ricardo Cummins, MD, Mary Fran Rozinski, RN, and Ed Stiberson, EMER provided state-of-the-art presentations and educational materials.

"This is a potential major advance in saving lives," said Weisfeldt.

American has also announced plans to work with the AHA in training its personnel in use of the AED and in evaluation of the airline's AED program. Beginning in February, 2300 flight attendants will be trained in the use of the AED. By the end of 1998 all 20,000 of American's flight attendants will have been trained to use the device.

"Other carriers are now talking with the manufacturers," said David Fuscus, spokesman for the Air Transport Association, which represents major airlines. Northwest Airlines, United, and Delta are studying the need for defibrillators. A spokesman for the Federal Aviation Administration also said in November that the agency will study whether AEDs should be mandatory on airplanes.

See PAD, page 3

**Volume 7
Number 4
Winter 1997**

INSIDE

2 **ECC 1998 call for abstracts**

4 **County Line and AHA support fitness learning**

5 **CPR Prompt C&A**

"In-hospital resuscitation"

6 **Solicitation of topics for Guidelines**

7 **ECC Educators' access**

8 **New textbooks**

Mnemonic for stroke

NRP grant

9 **ECC advisory statement: Innovations in ECC**

32 **Mike Bell: New director of training**

February 28, 1998

Dear Representative Bunde:

The issue of *public access* Automated External Defibrillation (AED) has wide private sector support. I have collected over a 100 citizen endorsement letters signed by representatives of companies that had their staff CPR/First Aid trained in the past 3 weeks. (example attached)*

Please publicly support this important issue.

Quick review of the companies mentioned above:

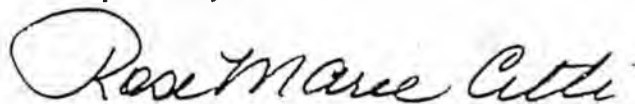
Veco	Alaska Airlines
Prudential Vista Real Estate	AVEC
RAM, Inc.	Laidlaw Environmental
Princess Tours	Alaska Village Electric
Howard Molanax	Doyon Drilling, Inc.
Van Waters & Rogers	Regal Alaskan Hotel
Tracy Vrem Guide Service	North West Handling Systems
Scoggin Excuvation Service	H & H Construction Co, Inc.
Herring Counseling Services, Inc.	Fred Meyer
AWAIC	Regina's Home Health Care
Alaska Mechanical	Nordstrom
Value Village	Chugach Electric Association (CEA)
Rasmussen Asphalt	Municipal Light & Power

* Copies of all endorsement letters have been sent to the offices of Representative Bunde and Senator Taylor.

I can assure you as more companies & students become aware of this technology more letters will be forthcoming.

Please don't let us down.

Respectfully,



Rose Marie Citti
P.O. Box 220348
Anchorage, AK 99522-0348

Home: 243-2990
Business: 344-0302
FAX: 522-2271

Enclosures: Endorsement letter
Alaska Airlines Press Release

March 2, 1998

Representative Alan Austerman
State Capitol
Juneau, AK 99801

Dear Alan:

Thank you for sending copies of house bills 335 and 307. I have read and strongly support passage of these bills. I ask you to support them.

I offer the following comments on each Bill:

House Bill No. 307 addresses a central issue of "being denied visitation", as I was for 15 months.

It is critical for children to have both parents in their lives, and preclude one parent from denying access by moving to another state. This is a frequent tactic, and often successful. I believe house bill 307 will begin to provide an adequate deterrent and reduce the damaging effects children sustain when one parent uses children to punish the other parent. The effects on children are lifelong.

I strongly support all sections and intent, and encourage passage of House Bill No. 307.

House Bill No. 335 amends current statute for compliance with Uniform Child Custody Act.

Its passage is much needed to provide clear defined process when disputing jurisdiction, home state, filing, and simultaneous proceedings. As was also addressed in my own case, the lack of clarity and jurisdiction became a central issue.

Any parent at this time can leave the state with children, claiming residency of another state, and effectively stall proceedings with jurisdictional issues while denying visitation and most likely end up with custody. The reluctance of judges to bring children back to the home state and the emotional violence perpetrated by an angry parent upon the child is devastating.

I believe House Bill 335 will address many of the existing loopholes, and reduce damage to children. I support all amendments, sections, and encourage passage of this bill.

As per our previous conversation, my children were removed from school in September of 1996, using a domestic violence order obtained in Washington State. The order was served on the court in Kodiak, Alaska, although Alaska was the home state and correct state of jurisdiction. The children were removed from school by police and returned to Washington within two hours. Washington was led to believe it was home state, by the defendant in this action, but three months later remanded jurisdiction back to Alaska. As courts are reluctant to return children or move them around, they stayed in Washington with defendant and could not return to Alaska. This began a long exhausting legal process and denial of visitation by the defendant that lasted sixteen months. Although hearings were held, and orders issued to the defendant, nothing can be done to bring a defendant in another state into compliance.

I seek to protect children from this kind of trauma and emotional violence, close loopholes that allow attorneys to advise clients to do this and minimize damage to children as innocent victims. I find House Bill No 307, an 335 to be a step in the right direction, but also legislation that protects children from being moved from any jurisdiction without a hearing first!

At this time, I am also asking for an investigation regarding application of domestic violence laws regarding my own case. Further I am asking for the Attorney General to review case 3KO 96 00236 CI. I believe you can make this request, and I thank you for your consideration.

Regards,

Jeffrey G. Knaut.

c.c. Senator Jerry Mackie
Governor Tony Knowles

HB 395

Defibrillators Enter the Business Marketplace

An evolving legal trend may ultimately lead to higher risks for businesses that fail to purchase and use AEDs.

Now, a new wave of small, portable defibrillators is being developed...Manufacturers even envision a day when the devices, technically known as automatic external defibrillators and costing \$2,500 to \$4,000 each, will be as common as fire extinguishers.

The Wall Street Journal
Aug. 5, 1996

In 1990, the American Heart Association challenged the medical device industry to develop a state-of-the-art automated external defibrillator (AED) capable of being used by virtually anyone. As *The Wall Street Journal* noted, the industry responded in a manner leading to significant advances in AED technology. Smaller, lighter, cheaper, easier, sturdier and more effective AEDs are now available. As a result, many businesses are now considering the benefits associated with the purchase of AEDs for use by trained individuals on site.

Despite technological progress, tort liability fears create impediments to the widespread deployment and use of these life-saving machines within the commercial business environment. In other words, before AEDs can become "as common as fire extinguishers," legal concerns must be acknowledged, understood, and addressed.

AEDs in the Land of Torts

One significant obstacle to large-scale AED distribution in the business world is fear of exposure to negligence liability lawsuits. Would-be AED purchasers appear to perceive heightened legal risk flowing from the acquisition, deployment, and use of the device.

Prudent businesses must certainly analyze relative risks and benefits when considering whether to adopt or not adopt

AED programs. In this context, two recent jury verdicts suggest an evolving legal trend that may ultimately lead to higher risks for businesses that fail to purchase and use AEDs. A basic negligence primer helps explain why.

In order for a plaintiff to successfully sue an AED purchaser or user, four essential elements must be proven. These include duty, breach of duty, causation of injury, and legally recognized damages. The failure to prove any one of these elements is fatal to a plaintiff's case. The element of greatest import in the AED context is that of duty.

Duty in negligence law is defined as "an obligation, to which the law will give recognition and effect, to conform to a particular standard of conduct toward another." In the absence of a legal duty, no liability can be imposed. In other words, one cannot be successfully sued for failing to perform an act in the absence of a legally mandated obligation to perform the act in the first place.

In the context of duty, businesses contemplating the purchase of AEDs must consider whether a legal obligation to render medical aid to patrons exists and, if so, the scope of the obligation. In effect, this constitutes an analysis of legal risk.

While bystanders generally have no legal obligation to provide affirmative medical aid to ill or injured persons, the existence of certain relationships between a victim and one in a position to render aid may create a duty to provide assistance. Business sectors including common carriers (airlines, passenger rail lines, cruise ship lines, etc.), innkeepers (hotels, motels, etc.), and commercial business establishments open to the public (most other businesses) may be compelled by law to render a minimum level of first aid

care and to timely summon outside emergency medical assistance. The scope of this duty is generally defined by appellate court case law, trial courts and juries.

Historically, appellate courts have been generally resistant to requiring common carriers, innkeepers, and commercial businesses faced with ill or injured patrons to do more than summon an ambulance. Two recent trial court verdicts, however, suggest an evolving trend toward higher standards requiring the protection of customer health and safety in the commercial business environment.

In June 1996, a Florida jury found Busch Gardens negligent for not properly training its employees to provide emergency care and for failing to have essential medical equipment, including a defibrillator, on the premises. The jury awarded the plaintiff \$500,000 in damages for the resulting death of her 13-year-old daughter.

In another recent case, a federal judge found Lufthansa Airlines negligent for failing to timely provide treatment for a passenger suffering a cardiac emergency and awarded \$2.7 million in damages. In light of this case and a variety of other factors, the Federal Aviation Administration is currently considering the mandatory deployment of AEDs on all commercial aircraft.

While it is unclear whether the Busch Gardens and Lufthansa verdicts will survive court appeals, modern advances in AED technology coupled with low cost and the proven ability of these devices to save lives may persuade more and more trial and appellate courts to sanction businesses that fail to adopt AED programs. Prudent businesses can avoid this legal risk by purchasing AEDs and training employees in their use.

Balancing Risks and Benefits

Legal risks associated with adoption and implementation of business-based AED

By RICHARD A. LAZAR

Occupational Health & Safety

AUGUST 1997

DEFIBRILLATORS ENTER THE BUSINESS MARKETPLACE

programs, while not zero, appear quite negligible. At least one industry believes greater risks flow from the failure to adopt such programs.

Airline industry observers also say they expect other U.S. airlines to follow American Airlines' footsteps (American has announced a plan to equip all its foreign and domestic aircraft with portable defibrillators by the end of 1998) in hopes of avoiding potential lawsuits for negligence that might arise from a failure to provide appropriate medicines and equipment needed to treat a sick passenger in flight.

The following factors highlight why business-based AED programs generally constitute a low-risk endeavor:

- No lawsuits, verdicts, or appellate cases are identified involving the use of a defibrillator in the business environment to help a victim of sudden cardiac arrest (SCA).

- SCA victims are, in effect, already dead. Use of an AED can only help, it cannot hurt.

- Many if not most businesses carry liability insurance coverage protecting the busi-

ness in the event of an AED related lawsuit.

- Many states have laws limiting the types and scope of negligence lawsuits permissible against lay individuals rendering emergency medical care (tort limitation, Good Samaritan, and a variety of immunity laws).

In sum, increased liability risk, if any, associated with adoption of a business-based AED program is quite minimal. In contrast to limited risk, the benefits of AED program adoption are quite remarkable.

For example, published medical research suggests that persons suffering certain forms of SCA who are defibrillated in less than one minute have a 90 percent chance of surviving. For each minute of continued SCA, the likelihood of successful conversion decreases by approximately 10 percent. Thus, from a public health perspective, businesses adopting AED programs can actually increase the likelihood of saving lives.

From a public relations perspective, AED programs offer businesses the opportunity to distinguish themselves in

the marketplace. American Airlines, emphasizing passenger welfare benefits, received significant positive media attention following its AED announcement.

Overall, the benefits of AED program adoption in the commercial business arena far outweigh any risks. As these benefits become better understood and disseminated within the business community, it is highly likely AEDs will, indeed, become as common as fire extinguishers. **OHS**

Richard A. Lazar, a lawyer, is a consultant to the emergency medical services and AED industries from his home base in Portland, Ore.

References

1. Cobb, LA, et al. Report of the American Heart Association Task Force on the Future of Cardiopulmonary Resuscitation. *Circulation*. 1992;85:2346-2355.
2. W. Page Keeton et al., Prosser and Keeton on the Law of Torts § 53, at 356 (5th ed. 1984).
3. Restatement (Second) of Torts § 314A.
4. "Finally, The Right Tools to Save Lives in the Air." *Chicago Tribune*, Dec. 22, 1996. Discussing American Airlines' plan to equip all its foreign and domestic aircraft with portable defibrillators by the end of 1998.

SENATE COMMITTEE REPORT

DATE: 4/2/98

FURTHER:

DATE TURNED
IN TO OFFICE: 4-21-98

Judiciary Committee considered CS FOR HOUSE BILL NO. 395(JUD)

"An Act relating to civil liability resulting from the use of a defibrillator in providing emergency aid or emergency training."

and recommends:

- be replaced with SENATE CS FOR CS FOR HB 395 (JUD)
- adopt previous CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
Mike Miller	X	Hellers	X		
Deance	✓				
CHAIR: <i>Adrian Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
HSS-STATE LICENS SVCS.	3-13-98	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

What parts of the bill are required by federal law?

1. Foster parents and relatives who provide care for children get notice of hearings, and an opportunity to be heard at hearings.

AS 47.10.030 (b)

AS 47.10.070(a)

AS 47.10.080 (f)

2. Permanency hearings 12 months after a child is removed from home and annually thereafter

AS 47.10.080 (f)

*sect. 26 on p. 24,
sect. 28 p. 25/26*

3. Judges must make specific findings at the permanency hearing about whether a child will return home or go into some other permanent safe home

AS 47.10.080 (l)

4. The health and safety of the child shall be the paramount concern.

AS 47.10.082

sect. 31 p. 28

5. Reasonable efforts to return the child home once removed, will not be required in all cases. In cases where there has been a homicide of a child in the family, felony assault on a child, abandonment of a child, sexual abuse, torture, chronic abuse or neglect, the state will be required to find a permanent safe home for the child.

AS 47.10.086 (c)

*sect. 33 p. 29
Page 29*

*p. 30
see notes*

6. The state must file a petition to terminate parental rights in some cases: abandoned children younger than 6; children who have been in foster care for 15 of the most recent 22 months; siblings of children who were killed by a parent; children who were seriously injured by the parents. The state must have a compelling reason not to proceed to termination in certain cases.

AS 47.10.088 (d) and (e)

p. 33 L 15

7. States are required to do concurrent planning for children: have a plan for reunification with the parents and also develop an alternative permanent safe plan for the child.

AS 47.10.086 (f)

AS 47.10.088 (i)

*see
5 & 6 above*

8. States must offer families community-based family support services on a time-limited basis, not to exceed 15 months, whenever the plan is to prevent removal from the home or to return the child to the family home.

AS 47.10.086 (a) and (b) *all reasonable efforts pgs 39 & 40 L. 5*

9. States must have a preference for kinship care with relatives.

AS 47.14.100 (e) and (i) *P. 43 sect 49 - P. 44 L 12*

10. States are required to conduct thorough criminal background investigations on any licensed home or facility where children are placed.

AS 47.35.017(b) *sect 64 P 50-53*
AS 47.35.022
AS 47.35.023 (b)

11. States are required to define abuse and neglect at a minimum, to include acts by caretakers that result in: death; serious physical harm; serious emotional harm; sexual abuse or exploitation; imminent risk of harm. AS 47.10.011 (a) (8)

Fed. Floor P. 17 L 13-29

12. States are required to expedite the permanent placement of abandoned infants.

AS 47.10.088(d) (2) *P. 33 - L 21-22*

Permissio

13. States are allowed to create child fatality review teams and must set up a "public disclosure provision for the team." AS 12.65.005 - 12.65.140.

P 6 L 8 P 11 L 119

Permissio Fed.

14. States are allowed to provide respite care to foster parents for temporary stress relief.

AS 47.14.100 (d) *P. 42-43 sect 48*

15. States are allowed to create Multidisciplinary Teams as investigative resources

AS 47.14.300 *P 45 sect 54 - P 47 L 14*

Permissio

What parts of the bill did the courts want changed?

1. Children can only be declared abandoned if they have no parent willing or able to care. Willing is enough even if a parent is not able to care.

AS 47.10.011 (a) (1)
AS 47.10.013

L

2. The law does not provide the state with the authority to intervene in cases of emotional neglect.

AS 47.10.011 (a) (8)

17-215-79

What parts of the bill are state-initiated changes?

1. Providing a policy, purpose, and legislative findings section in statute that gives courts guidance in making decisions about children.

AS 47.05.065

2. Clarifying in statute that parents have important rights, especially the right to use reasonable corporal discipline.

AS 47.05.065

3. Redefining the situations where the state may get involved and seek services for a family to include domestic violence, substance abuse, and parental conduct that results in serious mental injury to children.

AS 47.10.011 (8) (10)

4. Definitions should allow workers to consider the family's full history and address the problem comprehensively. Workers should no longer look at isolated incidents when making conclusions about children.

AS 47.14.300

AS 47.17.033

5. Creating a separate "Termination of Parental Rights" statute.

AS 47.10.088

6. Allowing the state to intervene before children are severely damaged because problems are severe or chronic.

AS 47.10.011 (8) (9)

7. Eliminating multiple and repeated moves of children by preparing foster parents and creating procedural barriers to moving children.

AS 47.10.093(b)

AS 47.12.310(b)

AS 47.10.080 (s)

AS 47.14.115

HB

399

SENATE COMMITTEE REPORT

DATE: 4/18/98

FURTHER:

DATE TURNED
IN TO OFFICE: 4-21-98

Judiciary Committee considered HOUSE BILL NO. 399

"An Act relating to an optional exemption from, and deferral of payment of, municipal taxes on deteriorated property, and defining 'deteriorated property' for purposes of the exemption or deferral; and providing for an effective date."

and recommends:

- be replaced with SENATE CS FOR HOUSE BILL 399 (JUD)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>J. Ellis</i>	<input checked="" type="checkbox"/>	<i>Alan T. Farrell</i>	<input checked="" type="checkbox"/>		
<i>J. Ellis</i>		<i>Nita Miller</i>	<input checked="" type="checkbox"/>		
		<i>Peance</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>John L. Taylor</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<i>DCRA</i>	<i>3-17-98</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Alaska State Legislature

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE
MILITARY & VETERANS AFFAIRS
COMMUNITY & REGIONAL AFFAIRS
OIL & GAS



INTERIM:

716 W. 4TH AVE
ANCHORAGE, AK 99501
PHONE (907) 258-8161

SESSION:

STATE CAPITOL
ROOM 420
JUNEAU, AK 99801-1182
PHONE (907) 465-3875

Representative Joe Ryan

1 800-922-3875 <http://www.akRepublicans.org>

MEMORANDUM

TO: Senator Robin Taylor, Chair
Judiciary Committee

FROM: Representative Joe Ryan

RE: HOUSE BILL NO. 399

DATE: 16 April 1998

I respectfully request Senate Judiciary Committee to calendar House Bill No. 399, "An Act relating to an optional exemption from, and deferral of payment of, municipal taxes on deteriorated property, and defining 'deteriorated property' for purposes of the exemption or deferral; and providing for an effective date."

This intent of this bill is to authorize local municipalities the option to provide a tax exemption for improvements of deteriorated real property. The concept is based on other state's local economic revitalization tax programs. Local municipalities will have the flexibility of allowing renovations of real property in order to increase the value of that real property, for tax purposes.

The referral packet is attached which contains the following:

1. HB 399
2. Current zero fiscal note
3. Sponsor Statement
4. Sectional Summary
5. House Labor & Commerce Committee Report
6. Other Back-up Materials

Please contact Tracy Ashe of my staff at 3875 as needed.

Thank you for your consideration.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

NO. HB 399
 BILL VERSION: _____
 PUBLISH DATE: 2/12/98

Revision Date: _____
 Title: An act relating to defered municipal taxes

Department Affected: DCFA
 BRU: _____

Sponsor: Representative Ryan
 Requestor: HL&C

Component: _____

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
----------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Shirley Armstrong *Shirley L. Armstrong* Phone: 465-4954
 Division: House Labor and Commerce Committee Date: 3/18/98

Approved By: Representative Norman Rokeberg *Norm Rokeberg*
 Agency: House Labor and Commerce Committee Date: 3/18/98

Alaska State Legislature
House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE
MILITARY & VETERANS AFFAIRS
COMMUNITY & REGIONAL AFFAIRS
OIL & GAS



Representative Joe Ryan

1 800-922-3875

<http://www.akrepublicans.org>

INTERIM:

716 W. 4TH AVE.
ANCHORAGE, AK 99501
PHONE (907) 258-8161

SESSION:

STATE CAPITOL
ROOM 420
JUNEAU, AK 99801-1182
PHONE (907) 465-3875

SPONSOR STATEMENT for
House Bill 399

The intent of this bill is to authorize local municipalities the option to provide a tax exemption for improvements of deteriorated real property. The concept is based on other state's local economic revitalization tax programs. Local municipalities will have the flexibility of allowing renovations of real property in order to increase the value of that real property, for tax purposes.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 3, 1998

SUBJECT: Sectional Summary (HB399)

TO: Representative Joe Ryan
Attn: Tracy Ashe

FROM: Tamara Brandt Cook *TBC*
Director

Sec. 1. Permits a municipality to partially or totally exempt deteriorated property from taxation or defer payment of taxes for up to five years. The exemption or deferral may be renewed. Defines "deteriorated property" to mean property (1) that has been required to be vacated, condemned, or demolished because of noncompliance with laws, ordinances, or regulations; (2) on which a structure not less than 15 years of age has been rehabilitated, renovated or replaced; or (3) located in a deteriorating or deteriorated area.

Sec. 2. The effective date is July 1, 1998.

TBC:jdr
98-129.jdr

(7)

Date Referred to Committee: February 12, 1998

FURTHER REFERRALS:

Date of Committee Action: 3/18/98

The LABOR AND COMMERCE Committee considered:

HB 399

HOUSE BILL NO. 399

EXEMPT/DEFERRAL DETERIORATED PROPTY TAX

"An Act relating to an optional exemption from, and deferral of payment of, municipal taxes on deteriorated property, and defining 'deteriorated property' for purposes of the exemption or deferral; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ [] the same title [] a new title

[] additional referral to _____ Committee [] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal note(s) _____

[] fiscal note(s) _____

[X] zero fiscal note(s) DCEA

[] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jan Sanders</i>	✓			
<i>John Ryan</i>	✓			
<i>Bill Hurd</i>	✓			
<i>Ann Kately</i>	✓			

CHAIR'S SIGNATURE

Ann Kately

3-18-98

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

Approved

Date: 3/10/98

Submitted by: Assemblymembers BELL,
Begich, Wuerch
Prepared by: Assembly Office
For reading:

ANCHORAGE, ALASKA
AR NO. 98-_____

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING HOUSE BILL 399, RELATING TO MUNICIPAL TAX EXEMPTIONS AND DEFERRALS ON DETERIORATED PROPERTY

WHEREAS, HB 399, sponsored by State Representative Ryan, has been introduced before the State Legislature; and

WHEREAS, HB 399 provides that a municipality may by ordinance:

- Partially or totally exempt all or some types of deteriorated property from taxation for up to five years after commencement of substantial rehabilitation, renovation, or replacement of any structure or improvement on the property; and
- Permit deferral of payment of taxes on all or some types of deteriorated property for up to five years after commencement of substantial rehabilitation, renovation, or replacement of any structure or improvement on the property;

WHEREAS, these provisions will assist municipalities in ridding urban blight and encouraging economic development; and

WHEREAS, for example, these provisions may assist the Municipality of Anchorage in its efforts to resolve the McKay Building issue.

NOW, THEREFORE, the Anchorage Assembly resolves:

Section 1: That the Assembly supports House Bill 399.

Section 2: That, upon passage, a copy of this resolution be forwarded by the Municipal Clerk to the State Legislature.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 1998.

Chair

ATTEST:

Municipal Clerk

Post-It™ brand fax transmittal memo 7671 # of pages > 1

To <u>Rep. Joe Ryan</u>	From
Co.	Co.
Dept	Phone #
Fax #	Fax #

[(1)] (2) "Department" means the department of natural resources;

(3) "Eligible property". property located in Missouri and offered or used for nonresidential purposes, conduct of business, or residential rental;

[(2)] (4) "Fund" means the historic preservation revolving fund;

[(3)] (5) "Historic property" or "property" means any building, structure, district, area or site that is significant in the history, architecture, archaeology or culture of this state, its communities or this country, which is eligible for nomination to the National Register of Historic Places;

(6) "Structure in a certified historic district", a structure located in Missouri which is certified by the department of natural resources as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been certified by the United States Department of the Interior.

** 253.550. Any individual, partnership, trust or estate, or corporation incurring costs and expenses for the rehabilitation of eligible property as defined in section 253.401, which is a certified historic structure or structure within a certified historic district shall be entitled to a credit against the taxes imposed pursuant to chapter 143, RSMo, on that individual or entity in an amount equal to twenty-five percent of the total costs and expenses of rehabilitation which shall include development, architectural, engineering and other costs, provided the rehabilitation costs associated with rehabilitation and the expenses exceed fifty percent of the total basis in the property and the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources.**

** 253.559. If the amount of such credit exceeds the total tax liability for the year in which the rehabilitated property is placed in service, the amount that exceeds the state tax liability may be carried back for credit against the taxes imposed pursuant to chapter 143, RSMo, except for sections 143.191 to 143.265, RSMo, and in preceding years back to 1996 or back three years, whichever is**

less, and may be carried forward for credit against the income taxes for the succeeding ten years, or until the full credit is used, whichever occurs first. Credits granted to a partnership or multiple owners of property shall be passed through to the partners respectively or owners respectively pro rata or pursuant to an executed agreement among the partners or owners documenting an alternate distribution method.

** 253.561. To claim the credit authorized pursuant to this section, the taxpayer shall apply to the Missouri department of natural resources which shall determine the amount of eligible rehabilitation costs and expenses, and whether it meets the standards of the Secretary of the Interior as set forth in section 253.557 and may issue a certificate thereof to the taxpayer. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed.**

** Section B. Because immediate action is necessary to provide tax relief to the citizens of this state, section 144.014 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 144.014 of this act shall be in full force and effect on July 1, 1997, or upon its passage and approval whichever shall later occur.**

** Section C. Sections 143.124 and 253.550 to 253.561 shall become effective on January 1, 1998, and shall apply to all taxable years beginning after December 31, 1997.**

New York State Consolidated Laws

Real Property Tax

TITLE 2-D

TAX EXEMPTION AND DEFERRAL OF TAX PAYMENTS FOR CERTAIN INDUSTRIAL AND COMMERCIAL PROPERTIES IN A CITY OF ONE MILLION OR MORE PERSONS

Section 489-aaaa. Definitions.

- 489-bbbb. Power to enact local law; **real property tax exemption**; deferral of **tax** payments.
- 489-cccc. Temporary commercial incentive area boundary commission; classes of area; excluded areas.
- 489-dddd. Eligibility for benefits.
- 489-eeee. Application for certificate of eligibility.
- 489-ffff. Reporting requirement; termination of benefits.
- 489-gggg. Conversion of **property**.
- 489-hhhh. Administration of the benefit program.
- 489-iiii. Code violations; suspension or termination of benefits.
- 489-jjjj. **Tax** lien; interest rate.
- 489-kkkk. Penalties for non-compliance, false statements and omissions.
- 489-llll. Participation of minority and women-owned business enterprises.

S 489-aaaa. Definitions. When used in this title: 1. "Applicant" means any person obligated to pay **real property** taxes on the **property** for which an **exemption** from or abatement or deferral of **real property tax** payments is sought, or in the case of **exempt property**, the record owner or lessee thereof.

2. "Approved plans" means plans submitted to and approved by the department of buildings in connection with the applicant's building permit, including any amendments to such plans approved by such department before final inspection of the work for which such permit was issued.

3. "Benefit period" means the period of time when a recipient is eligible to receive benefits pursuant to this title, including in the case of a recipient of a certificate of eligibility for commercial construction work in a deferral area, the period of time **tax** payments are to be deferred, the interim period when no **tax** payments are to be deferred and no deferred **tax** payments are required to be made, and the period of time when the deferred **tax** payments are to be made.

4. "Commission" means the temporary commercial incentive area boundary commission.

5. "Commercial construction work" means the construction of a new building or structure, or portion thereof, or the modernization, rehabilitation, expansion, or other improvement of an existing building or structure, or portion thereof, for use as commercial **property**.

6. "Commercial **property**" means nonresidential **property** (a) on which will exist after completion of commercial construction work, a building or structure used for the buying, selling or otherwise providing of goods or services including hotel services, or for other lawful business, commercial or manufacturing activities; and (b) (i) where, except as provided in subparagraph (ii) of this paragraph, not more than fifteen per centum of the total net square footage of any building or structure on such **property** was used for manufacturing activities at any one or more times during the twenty-four months immediately preceding the date of application for a certificate of eligibility or (ii) where not more than fifteen per centum of the total net square footage of any building or structure on such **property** was used for manufacturing activities at any one or more times during the sixty months immediately

preceding the date of application for a certificate of eligibility if such **property** is located, in whole or in part, in the area in the borough of Manhattan lying south of the center line of 96th Street; or forty-eight months in the area in the borough of Queens delineated by a line beginning at a point where the center line of Vernon Boulevard would intersect with the center line of Bridge Plaza South and running easterly parallel with Bridge Plaza South; continuing easterly parallel with Queens Plaza South to the center line of 23rd Street; thence southerly parallel to 23rd Street to the center line of 44th Drive; thence westerly parallel to 44th Drive to the center line of Vernon Boulevard; thence northerly parallel to Vernon Boulevard to the point of beginning.

7. "Deferral area" means an area in which deferral of payment of **real property** taxes in accordance with subdivision four of section four hundred eighty-nine-bbbb of this title shall be available to a recipient who has performed commercial construction work.

8. "Excluded area" means each area specified in paragraphs (a), (b) and (c) of subdivision five of section four hundred eighty-nine-cccc of this title.

9. "Exemption base." (a) For purposes of computing the **exemption** pursuant to subdivision one, two, three or four of section four hundred eighty-nine-bbbb of this title, "**exemption** base" shall mean, with respect to **property** that is the subject of a certificate of eligibility with an effective date of June thirtieth, nineteen hundred ninety-two or before: (i) for the first, second and third taxable years following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to commercial or industrial construction work described in approved plans; and (ii) for all other years, the assessed value of such improvements which have been made before the fourth taxable status date following the effective date of such certificate.

(b) For purposes of computing the **exemption** pursuant to subdivision three, four or five of section four hundred eighty-nine-bbbb of this title, "**exemption** base" shall mean, with respect to **property** that is the subject of a certificate of eligibility with an effective date of July first, nineteen hundred ninety-two or after: (i) for the first through fifth taxable years following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to commercial or renovation construction work described in approved plans; and (ii) for all other years, the assessed value of such improvements which have been made before the sixth taxable status date following the effective date of such certificate.

(c) For purposes of computing the **exemption** pursuant to subdivision one or two of section four hundred eighty-nine-bbbb of this title, "**exemption** base" shall mean, with respect to **property** that is the subject of a certificate of eligibility with an effective date of July first, nineteen hundred ninety-two or after: (i) for the first through fifth taxable years following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to commercial or industrial construction work described in approved plans plus any equalization increases or minus any equalization decreases in the assessed value of the **property** so improved (excluding the land) occurring subsequent to the effective date of such certificate; and (ii) for all other years, the assessed value of such improvements made before the sixth taxable status date following the effective date of such certificate plus any equalization increases or minus any equalization decreases in the assessed value of the **property** so improved (excluding the land) occurring subsequent to the effective date of such certificate but before the fourteenth taxable status date following the effective date of such certificate. For purposes of the preceding sentence: no adjustment shall be made to the assessed value of the improvements referred to in subparagraphs (i) and (ii) of this paragraph for any portion of an equalization increase or decrease which is being phased in

pursuant to section eighteen hundred five of this chapter subsequent to the effective date of the certificate of eligibility if such increase or decrease occurred prior to such effective date; with respect to any taxable year, an adjustment for an equalization increase or decrease shall reflect only the portion of such increase or decrease which is being phased in during such taxable year or which was phased in during a prior taxable year; no adjustment for an equalization decrease shall reduce the **exemption** base to an amount less than the assessed value of the improvements referred to in subparagraphs (i) and (ii) of this paragraph, and, to the extent that any such decrease would reduce the **exemption** base below such amount, such decrease shall reduce the taxable portion of the assessed value; and no adjustment shall be made for an equalization increase or decrease if the improvements referred to in subparagraphs (i) and (ii) of this paragraph do not result in a physical increase in the assessed value of the **property**.

(d) Notwithstanding paragraph (a) of this subdivision, for purposes of computing the **exemption** pursuant to subdivision one of section four hundred eighty-nine-bbbb of this title, "**exemption** base" shall mean, with respect to industrial **property** that is located in the area in the borough of Manhattan lying north of the center line of 96th Street, or that is located in the Bronx, Brooklyn, Queens or Staten Island; and that is the subject of a certificate of eligibility with an effective date after December thirty-first, nineteen hundred eighty-nine and before July first, nineteen hundred ninety-two: (i) for the first, second and third taxable years following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to industrial construction work described in approved plans; and (ii) for all other years, the assessed value of such improvements made before the fourth taxable status date following the effective date of such certificate plus any equalization increases or minus any equalization decreases in the assessed value of the **property** so improved (excluding the land) occurring subsequent to the fourth taxable status date following the effective date of such certificate but before the fourteenth taxable status date following the effective date of such certificate. For purposes of the preceding sentence: no adjustment shall be made to the assessed value of the improvements referred to in subparagraphs (i) and (ii) of this paragraph for any portion of an equalization increase or decrease which is being phased in pursuant to section eighteen hundred five of this chapter subsequent to the effective date of the certificate of eligibility if such increase or decrease occurred prior to such effective date; with respect to any taxable year, an adjustment for an equalization increase or decrease shall reflect only the portion of such increase or decrease which is being phased in during such taxable year or which was phased in during a prior taxable year; no adjustment for an equalization decrease shall reduce the **exemption** base to an amount less than the assessed value of the improvements referred to in subparagraphs (i) and (ii) of this paragraph, and, to the extent that any such decrease would reduce the **exemption** base below such amount, such decrease shall reduce the taxable portion of the assessed value; and no adjustment shall be made for an equalization increase or decrease if the improvements referred to in subparagraphs (i) and (ii) of this paragraph do not result in a physical increase in the assessed value of the **property**.

(e) For purposes of computing the **exemption**: (i) pursuant to subdivision five-a of section four hundred eighty-nine-bbbb of this title, "**exemption** base" shall mean, with respect to **property** that is the subject of a certificate of eligibility with an effective date of July first, nineteen hundred ninety-five or after and that is located in the new construction **exemption** area specified in paragraph (a) of subdivision six of section four hundred eighty-nine-cccc of this title: for any taxable year following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to the

construction of a new building or structure that meets the requirements set forth in subdivision nine of section four hundred eighty-nine-dddd of this title as described in approved plans, provided such improvements are made within thirty-six months of the effective date of such certificate or by December thirty-first, nineteen hundred ninety-nine, whichever is earlier; and (ii) pursuant to subdivision five-a of section four hundred eighty-nine-bbbb of this title, "**exemption** base" shall mean, with respect to **property** that is the subject of a certificate of eligibility with an effective date of July first, nineteen hundred ninety-five or after and that is located in the new construction **exemption** area specified in paragraph (b) of subdivision six of section four hundred eighty-nine-cccc of this title: for any taxable year following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to the construction of a new building or structure that meets the requirements set forth in subdivision nine of section four hundred eighty-nine-dddd of this title as described in approved plans, provided such improvements are made within forty-two months of the effective date of such certificate.

(f) For purposes of this subdivision "equalization increase or decrease" means an increase or decrease in the assessed value of **property** which is not attributable to construction work, fire, demolition, destruction or other change in the physical characteristics of the **property** (excluding gradual physical **deterioration** or obsolescence), or to a change in the description or boundaries of the **property**.

10. "Industrial construction work" means the construction of a new building or structure or the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as industrial **property**.

11. "Industrial **property**" means nonresidential **property** on which will exist after completion of industrial construction work a building or structure wherein at least seventy-five per centum of the total net square footage is used or immediately available and held out for use for manufacturing activities involving the assembly of goods or the fabrication or processing of raw materials.

12. "Initial assessed value" means the lesser of (a) the taxable assessed value of **real property** appearing on the books of the annual record of the assessed valuation of **real property** on the effective date of a recipient's certificate of eligibility or (b) the assessed value to which such assessment is thereafter reduced pursuant to application to the **tax** commission or court order. Where the **real property** is used for both residential and nonresidential purposes on the effective date of such certificate of eligibility, the initial assessed value of such **real property**, determined as provided in the preceding sentence, shall be apportioned between the residential and nonresidential portions thereof in such manner as shall properly reflect the initial assessed value of each such portion. Such apportionment shall be in accordance with rules promulgated by the department of finance.

13. "Manufacturing activity" means an activity involving the assembly of goods or the fabrication or processing of raw materials.

14. "Minimum required expenditure" means expenditure for commercial, renovation or industrial construction work in an amount equal to twenty per centum of the initial assessed value; provided, however, that with respect to a recipient who filed an application on or after July first, nineteen hundred ninety-five for a certificate of eligibility for industrial construction work or for commercial construction work in a special **exemption** area or a regular **exemption** area, minimum required expenditure means expenditure for such work in an amount equal to ten per centum of the initial assessed value; provided, however, that with respect to a recipient who filed an application on or after July first, nineteen hundred ninety-five for a certificate of eligibility for industrial construction work and for the purpose of receiving an abatement of **real property** taxes in accordance with paragraph (c) of

subdivision one of section four hundred eighty-nine-bbbb of this title, minimum required expenditure means expenditure for such work in an amount equal to twenty-five per centum of the initial assessed value; and provided further that if the department of finance, after consultation with the deputy mayor for finance and economic development, determines that a greater expenditure is required to encourage significant industrial and commercial development it may establish by rule a higher percentage of initial assessed value, not to exceed fifty per centum thereof, as the minimum required expenditure. Expenditure for residential construction work shall not be included in the minimum required expenditure; provided, however, that for mixed-use **property**, expenditures for construction work related to the common areas and systems of such **property** shall be allocated, in accordance with rules promulgated by the department of finance, between the residential and nonresidential portions of the **property**. If **real property** was used for both residential and nonresidential purposes on the effective date of the certificate of eligibility, the initial assessed value of such **real property**, for purposes of this subdivision, shall be the initial assessed value apportioned to the nonresidential portions thereof.

15. "Person" means an individual, corporation, partnership, association, agency, trust, estate, foreign or domestic government or subdivision thereof, or other entity.

16. "Recipient" means an applicant to whom a certificate of eligibility has been issued pursuant to this title, or the successor in interest of such applicant, provided that where a person who has entered into a lease or purchase agreement with the owner or lessee of **exempt property** has been a co-applicant, such person or the successor in interest of such person shall be the recipient.

17. "Regular **exemption** area" means an area in which a regular **exemption** from taxes in accordance with subdivision three of section four hundred eighty-nine-bbbb of this title shall be available to a recipient who performs commercial construction work.

18. "Residential construction work" means any construction, modernization, rehabilitation, expansion or improvement of dwelling units other than dwelling units in a hotel.

19. "Residential **property**" means **property**, other than **property** used for hotel purposes, on which exists or will exist, upon completion of construction work, a building or structure used for residential purposes.

20. "Restricted activity" means any entertainment activity which the department of finance has identified in regulations promulgated pursuant to a local law enacted pursuant to this title as an activity which, in the public interest, should not be encouraged through the benefits of this title.

21. "Special **exemption** area" means an area in which the commission has determined that a special **exemption** from **real property** taxes in accordance with subdivision two of section four hundred eighty-nine-bbbb of this title shall be available to a recipient who performs commercial construction work and, in addition, means the area specified in paragraph (d) of subdivision four of section four hundred eighty-nine-cccc of this title.

22. "Mixed-use **property**" means **property** on which exists, or will exist upon completion of construction work, a building or structure used for both residential and nonresidential purposes.

23. "Renovation construction work" means the modernization, rehabilitation, expansion or improvement of an existing building or structure, or portion thereof, for use as commercial **property** in a renovation **exemption** area where such modernization, rehabilitation, expansion or improvement is physically and functionally integrated with the existing building or structure, or portion thereof, does not increase the bulk of the existing building or structure by more than thirty per centum and does not increase the height of the existing building or structure by more than thirty per centum.

24. "Renovation **exemption** area" means the area specified in paragraph

(d) of subdivision five of section four hundred eighty-nine-cccc of this title in which a renovation **exemption** from taxes in accordance with subdivision five of section four hundred eighty-nine-bbbb of this title shall be available to a recipient who performs renovation construction work.

25. "New construction **exemption** areas" means the areas specified in subdivision six of section four hundred eighty-nine-cccc of this title in which an **exemption** from **real property** taxes in accordance with subdivision five-a of section four hundred eighty-nine-bbbb of this title shall be available to a recipient who constructs a new building or structure that meets the requirements set forth in subdivision nine of section four hundred eighty-nine-dddd of this title.

S 489-bbbb. Power to enact local law; **real property tax exemption**; deferral of **tax** payments. Any city having a population of one million or more, acting through its local legislative body, is authorized and empowered to determine that incentives in the form of **exemption** from or abatement or deferral of payment of **real property** taxes are necessary to encourage industrial and commercial development in such city and to enact a local law providing that such benefits shall be provided in the manner set forth in this title. Such city shall be divided into six classes of areas as provided in this title and pursuant to designation of areas to be made by a temporary commercial incentive area boundary commission. Within such areas, the following benefits shall be available to qualified recipients:

1. (a) A recipient who, following the effective date of a certificate of eligibility, has performed industrial construction work in any area of such city shall be eligible for an **exemption** from **real property** taxes as follows: For the first thirteen **tax** years, the recipient shall be **exempt** from taxation on one hundred per centum of the **exemption** base. For the following nine **tax** years, the recipient shall be **exempt** from taxation on a percentage of the **exemption** base beginning at ninety per centum thereof in the fourteenth **tax** year and decreasing by ten per centum of said **exemption** base each year.

The following table shall illustrate the computation of the **exemption** for industrial construction work:

Tax year following effective date of certificate of eligibility:	Amount of exemption :
1 through 13	Tax on 100% of exemption base
14	Tax on 90% of exemption base
15	Tax on 80% of exemption base
16	Tax on 70% of exemption base
17	Tax on 60% of exemption base
18	Tax on 50% of exemption base
19	Tax on 40% of exemption base
20	Tax on 30% of exemption base
21	Tax on 20% of exemption base
22	Tax on 10% of exemption base

(b) Notwithstanding paragraph (a) of this subdivision, a recipient who filed an application for a certificate of eligibility for industrial construction work in any area of such city on or after July first, nineteen hundred ninety-five, and who, following the effective date of such certificate of eligibility, has performed such industrial construction work shall be eligible for an **exemption** from **real property** taxes as follows: For the first sixteen **tax** years, the recipient shall be **exempt** from taxation on one hundred per centum of the **exemption** base. For the following nine **tax** years, the recipient shall be **exempt** from taxation on a percentage of the **exemption** base beginning at ninety per centum thereof in the seventeenth **tax** year and decreasing by ten per centum of said **exemption** base each year.

The following table shall illustrate the computation of the **exemption** for industrial construction work pursuant to this paragraph:

Tax year following effective date of certificate of eligibility:	Amount of exemption:
1 Through 16	Tax on 100% of exemption base
17	Tax on 90% of exemption base
18	Tax on 80% of exemption base
19	Tax on 70% of exemption base
20	Tax on 60% of exemption base
21	Tax on 50% of exemption base
22	Tax on 40% of exemption base
23	Tax on 30% of exemption base
24	Tax on 20% of exemption base
25	Tax on 10% of exemption base

(c)(i) A recipient who filed an application for a certificate of eligibility for industrial construction work in any area of such city on or after July first, nineteen hundred ninety-five, and who, following the effective date of such certificate of eligibility, both commenced and completed such work, shall be eligible for an abatement of **real property** taxes as follows: For the first **tax** year immediately following completion of such work, and for the second, third and fourth **tax** years following completion of such work, the abatement shall equal fifty per centum of the **real property tax** that was imposed on the **property** which is the subject of the certificate of eligibility for the **tax** year immediately preceding the effective date of such certificate of eligibility, provided, however, that if such **property** was fully or partially **exempt** from **real property** taxes during such **tax** year, then the abatement shall equal fifty per centum of the **real property tax** that would have been imposed on such **property** but for such full or partial **exemption**. For the fifth and sixth **tax** years, the abatement shall equal forty per centum of such amount; for the seventh and eighth **tax** years, the abatement shall equal thirty per centum of such amount; for the ninth and tenth **tax** years, the abatement shall equal twenty per centum of such amount; and for the eleventh and twelfth **tax** years, the abatement shall equal ten per centum of such amount. Notwithstanding any inconsistent provision of this paragraph, a recipient shall not be eligible for an abatement for the first **tax** year following completion of such work, unless the recipient submits proof satisfactory to the department of finance that such work was completed on or before the taxable status date for such first **tax** year no later than thirty days after such taxable status date. Where the recipient fails to submit such proof in accordance with the foregoing sentence, a recipient shall not be eligible for an abatement until the second **tax** year following completion of such work. In such case, a recipient shall submit proof satisfactory to the department of finance that such work was completed on or before the taxable status date for such first **tax** year no later than thirty days after the taxable status date for such second **tax** year. A recipient whose abatement begins in the second **tax** year following completion of such work shall not thereby have his or her twelve-year benefit period shortened.

The following table shall illustrate the computation of the abatement for industrial construction work pursuant to this paragraph:

Tax year following completion of industrial construction work:	Amount of abatement:
1	50%
2	50%
3	50%
4	50%
5	40%
6	40%
7	30%
8	30%
9	20%

10	20%
11	10%
12	10%

(ii) If, due to a determination of the department of finance or tax commission of such city or a court, the **real property tax** imposed on such **property** for the **tax** year immediately preceding the effective date of such certificate of eligibility is changed, then any abatement that was granted in accordance with this paragraph prior to such reduction shall be recalculated and any abatement to be granted in accordance with this paragraph shall be based on the **real property tax** imposed on such **property** for the **tax** year immediately preceding the effective date of such certificate of eligibility, as changed by such determination. The amount equal to the difference between the abatement originally granted and the abatement as so recalculated shall be deducted from any refund otherwise payable or remission otherwise due as a result of a change due to such determination, and any balance of such amount remaining unpaid after making any such deduction shall be paid to the department of finance within thirty days from the date of mailing by the department of finance of a notice of the amount payable. Such amount payable shall constitute a **tax** lien on such **property** as of the date of such notice and, if not paid within such thirty-day period, penalty and interest at the rate applicable to delinquent taxes on such **property** shall be charged and collected on such amount from the date of such notice to the date of payment.

(iii) No **property** which is the subject of a certificate of eligibility pursuant to this title shall receive more than one abatement pursuant to this title and no abatement shall exceed one consecutive twelve-year period as specified in subparagraph (i) of this paragraph.

(iv) In no event shall an abatement granted pursuant to this title exceed in any **tax** year the **real property** taxes imposed on the **property** which is the subject of a certificate of eligibility pursuant to this title.

(v) For the purpose of calculating an abatement of **real property** taxes pursuant to this title, where a **tax** lot contains more than one building or structure and not all of the buildings or structures comprising such **tax** lot are the subject of a certificate of eligibility for industrial construction work pursuant to this title, the **real property** taxes imposed on such **tax** lot for the **tax** year immediately preceding the effective date of such certificate of eligibility shall be apportioned among the buildings, structures and land comprising such **tax** lot and only such **real property** taxes as are allocable to the **property** which is the subject of the certificate of eligibility pursuant to this title shall be abated in accordance with this paragraph. Such apportionment shall be in accordance with rules promulgated by the department of finance.

2. (a) A recipient who, following the effective date of a certificate of eligibility, has performed commercial construction work in a special **exemption** area shall be eligible for an **exemption** from **real property** taxes as follows: For the first thirteen **tax** years, the recipient shall be **exempt** from taxation on one hundred per centum of the **exemption** base. For the following nine **tax** years, the recipient shall be **exempt** from taxation on a percentage of the **exemption** base beginning at ninety per centum thereof in the fourteenth **tax** year and decreasing by ten per centum of said **exemption** base each year.

The following table shall illustrate the computation of the **exemption** for commercial construction work in a special **exemption** area:

Tax year following effective date of certificate of eligibility:	Amount of exemption :
1 through 13	Tax on 100% of exemption base
14	Tax on 90% of exemption base
15	Tax on 80% of exemption base
16	Tax on 70% of exemption base

17	Tax on 60% of <i>exemption</i> base
18	Tax on 50% of <i>exemption</i> base
19	Tax on 40% of <i>exemption</i> base
20	Tax on 30% of <i>exemption</i> base
21	Tax on 20% of <i>exemption</i> base
22	Tax on 10% of <i>exemption</i> base

(b) Notwithstanding paragraph (a) of this subdivision, a recipient who filed an application for a certificate of eligibility for commercial construction work in a special *exemption* area on or after July first, nineteen hundred ninety-five, and who, following the effective date of such certificate of eligibility, has performed such commercial construction work shall be eligible for an *exemption* from *real property* taxes as follows: For the first sixteen *tax* years, the recipient shall be *exempt* from taxation on one hundred per centum of the *exemption* base. For the following nine *tax* years, the recipient shall be *exempt* from taxation on a percentage of the *exemption* base beginning at ninety per centum thereof in the seventeenth *tax* year and decreasing by ten per centum of said *exemption* base each year.

The following table shall illustrate the computation of the *exemption* for commercial construction work in a special *exemption* area pursuant to this paragraph:

Tax year following effective date of certificate of eligibility:	Amount of <i>exemption</i> :
1 through 16	Tax on 100% of <i>exemption</i> base
17	Tax on 90% of <i>exemption</i> base
18	Tax on 80% of <i>exemption</i> base
19	Tax on 70% of <i>exemption</i> base
20	Tax on 60% of <i>exemption</i> base
21	Tax on 50% of <i>exemption</i> base
22	Tax on 40% of <i>exemption</i> base
23	Tax on 30% of <i>exemption</i> base
24	Tax on 20% of <i>exemption</i> base
25	Tax on 10% of <i>exemption</i> base

3. (a) A recipient who, following the effective date of a certificate of eligibility, has performed commercial construction work in a regular *exemption* area shall be eligible for an *exemption* from *real property* taxes as follows: For the first eight *tax* years, the recipient shall be *exempt* from taxation on one hundred per centum of the *exemption* base. For the following four *tax* years, the recipient shall be *exempt* from taxation on a percentage of the *exemption* base beginning at eighty per centum thereof in the ninth *tax* year and decreasing by twenty per centum of said *exemption* base each year.

The following table shall illustrate the computation of the *exemption* for commercial construction work in a regular *exemption* area:

Tax year following effective date of certificate of eligibility:	Amount of <i>exemption</i> :
1 through 8	Tax on 100% of <i>exemption</i> base
9	Tax on 80% of <i>exemption</i> base
10	Tax on 60% of <i>exemption</i> base
11	Tax on 40% of <i>exemption</i> base
12	Tax on 20% of <i>exemption</i> base

(b) Notwithstanding paragraph (a) of this subdivision, a recipient who filed an application for a certificate of eligibility for commercial construction work in a regular *exemption* area on or after July first, nineteen hundred ninety-five, and who, following the effective date of such certificate of eligibility, has performed such commercial construction work shall be eligible for an *exemption* from *real property* taxes as follows: For the first eleven *tax* years, the recipient shall be *exempt* from taxation on one hundred per centum of the *exemption* base. For the following four *tax* years, the recipient shall be *exempt* from

taxation on a percentage of the **exemption** base beginning at eighty per centum thereof in the twelfth **tax** year and decreasing by twenty per centum of said **exemption** base each year.

The following table shall illustrate the computation of the **exemption** for commercial construction work in a regular **exemption** area pursuant to this paragraph:

Tax year following effective date of certificate of eligibility:	Amount of exemption :
1 through 11	Tax on 100% of exemption base
12	Tax on 80% of exemption base
13	Tax on 60% of exemption base
14	Tax on 40% of exemption base
15	Tax on 20% of exemption base

4. Except as provided in paragraphs (b) and (c) of subdivision five of section four hundred eighty-nine-cccc of this title, a recipient who, following the effective date of a certificate of eligibility, has performed commercial construction work in a deferral area shall be eligible for a deferral of **tax** payments as follows: For the first three **tax** years following the effective date of a certificate of eligibility, the **tax** payment on one hundred per centum of the **exemption** base shall be deferred. For the following four **tax** years, the **tax** payment on a percentage of the **exemption** base beginning at eighty per centum thereof in the fourth **tax** year and decreasing by twenty per centum each year shall be deferred. The total amount of **tax** payments deferred pursuant to this title shall be paid subsequently over the course of ten **tax** years as follows: Commencing in the eleventh **tax** year following the effective date of the certificate of eligibility, through and including the twentieth **tax** year following such effective date, an amount equal to ten per centum of the total amount of **tax** payments deferred pursuant to this section shall be added to the amount of **tax** otherwise assessed and payable in each such **tax** year on the **property** subject to such deferral.

The following table shall illustrate the computation of deferral and payment of taxes for commercial construction work in a deferral area:

Tax year following effective date of certificate of eligibility:	Amount of tax payments to be deferred or paid:
1 through 3	Deferral of tax payment on 100% of the exemption base
4	Deferral of tax payment on 80% of the exemption base
5	Deferral of tax payment on 60% of the exemption base
6	Deferral of tax payment on 40% of the exemption base
7	Deferral of tax payment on 20% of the exemption base
11 through 20	Payment each year of 10% of total dollar amount of tax payments deferred pursuant to this title

5. A recipient who, following the effective date of a certificate of eligibility, has performed renovation construction work in a renovation **exemption** area shall be eligible for an **exemption** from **real property** taxes as follows: For the first eight **tax** years, the recipient shall be **exempt** from taxation on one hundred per centum of the **exemption** base. For the following four **tax** years, the recipient shall be **exempt** from taxation on a percentage of the **exemption** base beginning at eighty per centum thereof in the ninth **tax** year and decreasing by twenty per centum of said **exemption** base each year.

The following table shall illustrate the computation of the **exemption**

for renovation construction work in a renovation **exemption** area:

Tax year following effective date of certificate of eligibility:	Amount of exemption :
1 through 8	Tax on 100% of exemption base
9	Tax on 80% of exemption base
10	Tax on 60% of exemption base
11	Tax on 40% of exemption base
12	Tax on 20% of exemption base

5-a. A recipient who, following the effective date of a certificate of eligibility, constructs a new building or structure that meets the requirements set forth in subdivision nine of section four hundred eighty-nine-dddd of this title in the new construction **exemption** area specified in paragraph (a) or paragraph (b) of subdivision six of section four hundred eighty-nine-cccc of this title shall be eligible for an **exemption** from **real property** taxes as follows: For the first four **tax** years, the recipient shall be **exempt** from taxation on one hundred per centum of the **exemption** base. For the following four **tax** years, the recipient shall be **exempt** from taxation on a percentage of the **exemption** base beginning at eighty per centum thereof in the fifth **tax** year and decreasing by twenty per centum of said **exemption** base each year.

The following table shall illustrate the computation of the **exemption** for the construction of a new building or structure that meets the requirements set forth in subdivision nine of section four hundred eighty-nine-dddd of this title in the new construction **exemption** area specified in paragraph (a) or paragraph (b) of subdivision six of section four hundred eighty-nine-cccc of this title:

Tax year following effective date of certificate of eligibility:	Amount of exemption :
1 through 4	Tax on 100% of exemption base
5	Tax on 80% of exemption base
6	Tax on 60% of exemption base
7	Tax on 40% of exemption base
8	Tax on 20% of exemption base

6. There shall be no **exemption** from or deferral of a payment of **real property** taxes available pursuant to this title to any person who performs commercial or renovation construction work in an excluded area, except as provided in paragraphs (b) and (c) of subdivision five of section four hundred eighty-nine-cccc of this title.

7. The benefits of this title shall be granted exclusively for industrial, commercial or renovation construction work described in approved plans. No benefits shall be granted for residential construction work. Any parcel which is partly located in an excluded area shall be deemed to be entirely located in such area.

8. No benefits pursuant to this title shall be granted for work which is the subject of a certificate of eligibility issued pursuant to title two-C of this article.

S 489-cccc. Temporary commercial incentive area boundary commission; classes of area; excluded areas. 1. Any city enacting a local law pursuant to section four hundred eighty-nine-bbbb of this title shall establish a temporary commercial incentive area boundary commission to consist of the deputy mayor for finance and economic development, the commissioner of finance, the chair of the city planning commission, the director of management and budget, the borough presidents, the speaker of the city council and a public member appointed by the mayor to serve at the mayor's pleasure. Each member except the public member shall have the power to designate an alternate to represent him or her at commission meetings to exercise all the rights and powers of such member, including the right to vote, provided that such designation be made in writing to the chair of the commission. The deputy mayor for finance and economic development shall be the chair of the commission. Each borough president shall be entitled to vote only on the designation

of areas within his or her borough. Commission members who shall be officers or employees of such city shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. Any other commission member shall receive as exclusive compensation for his or her services one hundred dollars per diem, provided, however, that the total compensation paid to any such member shall not exceed twelve hundred dollars for any calendar year. A majority of members of such commission entitled to vote on a matter shall constitute a quorum for such issue. Decisions shall be made by majority vote of those present entitled to vote on a matter. Notwithstanding any other law to the contrary, no officer or employee of the state or any of its subdivisions or any public benefit corporation shall be deemed to have forfeited his or her office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of accepting membership on such commission.

2. (a) The commission shall meet in nineteen hundred ninety-two and nineteen hundred ninety-five to determine the boundaries of the various areas which it is authorized to designate pursuant to this section. The areas designated by the commission in effect as of December thirty-first, nineteen hundred ninety-one shall remain in effect until the first taxable status date after the local legislative body approves a new designation pursuant to paragraph (d) of this subdivision.

(b) Not later than September fifteenth of each year when areas are to be designated, the commission shall publish a notice at least once in the city's official paper or a newspaper of general circulation in the city setting forth the proposed boundaries of areas to be designated and the date, not earlier than ten nor later than thirty days following the publication of such notice, on which the commission will hold a public hearing to hear all persons interested in the designation of areas. A copy of such notice shall be forwarded to the local legislative body and each community board of the city.

(c) The commission shall make such designation, and notify the local legislative body of such designation, not later than November first of each year when areas are to be designated. The designation shall be effective as provided in paragraph (d) of this subdivision.

(d) Within thirty days after the first stated meeting of the local legislative body following the receipt of notice of such designation, the local legislative body may, by majority vote, disapprove such designation. If, within such thirty-day period, the local legislative body fails to act or fails to act by the required vote, the local legislative body shall be deemed to have approved such designation. Such designation shall be effective as of the first taxable status date after the local legislative body approves such designation and shall remain in effect until the first taxable status date after the local legislative body approves a new designation pursuant to this paragraph.

3. The commission may designate areas to be special **exemption** areas, regular **exemption** areas, deferral areas, or excluded areas in accordance with the level of benefits such commission determines to be necessary to encourage commercial construction work in such areas, provided, however, that designation of areas in the city of New York shall be made in accordance with the provisions of subdivisions four and five of this section.

4. (a) In the city of New York, the commission may designate any area other than the area lying south of the center line of 96th Street in the borough of Manhattan, to be a special **exemption** area if it determines that market conditions in the area are such that the availability of a special **exemption** is required in order to encourage commercial construction work in such area. In making such determination, the commission shall consider, among other factors, the existence in such area of a special need for commercial and job development, high unemployment, economic distress or unusually large numbers of vacant, underutilized, unsuitable or substandard structures, or other substandard, unsanitary, **deteriorated** or **deteriorating** conditions, with or without tangible blight.

(b) Any other area in such city, other than the area lying south of the center line of 96th Street, which the commission has not designated as a special **exemption** area shall be a regular **exemption** area.

(c) In the city of New York, on or after January first, nineteen hundred ninety-two, the commission shall not designate any area to be either a deferral area or an excluded area, nor shall the commission make any new designation in any urban renewal area designated pursuant to article fifteen of the general municipal law so as to reduce the level of benefits available pursuant to this title in such area.

(d) Notwithstanding any other provision of this title, any area in the city of New York designated as an economic development zone in accordance with article eighteen-B of the general municipal law, which the commission has not designated as a special **exemption** area, shall be a special **exemption** area as of July first, nineteen hundred ninety-five or as of the date of the designation of such area as an economic development zone, whichever is later.

5. (a) The following area in the borough of Manhattan shall, except as otherwise provided in paragraphs (b), (c) and (d) of this subdivision and subdivision six of this section, be an excluded area: the area in the borough of Manhattan lying south of the center line of 96th Street and north of the center line of 23rd Street.

(b) The following areas in the borough of Manhattan shall, except as otherwise provided in paragraph (d) of this subdivision and subdivision six of this section, be excluded areas as of July first, nineteen hundred ninety-two; provided, however, that if an application for a certificate of eligibility has been filed for commercial construction work in such areas on or before December thirty-first, nineteen hundred ninety-two and the recipient presents evidence satisfactory to the department of finance: (i) (A) for a new building or structure, that construction has been completed on a foundation, as described in approved plans, on or before June thirtieth, nineteen hundred ninety-three; or (B) for an existing building or structure, that at least five per centum of the minimum required expenditure has been made for commercial construction work, as described in approved plans, on or before June thirtieth, nineteen hundred ninety-three; and (ii) that all other requirements of this title have been met; then, a deferral of tax payments pursuant to subdivision four of section four hundred eighty-nine-bobb of this title shall be granted for such commercial construction work, except that no deferral of **tax** payments shall be granted for commercial construction work on mixed-use **property**:

(1) the area delineated by a line beginning at the point where the center line of 96th Street would intersect the Hudson River Pierhead line and running easterly along the center line of 96th Street to the center line of Central Park West; thence southerly along said center line to the center line of 59th Street; thence westerly along said center line to the Hudson River Pierhead line; thence northerly along said Pierhead line to the point of beginning; and

(2) the area delineated by a line beginning at a point where the center line of 59th Street would intersect with a point one hundred fifty feet west of the center line of 8th Avenue and running easterly along the center line of 59th Street to a point one hundred fifty feet west of the center line of the Avenue of the Americas; thence southerly parallel to the Avenue of the Americas to a point which is the midpoint between the center line of 42nd Street and the center line of 41st Street; thence westerly parallel to 41st Street to a point one hundred fifty feet west of the center line of 8th Avenue; thence northerly parallel to 8th Avenue to the point of beginning.

(c) The following area in the borough of Manhattan shall, except as otherwise provided in paragraph (d) of this subdivision and subdivision six of this section, be an excluded area as of January first, nineteen hundred ninety-three; provided, however, that if an application for a certificate of eligibility has been filed for commercial construction work in such area on or before December thirty-first, nineteen hundred ninety-two and the recipient presents evidence satisfactory to the department of finance: (i) (A) for a new building or structure, that

construction has been completed on a foundation, as described in approved plans, on or before December thirty-first, nineteen hundred ninety-three; or (B) for an existing building or structure, that at least five per centum of the minimum required expenditure has been made for commercial construction work, as described in approved plans, on or before December thirty-first, nineteen hundred ninety-three; and (ii) that all other requirements of this title have been met, then, a deferral of **tax** payments pursuant to subdivision four of section four hundred eighty-nine-bbbb of this title shall be granted for such commercial construction work, except that no deferral of **tax** payments shall be granted for commercial construction work on mixed-use **property**: the area delineated by a line beginning at the point where the center line of 59th Street would intersect with the Hudson River Pierhead line; thence southerly along said Pierhead line to the center line of Liberty Street; thence easterly along said center line to the center line of Church Street; thence northerly along said center line to the center line of Fulton Street; thence easterly along said center line to the East River Pierhead line; thence northerly along said Pierhead line to a point which is the midpoint between the center line of 34th Street and the center line of 33rd Street; thence westerly parallel to 33rd Street to a point one hundred fifty feet west of the center line of the Avenue of the Americas; thence northerly parallel to the Avenue of the Americas to a point which is the midpoint between the center line of 42nd Street and the center line of 41st Street; thence westerly parallel to 41st Street to a point one hundred fifty feet west of the center line of 8th Avenue; thence northerly parallel to 8th Avenue to the center line of 59th Street; thence westerly along said center line to the point of beginning.

(d) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this subdivision, the following areas in the borough of Manhattan shall be renovation **exemption** areas: (i) as of July first, nineteen hundred ninety-two and until June thirtieth, nineteen hundred ninety-nine: the area in the borough of Manhattan lying south of the center line of 23rd Street; (ii) as of July first, nineteen hundred ninety-two and until January thirty-first, nineteen hundred ninety-five: the area in the borough of Manhattan lying south of the center line of 96th Street and north of the center line of 23rd Street; and (iii) as of July first, nineteen hundred ninety-five and until June thirtieth, nineteen hundred ninety-nine the area in the borough of Manhattan lying south of the center line of 59th Street and north of the center line of 23rd Street.

6. Notwithstanding the provisions of subdivision five of this section, the areas in the borough of Manhattan specified in paragraphs (a) and (b) of this subdivision, except the "Project Area" described in a lease held by the Battery Park City Authority as tenant and originally dated as of November twenty-fourth, nineteen hundred sixty-nine and thereafter from time to time amended, shall be new construction **exemption** areas: (a) as of July first, nineteen hundred ninety-five and until December thirty-first, nineteen hundred ninety-six: the area in the borough of Manhattan lying south of the center line of 96th Street, excluding the area specified in paragraph (b) of this subdivision; and (b) as of July first, nineteen hundred ninety-five and until June thirtieth, nineteen hundred ninety-nine: the area in the borough of Manhattan bounded by Murray Street on the north starting at the intersection of West Street and Murray Street; running easterly along the center line of Murray Street; connecting through City Hall Park with the center line of Frankfort Street and running easterly along the center line of Frankfort and Dover Streets to the intersection of Dover Street and South Street; running southerly along the center line of South Street to Peter Minuit Plaza; connecting through Peter Minuit Plaza to the center line of State Street and running northwesterly along the center line of State Street to the intersection of State Street and Battery Place; running westerly along the center line of Battery Place to the intersection of Battery Place and West Street; and running northerly along the center line of West Street to the intersection of West Street and Murray Street.

S 489-dddd. Eligibility for benefits. 1. A recipient of a certificate of eligibility with an effective date of June thirtieth, nineteen hundred ninety-two or before must make one-half the minimum required expenditure within eighteen months of the effective date of such recipient's certificate of eligibility, and make the minimum required expenditure within thirty-six months of the effective date of such certificate to be eligible to receive the benefits of this title. A recipient of a certificate of eligibility with an effective date of July first, nineteen hundred ninety-two or after must make one-half the minimum required expenditure within thirty months of the effective date of such recipient's certificate of eligibility, and make the minimum required expenditure within sixty months of the effective date of such certificate to be eligible to receive the benefits of this title; provided, however, that a recipient of a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (ii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title must make one-half the minimum required expenditure within eighteen months of the effective date of such recipient's certificate of eligibility, or by December thirty-first, nineteen hundred ninety-four, whichever is earlier, and make the minimum required expenditure within thirty-six months of the effective date of such certificate, or by December thirty-first, nineteen hundred ninety-five, whichever is earlier, to be eligible to receive the benefits of this title; provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (ii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title on or after July first, nineteen hundred ninety-four, but before February first, nineteen hundred ninety-five, must make one-half the minimum required expenditure within eighteen months of the effective date of such certificate, or by July thirty-first, nineteen hundred ninety-five, whichever is earlier, and make the minimum required expenditure within thirty-six months of the effective date of such certificate, or by July thirty-first, nineteen hundred ninety-six, whichever is earlier, to be eligible to receive the benefits of this title provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (i) or (iii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title on or after July first, nineteen hundred ninety-five, must make one-half the minimum required expenditure within eighteen months of the effective date of such certificate, and make the minimum required expenditure within thirty-six months of the effective date of such certificate, to be eligible to receive the benefits of this title. Any recipient who shall fail to make such expenditures shall become ineligible and shall pay, with interest, any taxes for which an **exemption** or deferral was claimed pursuant to this section. This subdivision shall not apply to the recipient of a certificate of eligibility for construction of a new building or structure that meets the requirements set forth in subdivision nine of section four hundred eighty-nine-dddd of this title in a new construction **exemption** area.

2. No benefits pursuant to this title shall be granted for construction work on any condominium unit unless such unit is in a building or structure which, if viewed as a whole and as if it were under single ownership, would qualify as commercial or industrial **property**. The minimum required expenditure applicable to any recipient of a certificate of eligibility for construction work on a condominium unit shall be equal to the minimum expenditure which would apply if a certificate of eligibility were issued for construction work on the entire **property** where such unit is located. Nothing in this subdivision shall be construed to prevent owners of condominium units in the same **property** from forming an association to be a recipient. This subdivision shall not apply to any applicant whose **property** would be, or recipient

whose **property** is, the subject of a certificate of eligibility with an effective date of July first, nineteen hundred ninety-two or after.

3. (a) No benefits pursuant to this title shall be granted for any construction work unless the applicant filed an application for such benefits on or before the date of issuance of a building permit for such work. The requirements of this subdivision may be satisfied where the applicant's architect, contractor or other representative authorized to file the application for such building permit files with the department of finance on behalf of the applicant a preliminary application containing such information as the department of finance shall prescribe by regulation.

(b) Notwithstanding paragraph (a) of this subdivision, an applicant may file an application for benefits pursuant to this title for renovation construction work for **property** located in the areas specified in paragraph (c) of this subdivision, regardless of whether a building permit for such work was issued before such application was filed, provided that such permit was not issued before January first, nineteen hundred ninety or after June thirtieth, nineteen hundred ninety-two, and provided further that a final application is filed with, and accepted by, the department of finance, on or before December thirty-first, nineteen hundred ninety-two. The department of finance shall issue a certificate of eligibility to such an applicant upon determining that the applicant satisfies all other requirements of this title. The effective date of such certificate shall be the date of acceptance by the department of finance of a final application containing such information as prescribed by rule of the department of finance. No benefits pursuant to this title shall be granted for construction work performed before the effective date of the recipient's certificate of eligibility.

(c) Pursuant to paragraph (b) of this subdivision, an applicant may file an application for benefits pursuant to this title for renovation construction work for **property** located in the following areas in the borough of Manhattan lying south of 96th Street:

(i) the area delineated by a line beginning at the point where the center line of 96th Street would intersect the East River Pierhead line and running westerly along the center line of 96th Street to the center line of Fifth Avenue; thence southerly along said center line to the center line of 59th Street; thence westerly along said center line to a point one hundred fifty feet west of the center line of the Avenue of the Americas; thence southerly parallel to the Avenue of the Americas to the center line of 34th Street; thence easterly along said center line to the East River Pierhead line; thence northerly along said Pierhead line to the point of beginning; and

(ii) the area delineated by a line beginning at the point where the center line of Fulton Street would intersect the East River Pierhead line and running westerly along the center line of Fulton Street to the center line of Church Street; thence southerly along said center line to the center line of Liberty Street; thence westerly along said center line to the Hudson River Pierhead line; thence southerly and along said Pierhead line to the point of beginning.

(d) Notwithstanding paragraph (a) of this subdivision, an applicant may file an application for benefits pursuant to this title for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (iii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title within sixty days of the effective date of the chapter of the laws of nineteen hundred ninety-five that added this paragraph, regardless of whether a building permit for such work was issued before such application was filed, provided that such permit was not issued before February first, nineteen hundred ninety-five, and provided further that a final application is filed with, and accepted by, the department of finance, on or before December thirty-first, nineteen hundred ninety-five. The department of finance shall issue a certificate of eligibility to such an applicant upon determining that the applicant satisfies all other requirements of this title. The effective date of

such certificate shall be the date of acceptance by the department of finance of a final application containing such information as prescribed by rule of the department of finance. No benefits pursuant to this title shall be granted for construction work performed before the effective date of such certificate of eligibility.

4. No benefits pursuant to this title shall be granted to any recipient for construction work on **property** any part of which is to be used for a restricted activity.

5. No benefits pursuant to this title shall be granted for any construction work 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 eligibility, neither the applicant, nor any person owning a substantial interest in the **property** 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 state 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 **property** as defined in paragraph (c) of this subdivision, or any officer, director or general partner of the applicant or such person.

(c) "Substantial interest" as used in this subdivision shall mean ownership and control of an interest of ten per centum or more in a **property** or any person owning a **property**.

6. If any person described in the statement required by paragraph (b) of subdivision five of this section is finally adjudicated by a court of competent jurisdiction to be guilty of any charge listed in such statement, the recipient shall cease to be eligible for benefits pursuant to this title and shall pay with interest any taxes for which an **exemption**, abatement or deferral was claimed pursuant to this title.

7. In addition to any other qualifications for **exemption** from or abatement or deferral of payment of taxes set forth in this title, an applicant must be:

(a) obligated to pay **real property tax** on the **property** for which an **exemption**, abatement or deferral is sought, whether such obligation arises because of record ownership of such **property**, or because the obligation to pay such **tax** has been assumed by contract; or

(b) the record owner or lessee of **property** which is **exempt** from **real property** taxation who has entered into an agreement to sell or lease such **property** to another person. Such person shall be a co-applicant with such owner or lessee.

8. A co-applicant with a public entity shall be an eligible recipient pursuant to this title, provided that for such period as the **property** which is the subject of the certificate of eligibility is **exempt** from **real property** taxation because it is owned or controlled by a public entity no benefits shall be available to such recipient, pursuant to this title. Such recipient shall receive benefits pursuant to this title when such **property** ceases to be eligible for **exemption** pursuant to other provisions of law, as follows: the recipient shall, commencing with the date such **tax exemption** ceases, and continuing until the expiration of the benefit period pursuant to this title, receive the benefits to which such recipient is entitled in the corresponding **tax** year pursuant to this title.

9. (a)(i) No benefits pursuant to this title shall be granted for construction of a new building or structure in the new construction **exemption** area specified in paragraph (a) of subdivision six of section

four hundred eighty-nine-cccc of this title unless (A) construction of the foundation of such building or structure has been completed within twelve months of the effective date of the recipient's certificate of eligibility, or by December thirty-first, nineteen hundred ninety-seven, whichever is earlier; and (B) construction of such building or structure has been completed within thirty-six months of the effective date of the recipient's certificate of eligibility, or by December thirty-first, nineteen hundred ninety-nine, whichever is earlier.

(ii) No benefits pursuant to this title shall be granted for construction of a new building or structure in the new construction **exemption** area specified in paragraph (b) of subdivision six of section four hundred eighty-nine-cccc of this title unless: (A) construction of the foundation of such building or structure has been completed within twenty-four months of the effective date of the recipient's certificate of eligibility; and (B) construction of such building or structure has been completed within forty-two months of the effective date of the recipient's certificate of eligibility.

(b) No benefits pursuant to this title shall be granted for construction of a new building or structure in a new construction **exemption** area unless such building or structure meets the requirements set forth in subparagraphs (i) and (ii) of this paragraph and, in addition, meets at least two of the five requirements set forth in subparagraphs (iii) through (vii) of this paragraph.

(i) The height of at least fifty per centum of the floors in such building or structure shall be not less than twelve feet, nine inches measured from the top of the slab comprising the floor to the bottom of the slab comprising the ceiling;

(ii) Such building or structure shall be served by fiber-optic telecommunications wiring and shall contain vertical penetrations for the distribution of fiber optic cabling to individual tenants on each floor;

(iii) The total square footage of such building or structure is not less than five hundred thousand gross square feet;

(iv) A minimum of two hundred thousand gross square feet or twenty-five per centum of such building or structure is comprised of floors of not less than forty thousand gross square feet;

(v) At least ten per centum of the gross square footage of such building or structure is comprised of floors that contain no more than eight structural columns, excluding any columns within the core or on the periphery of such building or structure;

(vi) The electrical capacity of such building or structure is not less than six watts per net square foot;

(vii) Emergency backup power sufficient to accommodate a need of six watts per net square foot is available in at least two hundred thousand gross square feet or twenty-five per centum of such building or structure.

S 489-eeee. Application for certificate of eligibility. 1. Application for a certificate of eligibility pursuant to this title may be made immediately following the effective date of a local law enacted pursuant to this title and continuing until June thirtieth, nineteen hundred ninety-nine; provided, however, that application for a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (ii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title may not be made after January thirty-first, nineteen hundred ninety-five; provided, further, however, that application for a certificate of eligibility for construction of a new building or structure that meets the requirements set forth in subdivision nine of section four hundred eighty-nine-dddd of this title in the new construction **exemption** area specified in paragraph (a) of subdivision six of section four hundred eighty-nine-cccc of this title may not be made after December thirty-first, nineteen hundred ninety-six; and provided, further, however, that no benefits pursuant to this title shall be granted for construction work performed pursuant to

a building permit issued after July thirty-first, nineteen hundred ninety-nine. Such application shall state whether it is for industrial, commercial or renovation construction work, and shall be filed with the department of finance. In addition to any other information required by such department, the application shall include cost estimates or bids for the proposed construction and an affidavit of a professional engineer or architect of the applicant's choice, certifying that detailed plans for the construction work have been submitted to the department of buildings. Such application shall also state that the applicant agrees to comply with and be subject to the rules issued from time to time by the department of finance to secure compliance with all applicable city, state and federal laws or which implement mayoral directives and executive orders designed to ensure equal employment opportunity. If required by local law or rule as described in section four hundred eighty-nine-llll of this title, such application shall also state that the applicant agrees to comply with the program established thereby to ensure meaningful participation of minority and women-owned business enterprises in construction work for which the applicant receives benefits. Such application shall also certify that all taxes currently due and owing on the **property** which is the subject of the application have been paid or are currently being paid in timely installments pursuant to written agreement with the department of finance.

2. The burden of proof shall be on the applicant to show by clear and convincing evidence that the requirements for granting an **exemption** from or abatement or deferral of payment of taxes pursuant to this title have been satisfied. The department of finance shall have the authority to require that statements in connection with the application be made under oath.

3. The department of finance shall issue a certificate of eligibility upon determining that the applicant satisfies the requirements for industrial, commercial or renovation construction work in an area where benefits are available for such work. Such certificate shall state whether such benefits are to be granted for industrial, commercial or renovation construction work, and in which class of area the **property** is located. The effective date of such certificate, except as provided in paragraph (b) or paragraph (d) of subdivision three of section four hundred eighty-nine-dddd of this title, shall be the earlier of (a) the date on which a building permit for the construction work is issued by the department of buildings, or (b) the last day before the effective date of any designation of boundaries by the commission which changes the class of area in which the **property** is located so as to reduce the level of benefits for commercial construction work on such **property**. Where the effective date of the certificate of eligibility is July first, nineteen hundred ninety-two or after, the benefits granted for industrial, commercial or renovation construction work pursuant to this title shall be in accordance with the provisions of this title as amended by the provisions of chapter seven hundred eighty-one of the laws of nineteen hundred ninety-two, and as amended by the provisions of chapter seven hundred twenty-six of the laws of nineteen hundred ninety-four, and as further amended by the provisions of the chapter of the laws of nineteen hundred ninety-five that added this clause. Where the effective date of the certificate is June thirtieth, nineteen hundred ninety-two or before, the benefits granted for industrial or commercial construction work pursuant to this title shall be in accordance with the provisions of this title as it was in effect until June thirtieth, nineteen hundred ninety-two immediately prior to its amendment by chapter seven hundred eighty-one of the laws of nineteen hundred ninety-two. No recipient whose **property** is the subject of a certificate of eligibility for commercial construction work in a deferral area shall be eligible to apply for a certificate of eligibility for renovation construction work on the same **property**, where the renovation construction work is the same as, or similar to, the commercial construction work for which the deferral area certificate was issued, until three years after the effective date of the deferral area

certificate. No recipient shall receive a **tax** deferral and a **tax exemption** for the same expenditure on eligible construction work.

4. A copy of the certificate of eligibility shall be filed by the department of finance in the manner prescribed for recording a mortgage pursuant to section two hundred ninety-one-d of the **real property** law.

5. The department of finance may provide by rule for reasonable administrative charges or fees necessary to defray expenses in administering the benefit program provided by this title.

S 489-ffff. Reporting requirement; termination of benefits. 1. Upon approval by the department of buildings of the plans submitted in connection with the building permit and any amendments to such plans, the recipient shall file with the department of finance a narrative description of such approved plans describing the industrial, commercial or renovation construction work for which such recipient seeks benefits pursuant to this title.

2. For the duration of the benefit period the recipient shall file annually with the department of finance, on or before the taxable status date, a certificate of continuing use stating the purposes for which the **property** described in the certificate of eligibility is being used and the net square footage allotted to each such purpose. Such certificate of continuing use shall be on a form prescribed by the department of finance and shall state the total number of workers employed on the **property** and the number of such workers who are city residents. The department of finance shall have authority to terminate benefits pursuant to this title upon failure of a recipient to file such certificate by the taxable status date. The burden of proof shall be on the recipient to establish continuing eligibility for benefits and the department of finance shall have the authority to require that statements made in such certificate shall be made under oath.

3. A recipient shall file an amendment to the latest certificate of continuing use prior to (a) converting square footage within **property** which is the subject of a certificate of eligibility for industrial construction work from use for the manufacturing activities described in such certificate of continuing use where such conversion results in less than sixty-five per centum of total net square footage being used or held out for use for manufacturing activities; or (b) converting any portion of **property** which is the subject of a certificate of eligibility to use for any restricted activity or as residential **property**.

4. Not later than eighteen months after the effective date of a certificate of eligibility, with an effective date of June thirtieth, nineteen hundred ninety-two or before, the recipient shall present evidence to the department of finance demonstrating that the recipient has made one-half of the minimum required expenditure. Not later than thirty-six months after the effective date of such certificate, such recipient shall present evidence to such department demonstrating that the recipient has made the minimum required expenditure. Not later than thirty months after the effective date of a certificate of eligibility with an effective date of July first, nineteen hundred ninety-two or after, the recipient shall present evidence to the department of finance demonstrating that the recipient has made one-half of the minimum required expenditure; provided, however, that a recipient of a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (ii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title shall present such evidence not later than eighteen months after the effective date of such certificate, or by December thirty-first, nineteen hundred ninety-four, whichever is earlier; provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (ii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title on or after July first, nineteen hundred ninety-four, but before February first, nineteen hundred ninety-five, shall present such evidence not later than eighteen months

after the effective date of such certificate, or by July thirty-first, nineteen hundred ninety-five, whichever is earlier, provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (i) or (iii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title on or after July first, nineteen hundred ninety-five, shall present such evidence not later than eighteen months after the effective date of such certificate. Not later than sixty months after the effective date of a certificate of eligibility with an effective date of July first, nineteen hundred ninety-two or after, the recipient shall present evidence to such department demonstrating that the recipient has made the minimum required expenditure; provided, however, that a recipient of a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (ii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title shall present such evidence not later than thirty-six months after the effective date of such certificate, or by December thirty-first, nineteen hundred ninety-five, whichever is earlier; provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (ii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title on or after July first, nineteen hundred ninety-four, but before February first, nineteen hundred ninety-five, shall present such evidence not later than thirty-six months after the effective date of such certificate, or by July thirty-first, nineteen hundred ninety-six, whichever is earlier, provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for **property** located in the renovation **exemption** area specified in subparagraph (i) or (iii) of paragraph (d) of subdivision five of section four hundred eighty-nine-cccc of this title on or after July first, nineteen hundred ninety-five, shall present such evidence not later than thirty-six months after the effective date of such certificate. Such evidence shall be presented in the form and manner prescribed by such department. The burden of proof shall be on the recipient to show by clear and convincing evidence that the required expenditures have been made. This subdivision shall not apply to the recipient of a certificate of eligibility for construction of a new building or structure that meets the requirements set forth in subdivision nine of section four hundred eighty-nine-dddd of this title in a new construction **exemption** area.

5. A recipient of a certificate of eligibility for construction of a new building or structure in a new construction **exemption** area shall present evidence to the department of finance demonstrating that the requirements of subdivision nine of section four hundred eighty-nine-dddd of this title have been met. Such evidence shall be presented in the form and manner and at the time prescribed by such department. The burden of proof shall be on the recipient to show by clear and convincing evidence that such requirements have been met.

S 489-gggg. Conversion of **property**. 1. Any recipient whose **property** is the subject of a certificate of eligibility for commercial or renovation construction work, and who, prior to the expiration of the benefit period, uses such **property** as industrial **property**, shall continue to receive benefits for commercial or renovation construction work as the case may be.

2. Any recipient whose **property** is the subject of a certificate of eligibility for industrial construction work, and who, prior to the expiration of the benefit period, uses such **property** as commercial **property**, shall cease to be eligible for further **exemption** or abatement for industrial construction work as of the last date to which such recipient proves by clear and convincing evidence that such **property** was

used as industrial **property**, and shall pay with interest any taxes for which an **exemption** or abatement was claimed after such date, except that:

(a) a recipient of a certificate of eligibility for industrial construction work in a special **exemption** area who would have been eligible to receive a certificate of eligibility for commercial construction work at the time such recipient applied for benefits shall continue to receive an **exemption** for industrial construction; and

(b) a recipient of a certificate of eligibility for industrial construction work in a regular **exemption** area who would have been eligible to receive a certificate of eligibility for commercial construction work at the time such recipient applied for benefits shall, commencing with the date of conversion to commercial **property** and continuing until the expiration of the benefit period for commercial construction work, receive any **exemption** which such recipient would have received in the corresponding **tax** year pursuant to a certificate of eligibility for commercial construction work; and

(c) a recipient of a certificate of eligibility for industrial construction work in any area of the city on whose **property** at least sixty-five per centum of the net square footage continues to be used or held out for use for manufacturing activities after conversion to commercial **property**, shall not be required to pay the pro rata share of **tax** for which an **exemption** was claimed during the **tax** year in which such conversion occurred.

3. Except as provided in subdivision four of this section, any recipient whose **property** is the subject of a certificate of eligibility for commercial, industrial or renovation construction work, and who uses such **property** as residential **property** or for any restricted activity prior to the expiration of the benefit period, shall cease to be eligible for further **exemption**, abatement or deferral as of the date such **property** was first used as residential **property** or for any restricted activity. In the case of **property** in an area that was designated as an **exemption** area at the time the certificate of eligibility was issued, such recipient shall pay with interest any taxes for which an **exemption** was claimed after such date, including the pro rata share of **tax** for which any **exemption** was claimed during the **tax** year in which such use occurred. In the case of industrial **property**, such recipient shall pay with interest any taxes for which an **exemption** or abatement was claimed after such date, including the pro rata share of **tax** for which any **exemption** or abatement was claimed during the **tax** year in which such use occurred. In the case of **property** in an area that was designated as a deferral area at the time the certificate of eligibility was issued, all deferred **tax** payments on the **property** shall become due and payable immediately.

4. Notwithstanding subdivision three of this section, any recipient whose **property** is the subject of a certificate of eligibility for commercial or renovation construction work with an effective date of July first, nineteen hundred ninety-two or after, and who, prior to the expiration of the benefit period, uses a portion of such **property** as residential **property**, shall cease to be eligible for further **exemption** for commercial or renovation construction work for that portion of such **property** used as residential **property** as of the date such portion of the **property** was first used as residential **property**. Such recipient shall pay, with interest, any taxes for which an **exemption** was claimed after such date attributable to that portion of the **property** used as residential **property**, including the pro rata share of **tax** for which such **exemption** was claimed during the **tax** year in which such use occurred. Such recipient shall continue to receive an **exemption** for commercial or renovation construction work for that portion of the **property** which continues to be used as commercial **property**.

S 489-hhhh. Administration of the benefit program. 1. The department of finance of any city enacting a local law pursuant to section four

hundred eighty-nine-bbbb of this title shall have, in addition to any other functions, powers and duties which have been or may be conferred on it by law, the following functions, powers and duties:

(a) To publicize the availability of benefits pursuant to this title for industrial, commercial and renovation construction work.

(b) To receive and review applications for certificates of eligibility, issue such certificates where authorized pursuant to section four hundred eighty-nine-eeee of this title, and record the issuance of such certificates as prescribed in such section.

(c) To receive evidence of expenditures made for construction, and where such expenditures do not equal the amount required to qualify for **exemption** from or abatement or deferral of **tax** payments to take appropriate action, including but not limited to denying, reducing, suspending, terminating or revoking benefits pursuant to this title.

(d) To enter and inspect **property** to determine whether it is industrial or commercial or mixed-use and to determine whether (i) any such **property** is being used for any restricted use, or (ii) any **property** which is the subject of a certificate of eligibility for industrial construction work is being used as commercial **property**, or (iii) any industrial or commercial **property** is being used as residential or mixed-use **property**, or (iv) all or part of the nonresidential portion of mixed-use **property** is being used as residential **property**.

(e) To collect all **real property** taxes for which payment is deferred pursuant to this title.

(f) To collect all **real property** taxes, with interest, due and owing as a result of reduction, suspension, termination or revocation of any **exemption** from or abatement or deferral of taxes granted pursuant to this title.

(g) To make and promulgate regulations to carry out the purposes of this title, including, but not limited to, regulations requiring applicants to publish notice of their applications, defining manufacturing and commercial activities and specifying the nature of work for which expenses may be included in the minimum required expenditure, provided, however, that any regulation increasing the minimum required expenditure shall not apply to any person who is a recipient on the effective date of such regulation. Such regulations shall include a requirement that with respect to the construction work recipients and their contractors shall be equal opportunity employers and may also provide that any person employed in the construction work shall implement a trainee program for economically disadvantaged persons.

S 489-iiii. Code violations; suspension or termination of benefits. A local law enacted pursuant to this title may provide that benefits pursuant to this title shall be suspended or terminated if the recipient is found to have failed to cure violations of the applicable building, fire, or air pollution control codes on the **property** which is the subject of the certificate of eligibility. Such local law shall define the circumstances under which benefits may be suspended or revoked for such violations and provide procedures whereby determinations to suspend, terminate or reinstate such benefits shall be made.

S 489-jjjj. **Tax** lien; interest rate. 1. All taxes plus interest required to be paid retroactively pursuant to this title shall constitute a **tax** lien as of the date it is determined such taxes and interest are owed. All interest shall be calculated from the date the taxes would have been due but for the **exemption**, abatement or deferral claimed pursuant to this title at three per centum above the applicable rate of interest imposed by such city generally for non-payment of **real property tax** on such date.

2. All taxes for which payment is deferred pursuant to section four hundred eighty-nine bbbb of this title shall constitute a **tax** lien as of the date they are due and payable in accordance with the provisions of

that section.

S 489-kkkk. Penalties for non-compliance, false statements and omissions. 1. The department of finance may deny, reduce, suspend, revoke or terminate any **exemption** from or abatement or deferral of **tax** payments pursuant to this title whenever (a) a recipient fails to comply with the requirements of this title or the rules promulgated by the department of finance pursuant thereto; or (b) an application, certificate, report or other document delivered by an applicant or recipient hereunder contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make the statements therein not false or misleading, and may declare any applicant or recipient who makes such false or misleading statement or omission to be ineligible for future **exemption**, abatement or deferral pursuant to this title for the same or other **property**.

2. Notwithstanding any other law to the contrary, a recipient shall be personally liable for any taxes owed pursuant to this title whenever such recipient fails to comply with such law and rules or makes such false or misleading statement or omission, and the department of finance determines that such act was due to the recipient's willful neglect, or that under the circumstances such act constituted a fraud on the department of finance or a buyer or prospective buyer of the **property**. The remedy provided herein for an action in personam shall be in addition to any other remedy or procedure for the enforcement of collection of delinquent taxes provided by any general, special or local law. Any lease provision which obligates a tenant to pay taxes which become due because of willful neglect or fraud by the recipient, or otherwise relieve or indemnify the recipient from any personal liability arising hereunder, shall be void as against public policy except where the imposition of such taxes or liability is occasioned by actions of the tenant in violation of the lease.

S 489-llll. Participation of minority and women-owned business enterprises. A city enacting a local law pursuant to this title may provide for a program to ensure meaningful participation of minority and woman-owned business enterprises in construction work for which an applicant receives benefits. Such program may be established, and amended from time to time, by local law, or by rule of the department of finance not inconsistent with any such local law.

New York State Consolidated Laws

General Municipal

ARTICLE 16

URBAN DEVELOPMENT ACTION AREA ACT

- Section 690. Short title.
691. Policy and purposes of article.
692. Definitions.
693. Area designation.
694. Urban development action area project and approval thereof.
695. Disposition of **property**.
696. **Tax** incentives.
- 696-a. Loans.
- 696-b. Condemnation.
- 696-c. Site preparation.
- 696-d. Neighborhood improvement projects.
697. Application of article.

Sec. 690. Short title. This article shall be known and may be cited and referred to as the "urban development action area act".

S 691. Policy and purposes of article.

There exist in many municipalities within this state municipally-owned areas which were acquired pursuant to the urban renewal powers delineated in article fifteen of this chapter or through condemnation for projects now abandoned or as a direct result of previous landowners' failure to meet in full their **real** estate **tax** or other obligations or through proceedings relating to abandoned multiple dwellings or which consist of municipal facilities no longer needed for public purposes. These areas are residential, non-residential, commercial, industrial, municipal facilities or vacant areas, and combinations thereof, which are slum or blighted, or which are becoming slum or blighted areas because of substandard, insanitary, **deteriorated** or **deteriorating** conditions, factors, and characteristics, with or without tangible physical blight. The existence of such areas constitutes a serious and growing menace, is injurious to the public safety, health, morals and welfare, contributes increasingly to the spread of crime, juvenile delinquency and disease, necessitates excessive and disproportionate expenditures of public funds for all forms of public service and maintenance and constitutes a negative influence on adjacent **properties** impairing their economic soundness and stability, thereby threatening the source of public revenues.

In order to protect and promote the safety, health, morals and welfare of the people of the state and to promote the sound growth and development of our municipalities, it is necessary to provide incentives for the correction of such substandard, insanitary, blighted, **deteriorated** or **deteriorating** conditions, factors, and characteristics by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or conservation of such areas, the undertaking of public and private improvement programs related thereto and the encouragement and participation in these programs by private enterprise.

Moreover in order to assure that each segment of our society, particularly enterprises experienced in the construction of one to four family residential structures and business enterprises which are controlled by members of minorities, is accorded a **real** and proper ability to participate in projects to be undertaken pursuant to this article, it must be the public policy of each municipality operating pursuant to the provisions hereof to take such initiatives as are appropriate to effect such participation.

It is necessary for the accomplishment of such purposes to grant municipalities of this state the rights and powers provided in this article. The use of such rights and powers to correct such conditions, factors and characteristics and to eliminate or prevent the development and spread of **deterioration** and blight through the clearance, replanning, reconstruction, rehabilitation, conservation or renewal of such areas, for residential, commercial, industrial, community, public and other uses is a public use and public purpose essential to the public interest, and for which public funds may be expended.

S 692. Definitions. As used in this article the following terms shall mean:

1. "Governing body". The local legislative body.
2. "Municipality". A city having a population of one hundred thousand or more and the town of Huntington.
3. "Municipally-owned area". **Real property**, title to which is held by a municipality. Provided, however, that **real property** consisting of two contiguous acres or more of wooded land which exists as substantially undeveloped at the time this article becomes effective shall not be included as a municipally-owned area for purposes of this article.
4. "Agency". The officer, board, commission, department, or other agency of the municipality designated by the governing body, or as otherwise provided by law, to carry out the functions vested in the agency under this article or delegated to the agency by the governing body in order to carry out the purpose and provisions of this article, except that in a city having a population of one million or more, the term "agency" shall mean a department of housing preservation and development.
5. "Urban development action area". An area designated by the governing body, or by the commission where so authorized to act by the governing body, pursuant to section six hundred ninety-three of this article as appropriate for urban development, at least eighty percent of which constitutes a municipally-owned area.
6. "Urban development action area project". A project which shall be consistent with the policy and purposes stated in section six hundred ninety-one of this article, and located in an urban development action area, unless the area designation requirement is waived pursuant to section six hundred ninety-three of this article. The project summary for an urban development action area project shall include but shall not be limited to: a statement of proposed land uses; proposed public, semi-public, private or community facilities or utilities; a statement as to proposed new codes and ordinances and amendments to existing codes and ordinances as are required or necessary to effectuate the project; a proposed time schedule for the effectuation of such project, and such additional statements or documentation as the agency may deem appropriate.
7. "Commission". The local commission or board charged with the planning of land use within the municipality or other analogous body or, if there be none, the board of estimate or other governing body of the municipality.

S 693. Area designation. An urban development action area shall by resolution be designated by the governing body, or by the commission where so authorized to act by the governing body, on its own initiative or upon recommendation of the agency, provided at least eighty percent of such area is municipally owned. Any such designation shall be in conformance with the standards and procedures required for all land use determinations pursuant to general, special or local law or charter. Provided, however, that if a proposed urban development action area project is to be developed on municipally-owned land and consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings without any change in land use permitted by local zoning, the governing body, or the commission where so authorized to act by the governing body, may waive the area designation requirement.

S 694. Urban development action area project and approval thereof. 1. Following or in conjunction with the designation of an area or the waiver of an area designation pursuant to section six hundred ninety-three of this article, the agency shall prepare or cause to be prepared, with provisions which, where appropriate, are expressly designed to encourage and stimulate businesses experienced in the development of one to four family low-rise residential structures or minority owned enterprises in proposed projects, a project summary for a proposed urban development action area project.

2. A proposal for an urban development action area or for a part or portion of such area, shall be submitted to the commission which shall certify, after a public hearing held on due notice, its unqualified approval, its disapproval, or its qualified approval with recommendations for modifications therein. The commission shall forward its certification to the governing body.

3. Following receipt of the commission's certification after a public hearing held on due notice, the governing body may:

(a) if the commission shall have certified its unqualified approval, approve the area designation by a majority vote;

(b) if the commission shall have certified its disapproval nevertheless approve the area designation, but only by a three-fourths vote;

(c) if the commission shall have certified its qualified approval together with recommendations for modifications, approve the area designation together with the modifications recommended by the commission by a majority vote, or approve the area designation without such modifications but only by a three-fourths vote.

4. In order to approve the proposal for an urban development action area the governing body must by resolution first find that:

(a) the present status of the area tends to impair or arrest the sound growth and development of the municipality;

(b) the financial aid in the form of **tax** incentives, if any, to be provided by the municipality pursuant to section six hundred ninety-six of this article, is necessary to enable the project to be undertaken; and

(c) the area designation is consistent with the policy and purposes stated in section six hundred ninety-one of this article.

5. Any approval of an urban development action area project shall be in conformance with the standards and procedures required for all land use determinations pursuant to general, special or local law or charter. In a city having a population of one million or more, the governing body may require that the agency incorporate into the project any or all of the following: (i) the proposed number of residential units; (ii) whether such units are home ownership units, rental units or condominium or cooperative units; (iii) a best estimate of the initial rents or selling prices for such units; (iv) the proposed income restrictions, if any, on renters or purchasers of such units; and (v) the basis on which the consideration for the sale or lease of the **property** is to be determined. Provided, however, that if the proposed urban development action area project consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings without any change in land use permitted by local zoning, the governing body, or the commission where so authorized to act by the governing body, may waive any such standards and procedures required by local law or charter.

S 695. Disposition of **property**. 1. In addition to employing any other lawful method of utilizing or disposing of a municipally-owned area, a municipality may sell, lease for a term not exceeding ninety-nine years, or otherwise dispose of any such **real property** and appurtenances thereto, to any person, firm or corporation at the highest marketable price or rental at public auction or by sealed bids pursuant to the provisions of any general, special or local laws applicable to the sale or disposition of **real property** by such municipality.

2. Notwithstanding any provision to the contrary contained in this article or any other law, general, special or local, applicable to the sale of **real property** by a municipality, such **real property** and appurtenances thereto may be sold, leased for a term not exceeding ninety-nine years or

5. Any deed, lease or instrument by which **real property** and appurtenances thereto, or air rights and concomitant easements or other rights of users necessary for the use and development of such air rights over streets, alleys, highways or other public rights of way, railway or subway tracks, bridge or tunnel approaches or entrances, or other similar facilities, or air rights sites and necessary sitework, the foundations and platforms constructed or to be constructed in connection therewith, or any interest therein is conveyed or disposed of pursuant to this section shall contain provisions requiring the purchaser, lessee or grantee to replan, clear, rehabilitate, restore, renew, conserve, improve, reconstruct or redevelop such **property** in accordance with the urban development action area project as approved by the governing body and within a definite and reasonable period of time subject to the terms of the contract or lease or deed relating thereto between the municipality and the sponsor, and shall contain provisions insuring the use of such **real property** for purposes consistent with such urban development action area project.

6. (a) Leases authorized by this section may contain provisions subordinating the fee interest of a municipality to a sponsor for purposes of pledging or assigning such fee interest to the primary leasehold mortgagee of such lease, provided that the amount to which the fee is subordinated shall not exceed the lessee's cost of completing its obligation to replan, clear, rehabilitate, restore, renew, conserve, improve, reconstruct or redevelop such **property** in accordance with the lease provisions.

(b) A municipality may execute such instruments as may be required to implement the provisions of this subdivision.

(c) Leases and such other instruments as may be required shall contain provisions stating that: (i) the municipality shall assume no liability for any debt underlying the pledge or assignment of the fee interest; (ii) the municipality, at its option, may satisfy any obligation for which the fee interest is assigned or pledged; and (iii) no foreclosure action shall be maintained against such subordinated fee interest until the obligation of the sponsor to replan, clear, rehabilitate, restore, renew, conserve, improve, reconstruct or redevelop such **property** has been completed in accordance with the lease provisions.

(d) Notwithstanding any standards or procedures established for land disposition by general, special or local law or charter, if an urban development action area project is to be developed on municipally-owned land and consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings without any change in land use permitted by local zoning, a municipality may dispose of the **real property** constituting such urban development action project to any person, firm, or corporation qualified pursuant to this subdivision by resolution of its governing body or, in any city having a population of one million or more, by action of the mayor, provided that such disposition is in accordance with the requirements of this subdivision. Disposition of **real property** acquired by condemnation shall be in accordance with the requirements of section four hundred six of the eminent domain procedure law, if applicable.

Sec. 696. **Tax incentives.** Upon the consent of the governing body of any municipality in which an urban development action area project is or is to be located, the **real property** of a project may be **exempted** from local and municipal taxes, other than assessments for local improvements and land value, to the extent of all or part of the value of the improvement included in such project, for a period of twenty years from the first date on which taxes otherwise would become due in the absence of the **exemption**, during the last ten years of which the **exemption** shall be decreased in equal annual or biennial decrements according to a formula established by the governing body at the time it gives its consent to the **tax exemption**, pursuant to this section. Such **exemption** may only be made available where the urban development action area project includes the construction of a new structure

or the renovation, rehabilitation or conversion of an existing structure where the cost of such renovation, rehabilitation or construction is at least equal to one hundred percent of the assessed value of such structure as determined in the tax year immediately preceding the governing body's grant of tax exemption to such project. Any lease of real property and appurtenances thereto for a period not exceeding twenty years shall require payments to the municipality in lieu of taxes. Such additional payments shall be required to be in equal annual or biennial escalating amounts over the life of any lease for a period not exceeding twenty years so as to ensure that payments in lieu of taxes made during the final year of such lease shall be equal to all local and municipal taxes. All renewals of any lease shall include provision for payment of rental and in lieu of tax payments greater than or equal to those required during the final year of the original lease. Any lease of real property and appurtenances thereto for a period in excess of twenty years but not exceeding ninety-nine years shall require payments in lieu of taxes. Such payments shall commence in the tenth year of such lease and increase in equal annual or biennial amounts until the twentieth year so that such payments commencing in the twenty-first year and continuing until the conclusion of the lease shall be equal to all local and municipal taxes.

S 696-a. Loans. * 1. Notwithstanding the provisions of any general, special or local law, an agency is hereby authorized to make or contract to make grants or loans: (i) to the owner of any property that is part of an urban development action area project for the purpose of rehabilitation of an existing private or multiple dwelling, (ii) for the purpose of providing site improvements, including, but not limited to, water and sewer facilities, sidewalks, landscaping, the curing of problems caused by abnormal site conditions, excavation and construction of footings and foundations and other improvements associated with the provision of infrastructure, or (iii) for the purpose of providing for other costs of construction for the development of private and multiple dwelling housing accommodations. In the case of a grant made under this section for the rehabilitation of an existing multiple dwelling intended to be converted to a condominium or cooperative form of ownership or for the development of one to four unit housing accommodations or a condominium or cooperative housing corporation, such grant shall require a regulatory agreement with the agency limiting profits. Any loan made in accordance with this section shall be secured by a note and mortgage upon the property improved or, in the case of a condominium, a note and mortgage upon each of the housing accommodations aided by such loan, or in the case of a cooperative housing corporation, a note and mortgage upon the economic interest in such corporation of each tenant-shareholder aided by such loan, or upon the property improved, or upon both such economic interest or property. Such loan shall be repaid over such period as the agency shall determine. In the case of a loan for rehabilitation of an existing multiple dwelling intended to be converted to a condominium or cooperative form of ownership or a loan for the provision of infrastructure or for the provision of other costs of construction for the development of one to four unit housing accommodations or a condominium or cooperative housing corporation, such note and mortgage may provide that the loan shall automatically be reduced to zero over a period of owner-occupancy of the housing accommodations assisted by such loan. In the case of a grant or loan made under this section for the purpose of providing rental housing for persons of low income as defined in section two of the private housing finance law, such loan or grant shall require a regulatory agreement with the agency limiting profits and rentals charged. In the case of a loan made under this section for the purpose of providing rental housing for persons of low income as defined in section two of the private housing finance law, such note and mortgage may provide

that the loan shall automatically be reduced to zero over a period of up to thirty years of compliance by the owner with a regulatory agreement with the agency limiting profits and rentals charged. The repayment of any loan made in accordance with this section shall be made in such manner as may be provided in such note and mortgage in connection with such loan, and may authorize the owner, with the consent of the agency, to prepay the principal of the loan subject to such terms and conditions as therein provided. Such note and mortgage may contain such other terms and conditions not inconsistent with the provisions of this article as the agency may deem necessary or desirable to carrying out the purposes and provisions of this article including but not limited to, provisions concerning the repayment of the loan, the interest, if any, thereon, and other charges in connection therewith. For purposes of this section, the term "mortgage" shall include any pledge or assignment of shares or assignment of a proprietary lease in a cooperative housing corporation where such pledge or assignment is intended as security for the performance of an obligation and which imposes a lien on or affects title to such shares or such proprietary lease.

* NB Reverts to op par 01/06/30

* 2. Notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, and/or any local law enacted pursuant thereto, upon completion of the rehabilitation of any building used primarily for residential purposes, which is aided by a loan made by a municipality pursuant to subdivision one of this section in a jurisdiction in which rents are regulated pursuant to any of the above laws or acts, the agency shall establish the initial rent for each rental dwelling unit within the building. All dwelling units within such building subsequent to establishment of initial rents by the agency shall be subject to the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, and/or any local law enacted pursuant thereto, if applicable in the municipality, but only if such laws and/or acts would otherwise apply to such dwelling units. The tenants in occupancy of such dwelling units in such a building that are regulated pursuant to such laws and/or acts shall be offered a choice of a one-year or two-year lease at the initial rent established by the agency, notwithstanding any contrary provisions of, or regulations adopted pursuant to, such laws and/or acts. The agency shall cause all tenants in occupancy of each dwelling unit affected by this subdivision to be notified of and have an opportunity to comment upon the contemplated rehabilitation. Such notification shall advise such tenants of the approximate expected rent increase and the subsequent availability of a one- or two-year lease. Such notification and opportunity to comment shall be provided prior to commencement of the rehabilitation and again after its completion before establishment of the initial rents.

* NB Repealed 01/06/30

* 3. The agency shall use its best efforts to ensure that actions undertaken pursuant to subdivision two of this section are structured so as to minimize the likelihood of any involuntary economic displacement of tenants who reside in multiple dwellings which are the subject of such actions, provided, however, that if temporary physical displacement is required as a direct result of rehabilitation work which is performed in a multiple dwelling which is aided by a loan made by a municipality pursuant to subdivision one of this section, suitable temporary relocation arrangements shall be provided.

* NB Repealed 01/06/30

S 696-b. Condemnation. Notwithstanding any inconsistent provision of any general, special or local law, a municipality shall be authorized to exercise its power of eminent domain pursuant to the eminent domain procedure law for the purpose of condemning any interest of a third

party in **real property** which may continue subsequent to the vesting of title of **real property** in the municipality pursuant to a foreclosure of a **tax lien**, whether or not title to such **real property** remains with the municipality at the time of the commencement of any proceeding brought pursuant to such law.

S 696-c. Site preparation. A municipality shall be authorized to undertake site preparation for each municipally-owned area prior to its disposition. Such site preparation may include, but need not be limited to, demolition, site clearance and the curing of problems caused by abnormal site conditions.

S 696-d. Neighborhood improvement projects. 1. As used in this section the term "neighborhood improvement project" shall mean any non-residential use permitted by local zoning.

2. Notwithstanding the provisions of any general, special or local law, the agency in a city having a population of one million or more is hereby authorized to make or contract to make mortgage loans or to participate with another lender in the making of mortgage loans for the development of any neighborhood improvement project that such agency determines to be an improvement associated with the construction or rehabilitation of private or multiple dwellings. **Real property** assisted with a loan pursuant to this section shall be located: (i) in an urban development action area; (ii) in proximity to an urban development action area; or (iii) in proximity to an urban development action area project for which the area designation requirement was waived pursuant to section six hundred ninety-three of this article.

3. Any loan made in accordance with this section shall be secured by a note and mortgage upon the **property** improved. Such note and mortgage shall specify the term and manner of repayment of such loan, and may authorize the owner, with the consent of such agency, to prepay the principal of the loan subject to such terms and conditions as therein provided. Such note and mortgage may contain such other terms and conditions not inconsistent with the provisions of this article as such agency may deem necessary or desirable to carrying out the purposes and provisions of this article, including, but not limited to: provisions concerning the repayment of the loan, the interest, if any, thereon, and other charges in connection therewith.

Sec. 697. Application of article. The provisions of this article shall be applicable in any municipality wherein the local legislative body has adopted a resolution providing therefor, provided however, that at any time subsequent to the adoption of such a resolution the local legislative body may adopt a further resolution providing that the provisions of this article will no longer be applicable in the municipality and thereafter this article shall cease to be of force or effect therein. Upon adoption of a resolution providing for the application of this article in any municipality by the local legislative body, a copy of such resolution shall be filed within thirty days with the commissioner of the state division of housing and community renewal. The commissioner shall prescribe rules and regulations requiring subsequently timely notice of all area designations and approved projects therein. Rules and regulations prescribed by the commissioner shall be limited exclusively to procedures, content and format for timely notification. The commissioner shall thereupon report to the legislature annually, commencing on January one, nineteen hundred eighty concerning all municipal applications of the provisions of this article. For purposes of this section the term "local legislative body" in any city having a population of one million or more means a city council of any such city.

S 698. Severability. If any clause, sentence, paragraph, section or

part of this act shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

New York State Assembly
[[Welcome Page](#)] [[Legislative Information](#)]

HB589 MODIFIES REAL PROPERTY TAX INCREMENT ALLOCATION REDEVELOPMENT.		
Sponsor:	<i>Rizzo, Henry C. (40)</i>	Effective Date:00/00/00
CoSponsor:	<i>Cooper, Bonnie Sue (32)</i>	LR Number:1409-02
Last Action:	05/15/97 - Placed on Informal Calendar (S) SCS HCS HB 589	
Next Hearing:	Hearing not scheduled	
Calendar:	Bill currently not on calendar	
ACTIONS	HEARINGS	CALENDAR
BILL SUMMARIES	BILL TEXT	FISCAL NOTES
HOUSE HOME PAGE	BILL SEARCH	

Available Bill Summaries for HB589
[Senate Committee Substitute](#) | [Perfected](#) | [Committee](#) | [Introduced](#) |

Available Bill Text for HB589
[Senate Committee Substitute](#) | [Perfected](#) | [Committee](#) | [Introduced](#) |

Available Fiscal Notes for HB589
[Senate Committee Substitute](#) | [House Committee Substitute](#) | [Introduced](#) |

BILL SUMMARIES

PERFECTED

HCS HB 589 -- TAX INCREMENT FINANCING (Rizzo)

This substitute makes a number of changes to Tax Increment Financing (TIF) law. In its main provisions it:

- (1) Defines "redevelopment area," "special allocation fund," "gambling establishment", and "economic activity taxes", and excludes certain sales and local use taxes from inclusion in economic activity taxes for TIF projects;
- (2) Requires projects approved on or after 12/28/97 to meet at least 3 of the 7 factors outlined under the "conservation area" criterion;
- (3) Requires a two-year waiting period before new municipalities can use TIF, effective August 28, 1997;
- (4) Increases non-county TIF Commissions from 9 to 11 members, with the 2 new members to be appointed by the county in which the municipality is located.
- (5) Allows at the option of the municipal TIF Commission representatives TIF Commission members representing the schools or other taxing districts to be appointed to a definite term, or

to be appointed on a project-specific basis;

(6) Requires the municipality to execute an affidavit, indicating that the evidence provided suggests the project would not likely be developed without the use of TIF;

(7) Prohibits TIF plans and projects from including the development or redevelopment of gambling establishments;

(8) Requires increased amounts of sales and use tax revenues to be generated, if a facility relocates within the same county within one year, and is a direct beneficiary of TIF ;

(9) Requires a cost-benefit analysis as part of the redevelopment plan which enumerates the economic impact on taxing jurisdictions if the project is not built, and is built with TIF. The cost-benefit analysis must also include a fiscal impact study on every affected political subdivision, and information indicating the financial history and status of the developer;

(10) Requires municipalities or the TIF Commissions to establish procedures for obtaining competitive bids and proposals for implementation of the redevelopment projects;

(11) Provides that any surplus funds in the special allocation fund be returned to taxing districts on a proportional basis;

(12) Allows professional fees-for-service as a recoverable redevelopment cost, only if such fees are included as an initial and up-front expense prior to the initiation of the TIF project. The administrative costs incurred by TIF Commissions are recoverable professional costs;

(13) Provides that, for minor changes to the redevelopment plan, project or area, additional public hearings are not required;

(14) Allows the start-up or other officials costs for administering TIF projects to be recouped by the municipality incurring such costs;

(15) Requires municipalities to submit a copy of the required public hearing notices to the Department of Economic Development (DED);

(16) Requires municipalities to add information on the economic activity taxes within the redevelopment area to the currently required annual report submitted to the DED;

(17) Requires the DED to provide, when requested, information and technical assistance to local jurisdictions, and to submit summary information on TIF projects statewide to the General Assembly by each February 1;

(18) Establishes a joint legislative committee to review existing TIF statutes beginning in 1999 and every 5 years thereafter. The committee is to submit a report based on its review, with any recommended statutory changes;

(19) Makes clear that any penalties and interest owed on property taxes in a TIF district are to be collected in the same manner as other penalties and interest are collected;

(20) Allows, beginning January 1, 1998, certain blighted TIF areas to be eligible for 50% of state sales taxes not

constitutionally dedicated, and excluding School District Trust Fund taxes, and sales and use taxes on motor vehicles, trailers, boats and outboard motors. Municipalities must apply to the Department of Economic Development for the rebate of state sales taxes. An affidavit is required attesting that without the rebate, the area is unlikely to be developed. In addition, the required cost-benefit analysis must include an assessment of the impact on the state. A new fund, the Missouri Sales Tax Increment Financing Fund is created in the Department of Revenue for the purpose of rebating state sales taxes to municipalities; and

(2) Changes the residency requirement for those appointed to a Land Clearance and Redevelopment Commission so that taxpayers who reside within the municipality or the county (rather than the area of operation) for the required minimum 5 years may qualify for commission appointment.

FISCAL NOTE: Net Cost to General Revenue Fund* of \$68,815 for FY 1998, \$71,211 for FY 1999, and \$73,065 for FY 2000. (* Does not include losses due to sales taxes deposited to Missouri Sales Tax Increment Financing Fund.) Net Effect to School District Trust Fund is Unknown for FY 1998, FY 1999, and FY 2000. Net Effect on Missouri Sales Tax Increment Financing Fund of \$0 for FY 1998, FY 1999, and FY 2000.

COMMITTEE

HCS HB 589 -- TAX INCREMENT FINANCING

SPONSOR: RIZZO

COMMITTEE ACTION: Voted "do pass" by the Committee on Commerce
by 10-0

This substitute makes a number of changes to Tax Increment Financing (TIF). In its main provisions it:

- (1) Defines "redevelopment area," "special allocation fund," "economic activity taxes," and "gambling establishment";
- (2) Requires projects approved on or after 3/28/97 to meet at least 3 of the 12 factors outlined under the "conservation area" criteria;
- (3) Requires a two-year waiting period before new municipalities can use TIF effective 8/28/97;
- (4) Increases county TIF Commissions from 9 to 11 members, with three new members to be appointed by the county in which the municipality is located.
- (5) Allows at the option of the municipal TIF Commission representatives, TIF Commission members representing the schools or other taxing districts to be appointed to a definite term, or to be appointed on a project-specific basis;
- (6) Requires developers to submit a signed affidavit with the redevelopment plan, indicating that the project would not be developed without the use of TIF;
- (7) Prohibits TIF plans and projects from including the development or redevelopment of gambling establishments;

- (8) Requires increased amounts of sales and use tax revenues to be generated, if a facility relocates within the same county within the year, and is a direct beneficiary of TIF ;
- (9) Requires a cost-benefit analysis as part of the redevelopment plan which enumerates the economic impact on taxing jurisdictions if the project is not built, and is built with TIF. The cost-benefit analysis must also include a fiscal impact study on every affected political subdivision, and information indicating the financial history and status of the developer;
- (10) Requires municipalities or the TIF Commissions to establish procedures for obtaining competitive bids and proposals for implementation of the redevelopment projects;
- (11) Provides that any surplus funds in the special allocation fund be refunded to taxing districts on a proportional basis;
- (12) Allows professional fees-for-service as a recoverable redevelopment cost, but only if such fees are included as an initial and up-front expense prior to the initiation of the TIF project. The administrative costs incurred by TIF Commissions are recoverable professional costs;
- (13) Provides that for minor changes to the redevelopment plan, projects in area, additional public hearings are not required;
- (14) Allows the salaries or other officials' costs for administering TIF projects to be recouped by the municipality incurring such costs;
- (15) Requires municipalities to submit a copy of the required public hearing notices to the Department of Economic Development (DED);
- (16) Requires municipalities to add information on the economic activity taxes within the redevelopment area to the currently required annual report submitted to the DED;
- (17) Requires the DED to provide, when requested, information and technical assistance to local jurisdictions, and to submit summary information on TIF projects statewide to the General Assembly by early February 1;
- (18) Establishes a joint legislative committee to review existing TIF statutes, beginning in 1999 and every 5 years thereafter. The committee is to submit a report based on its review, with any recommended statutory changes;
- (19) Makes clear that any penalties and interest owed on property taxes in a TIF district are to be collected in the same manner as other penalties and interest are collected; and
- (20) Allows, beginning January 1, 1999, certain blighted TIF areas to receive for 50% of state sales taxes not constitutionally dedicated. Municipalities must apply to the Department of Economic Development for the rebate of state sales taxes. An affidavit is required attesting that without the rebate, the area is unlikely to be developed. In addition, the required cost-benefit analysis must include an assessment of the impact on the state. A new fund, the Missouri Sales Tax Increment Financing Fund is created in the Department of Revenue, for the purpose of rebating state sales taxes to

municipalities.

FISCAL NOTE: Net Cost to General Revenue Fund of \$68,815 for FY 1998, \$1,213 for FY 1999, and \$73,065 for FY 2000. Net Effect to School District Trust Fund is Unknown for FY 1998, FY 1999, and FY 2000. Net Effect on Missouri Sales Tax Increment Financing Fund is 0 for FY 1998, FY 1999, and FY 2000.

PROponents: Supporters say that tax increment financing is a valuable economic development tool which needs to be reformed but not dismantled.

Testifying for the bill were Representative Rizzo; City of Mexico; Missouri Association of Counties; City of Maryland Heights; St. Charles County; City of Cameron; Jackson County Legislature; Clay County Commission; and Jim Leahy.

OPponents: Those who oppose the bill say that tax increment financing works well as outlined in the current statutes.

Testifying against the bill were Missouri Tax Increment Financing Association and City of Fulton.

Debra Cheshier, Research Analyst

INTRODUCED

HB 539 -- Tax Increment Financing

Spencer Rizzo

This bill makes a number of changes to Tax Increment Financing (TIF) law. In its main provisions it:

- (1) Defines "redevelopment area," "special allocation fund," and "gambling establishment";
- (2) Requires projects approved on or after August 28, 1997 to meet at least 3 of the 15 factors outlined under the "conservation area" criterion;
- (3) Requires a two-year waiting period before new municipalities can use TIF, effective August 28, 1997;
- (4) Increases non-county TIF commissions from 9 to 12 members, with the 3 new members to be appointed by the county in which the project is located. In Jackson County, the 3 new members will be appointed by the county executive;
- (5) Allows TIF commission members representing the schools or other taxing districts to be appointed to a definite term, or to be appointed on a project-specific basis;
- (6) Requires developers to submit a signed affidavit with the redevelopment plan, indicating that the project would not be developed without the use of TIF;
- (7) Prohibits TIF plans and projects from including the development or redevelopment of gambling establishments;
- (8) Prohibits businesses from using TIF to relocate within the county in which an approved area is located, for 5 years;

- (9) Requires a cost-benefit analysis as part of the redevelopment plan which enumerates the economic impact on taxing jurisdictions if the project is not built, is built with TIF, or is built without TIF. The cost-benefit analysis must also include a fiscal impact study on every affected political subdivision, an indication indicating the financial history and status of the developer;
- (10) Requires municipalities or the TIF commissions to establish procedures for obtaining competitive bids and proposals for implementation of the redevelopment projects;
- (11) Requires that any surplus funds in the special allocation fund be refunded to taxing districts on a proportional basis;
- (12) Allows professional fees-for-service as a recoverable redevelopment cost, but only if such fees are included as an initial and up-front expense prior to the initiation of the TIF project;
- (13) Provides that, for minor changes to the redevelopment plan, project or area, additional public hearings are not required;
- (14) Allows the clerk's costs for administering TIF projects to be recouped by the municipality incurring such costs;
- (15) Requires municipalities to submit a copy of the required public hearing notices to the Department of Economic Development (DED);
- (16) Requires municipalities to add information on the economic activity taxes within the redevelopment area to the currently required annual report submitted to the DED;
- (17) Requires the DED to provide, when requested, information and technical assistance to local jurisdictions, and to submit summary information on TIF projects statewide to the General Assembly, by each February 1; and
- (18) Establishes a joint legislative committee to review existing TIF statutes, beginning in 1999 and every 5 years thereafter. The committee is to submit a report based on its review, with any recommended statutory changes.



[Missouri House of Representatives' Home Page](#)

Last Updated August 11, 1997 at 4:16 pm •

CHAPTER 279A

REHABILITATION OF *PROPERTY* IN RESIDENTIAL NEIGHBORHOODS

279A.010 Legislative findings and declarations.

279A.020 Definitions.

279A.030 County or city may establish program; contents of ordinance.

279A.040 Loan for rehabilitation: Qualifications.

279A.050 Loan for rehabilitation: Duties of agency.

279A.060 Loan for rehabilitation: Evidenced by promissory note; agreement between county or city and person to whom loan made.

279A.070 Duties of person to whom loan made; deferment of repayment of loan.

279A.080 Agency to provide advice and technical assistance; access to *property* required; deficiencies in maintenance of *property*.

279A.090 Deposit of payments in fund; availability of money for future loans.

279A.100 Preference to applicant with low income; conditions.

279A.110 Powers of governing body.

279A.010 Legislative findings and declarations. The legislature hereby finds and declares that:

1. There exists within the urban areas of this state a large number of *deteriorated*, substandard and unsanitary residential *properties* because of the inability of their owners, for whatever reason, to pay for their repair and maintenance;
2. These *properties* are a threat not only to the health, safety and well being of the persons who occupy them but also to neighboring persons and *property*;
3. There is also a shortage of decent, safe and affordable housing for persons of low or moderate income and the counties and cities of this state have an obligation to encourage persons who own residential *property* to maintain that *property* in a decent, safe and sanitary condition; and
4. It is in the public interest to encourage the preservation and maintenance of housing in this state for persons of low or moderate income, in order to improve their living conditions and, in doing so, to benefit the health, safety and welfare of the people of this state.

(Added to NRS by 1987, 2203)

279A.020 Definitions. As used in this chapter, unless the context otherwise requires:

1. "Agency" means an agency of a county or city established or designated to administer a program.
2. "Fund" means a revolving fund for loans for the rehabilitation of residential *property*.
3. "Governing body" means the governing body of a county or city.
4. "Program" means a program for the rehabilitation of residential neighborhoods established by a governing body pursuant to this chapter.
5. "Rehabilitation" includes structural improvements, landscaping and any other measure to improve the appearance of *property* or maintain *property* in a decent, safe and sanitary condition.

(Added to NRS by 1987, 2203)

279A.030 County or city may establish program; contents of ordinance.

1. The governing body of a county or city may adopt an ordinance establishing a program for the rehabilitation of residential neighborhoods in that county or city.
2. The ordinance must contain provisions:
 - (a) Establishing an agency, or designating an existing agency, of the county or city to administer the program.
 - (b) Creating a revolving fund for loans for the rehabilitation of residential *property* and designating the amount of the original allocation of money by the governing body for the fund.
 - (c) Providing the criteria and procedures for allocating additional money to the fund.
 - (d) Providing the maximum amount of a loan from the fund and the period and rate of interest of each loan.
 - (e) Setting forth the criteria for determining the eligibility of an applicant for a loan and of *property* for rehabilitation.
 - (f) Establishing such other requirements for participation in the program as the governing body considers necessary.

(Added to NRS by 1987, 2204)

279A.040 Loan for rehabilitation: Qualifications.

1. An applicant for a loan for the rehabilitation of residential *property* must, at the time application is made:

- (a) Be a resident of or an owner of residential *property* in the city or an unincorporated area of the county, as the case may be.
- (b) Be a member of a household having a gross income of less than 80 percent of the median gross income for households of the same size within the same geographic area or rent residential *property* to such households.
- (c) Own and reside on or rent for residential purposes only the *property* for which the loan is sought.
- (d) Have the financial resources to repay the loan in accordance with the terms of the agreement.
- (e) Have the ability to complete the rehabilitation within a reasonable time and maintain the *property* in a decent, safe and sanitary condition.
- (f) Meet such other requirements as are imposed by the governing body.

2. Any residential *property* for which a loan for rehabilitation is sought must be:

- (a) Entirely situated within the boundaries of the city or within an unincorporated area of the county, as the case may be.
- (b) Capable of rehabilitation within reasonable limits.
- (c) Subject to not more than two encumbrances.

(Added to NRS by 1987, 2204)

279A.050 Loan for rehabilitation: Duties of agency.

1. Upon receiving an application for a loan for the rehabilitation of residential *property*, the agency shall:

- (a) Inspect the *property* to determine if rehabilitation of the *property* is feasible.
- (b) Determine the amount of the loan that the condition of the *property* justifies.

2. After inspection of the *property*, the agency shall interview the applicant to determine if the applicant satisfies the criteria for eligibility for a loan and, if he satisfies those criteria, the amount, terms and conditions of the loan.

3. The agency shall recommend to the governing body the amount of the loan, if any, and the terms and conditions of the loan.

(Added to NRS by 1987, 2204)

279A.060 Loan for rehabilitation: Evidenced by promissory note; agreement between county or city and person to whom loan made. If the governing body approves the application for a loan, the loan must be:

1. Evidenced by a promissory note, the principal amount of which must be equal to the amount of the loan, secured by a mortgage on the *property*.

2. Made pursuant to an agreement between the county or city and the person to whom the loan is made, identifying the *property*, specifying the amount and period of, and rate of interest on, the loan and providing that:

- (a) The *property* must be rehabilitated for decent, safe and sanitary residential use; and
- (b) The rehabilitation must begin and be completed within a period determined by the governing body.

(Added to NRS by 1987, 2205)

279A.070 Duties of person to whom loan made; deferment of repayment of loan.

1. A person to whom a loan is made pursuant to this chapter shall:

- (a) Maintain the *property* in a decent, safe and sanitary condition; and
- (b) Reside, or have a member of his family reside, on the *property*.

2. If the person to whom a loan is made is unable to repay in accordance with the established schedule, the

governing body may defer, upon good cause shown, repayment of the amount of the loan until the sale of the rehabilitated *property*.

(Added to NRS by 1987, 2205)

279A.080 Agency to provide advice and technical assistance; access to *property* required; deficiencies in maintenance of *property*.

1. During the rehabilitation of the *property*, the agency shall provide such advice and technical assistance as may be reasonably requested.
2. The owner of the *property* shall permit representatives of the agency, the governing body and, if state or federal assistance is involved, the state or Federal Government, to have access to the *property* during normal business hours to ensure compliance with this chapter and with the provisions of the loan and agreement for rehabilitation.
3. If the agency discovers deficiencies in the maintenance of the *property* during any inspection, it shall advise the owner of the *property* in the proper methods of correcting those deficiencies.

(Added to NRS by 1987, 2205)

279A.090 Deposit of payments in fund; availability of money for future loans. The governing body shall deposit in the fund all money received in payment on a loan for the rehabilitation of residential *property* and make that money available for future loans.

(Added to NRS by 1987, 2205)

279A.100 Preference to applicant with low income; conditions. If at any time the aggregate amount represented by pending applications from qualified applicants for loans for the rehabilitation of residential *property* exceeds the amount available in the fund, the governing body shall give preference to those applicants who are members of households having a gross income that is 50 percent or less of the median gross income for households of the same size within the same geographic area.

(Added to NRS by 1987, 2205)

279A.110 Powers of governing body. The governing body may:

1. Contract directly with a contractor for the rehabilitation of the *property* of a qualified applicant.
2. Establish a panel of contractors who have agreed to provide continuing maintenance at a discount to *property* rehabilitated pursuant to this chapter.
3. Use for the purposes of this chapter any money made available to it for housing for persons having low or moderate incomes under state or federal law, if permitted by the terms of the state or federal law.
4. Accept gifts, grants, loans and bequests of money for the purposes of this chapter.

(Added to NRS by 1987, 2206)

[Go back](#) [Home Page](#)

POM for Representative Ryan



From: Mr. Jerome W Mikos
11641 Ellen Ave

Telephone: 344-0166

Anchorage, AK 99515

NON Constituant

Registered Voter: Y

Bill: FB 399 **Title:** EXEMPT/DEFERRAL DETERIORATED PROPTY TAX
Message:

THIS IS A GOOD WAY TO MAKE IT PROFITABLE TO HAVE SOME DERELICT BUILDINGS MADE LIVABLE.

Entered in ANC on 3/11/98 POMID: 3200

Distribution: 60

[Main Menu](#)

[Store All](#)

[Store This One](#)

[Prev POM](#)

[Next POM](#)

Message 75 out of 101.

POM for Representative Ryan



From: Mr. John B Gadomski
1542 Northview Dr

Telephone: 337-2355

Anchorage, AK 99504

NON Constituant

Registered Voter: U

Bill: HB 399 **Title:** EXEMPT/DEFERRAL DETERIORATED PROPTY TAX

Message:

I AM IN SUPPORT HB 399.

Entered in ANC on 3/11/98 POMID: 3156

Distribution: 60

[Main Menu](#) . [Store All](#) . [Store This One](#) . [Prev POM](#) . [Next POM](#)

Message 58 out of 101.

POM for Representative Ryan



From: Mr. Carl E Evans
7401 Tobuk Cir

Telephone: 338-7200

Anchorage, AK 99504

NON Constituant

Registered Voter: U

Bill: HB 399 **Title:** EXEMPT/DEFERRAL DETERIORATED PROPTY TAX
Message:

I ENCOURAGE YOU TO SUPPORT THIS BILL.

Entered in ANC on 3/11/98 POMID: 3126

Distribution: 60

[Main Menu](#)

[Store All](#)

[Store This One](#)

[Prev POM](#)

[Next POM](#)

Message 52 out of 101.

POM for Representative Ryan



From: Mr. Stanley B Knowlton
10031 Far Point Cir

Telephone: 332-7570

Anchorage, AK 99507

NON Constituant

Registered Voter: Y

Bill: HB 399 **Title:** EXEMPT/DEFERRAL DETERIORATED PROPTY TAX
Message:

I ENCOURAGE YOU TO SUPPORT THIS HOUSE BILL.

Entered in ANC on 3/11/98 POMID: 3120

Distribution: 60

[Main Menu](#)

[Store All](#)

[Store This One](#)

[Prev POM](#)

[Next POM](#)

Message 50 out of 101.

POM for Representative Ryan



From: Mr. Howard B Johnson
2020 Muldoon Rd #109

Telephone: 338-1900

Anchorage, AK 99504

NON Constituant

Registered Vcter: U

Bill: HB 399 Title: EXEMPT/DEFERRAL DETERIORATED PROPTY TAX
Message:

**WE NEED TO DO SOMETHING ABOUT THIS SITUATION AND THIS SEEMS LIKE THE
BEST SOLUTION FOR ALL PEOPLE IN OUR CITY AND OUR STATE.**

Entered in ANC on 3/11/98 POMID: 3113

Distribution: 60

[Main Menu](#)

[Store All](#)

[Store This One](#)

[Prev POM](#)

[Next POM](#)

Message 46 out of 101.