

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9645 SENATE LABOR & COMMERCE

PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED
PURDON'S PENNSYLVANIA STATUTES ANNOTATED
TITLE 72. TAXATION AND FISCAL AFFAIRS
CHAPTER 4. LOCAL TAXATION
EXEMPTIONS
LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE ACT

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Current through the end of 1996 Reg. Sess.
and through 1996 Sp. Sess. No. 2

§ 4723. Construction

This act shall be construed to authorize local taxing authorities to exempt new construction in deteriorated areas of economically depressed communities and improvements to certain deteriorated industrial, commercial and other business property thereby implementing Article VIII, section 2(b)(iii) of the Constitution of Pennsylvania.

CREDIT(S)

1995 Main Volume

1977, Dec. 1, P.L. 237, No. 76, § 2. ind. effective. Amended 1988, July 13, P.L. 518, No. 90, § 1, effective in 60 days.

HISTORICAL AND STATUTORY NOTES

1995 Main Volume

The 1988 amendment inserted "new construction in deteriorated areas of economically depressed communities and".

72 P.S. § 4723

PA ST 72 P.S. § 4723

END OF DOCUMENT

Citation
PA ST 72 P.S. s 4724
72 P.S. § 4724

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PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED
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Current through the end of 1996 Reg. Sess.
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§ 472.1. Definitions

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Deteriorated property." Any industrial, commercial or other business property owned by an individual, association or corporation, and located in a deteriorating area, as hereinafter provided, or any such property which has been the subject of an order by a government agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinance or regulations.

"Improvement." Repair, construction or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.

"Local taxing authority." A county, city, borough, incorporated town, township, institution district or school district having authority to levy real property taxes.

"Municipal governing body." A city, borough, incorporated town or township.

CREDIT(S)

1995 Main Volume

1977, Dec. 1, P.L. 237, No. 76, § 3, imd. effective.

72 P.S. § 4724

PA ST 72 P.S. § 4724

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§ 4725 Deteriorated areas

(a) Each local taxing authority may by ordinance or resolution exempt from real property taxation the assessed valuation of improvements to deteriorated properties and the assessed valuation of new construction within the respective municipal governing bodies designated deteriorated areas of economically depressed communities in the amounts and in accordance with the provisions and limitations hereinafter set forth. Prior to the adoption of the ordinance or resolution authorizing the granting of tax exemptions, the municipal governing body shall affix the boundaries of a deteriorated area or areas, wholly or partially located within its jurisdiction, if any. At least one public hearing shall be held by the municipal governing body for the purpose of determining said boundaries. At the public hearing the local taxing authorities, planning commission or redevelopment authority and other public and private agencies and individuals, knowledgeable and interested in the improvement of deteriorated areas, shall present their recommendations concerning the location of boundaries of a deteriorated area or areas for the guidance of the municipal governing bodies, such recommendations taking into account the criteria set forth in the act of May 24, 1945 (P.L. 991, No. 385), known as the "Urban Redevelopment Law," [FN1] for the determination of "blighted areas," and the criteria set forth in the act of November 29, 1967 (P.L. 636, No. 292), known as the "Neighborhood Assistance Act," [FN2] for the determination of "impoverished areas," and the following criteria: unsafe, unsanitary and overcrowded buildings; vacant, overgrown and unsightly lots of ground; a disproportionate number of tax delinquent properties, excessive land coverage, defective design or arrangement of buildings, street or lot layouts, economically and socially undesirable land uses. Property adjacent to areas meeting the criteria of this section, but which would not otherwise qualify, may be included within the deteriorated area designated if the local taxing authority determines that new construction on such property would encourage, enhance or accelerate improvement of the deteriorated properties within economically depressed communities. The ordinance or resolution shall specify a description of each such area as determined by the municipal governing body, as well as the cost of improvements per unit to be exempted, and the schedule of taxes exempted as hereinafter provided.

(b) Two or more municipal governing bodies may join together for the purpose of determining the boundaries of a deteriorated area and to establish the uniform maximum cost per unit, and such municipal governing bodies shall cooperate fully with each other for the purposes of implementing this act. The local taxing authorities may by implementing ordinance or resolution agree to adopt tax exemptions contingent upon the similar adoption by an adjacent local taxing authority or by a local taxing authority with mutual jurisdiction, within the limitations provided herein.

CREDIT(S)

1995 Main Volume

1977, Dec. 1, P.L. 237, No. 76, § 4, imd. effective. Amended 1988, July 13, P.L. 518, No. 90, § 1, effective in 60 days.

[FN1] 35 P.S. § 1701 et seq

[FN2] 62 P.S. § 2081 et seq.

HISTORICAL AND STATUTORY NOTES

1995 Main Volume

The 1988 amendment, in subsec. (a) in the first sentence, inserted "and the assessed valuation of new construction within the respective municipal governing bodies designated deteriorated areas of economically depressed communities", and inserted the fifth sentence.

72 P.S. § 4725

PA ST 72 P.S. § 4725

END OF DOCUMENT

PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED
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§ 4726. Exemption schedule

(a) A local taxing authority granting a tax exemption pursuant to the provisions of this act may provide for tax exemption on the assessment attributable to the actual cost of new construction or improvements or up to any maximum cost uniformly established by the municipal governing body. Such maximum cost shall uniformly apply to all eligible deteriorated property within the local taxing authority jurisdiction.

(b) Whether or not the assessment eligible for exemption is based upon actual cost or a maximum cost, the actual amount of taxes exempted shall be in accordance with the schedule of taxes exempted established by a local taxing authority subject to the following limitations:

(1) The length of the schedule of taxes exempted shall not exceed ten years.

(2) The schedule of taxes exempted shall stipulate the portion of new construction or improvements to be exempted each year.

(3) The exemption from taxes shall be limited to the additional assessment valuation attributable to the actual costs of new construction or improvements to deteriorated property or not in excess of the maximum cost per unit established by a municipal governing body.

(c) The exemption from taxes authorized by this act shall be upon the property exempted and shall not terminate upon the sale or exchange of the property.

CREDIT(S)

1995 Main Volume

1977, Dec. 1, P.L. 237, No. 76, § 5, imd. effective. Amended 1988, July 13, P.L. 518, No. 90, § 1, effective in 60 days.

HISTORICAL AND STATUTORY NOTES

1995 Main Volume

The 1988 amendment inserted references to new construction throughout the section.

72 P.S. § 4726

PA ST 72 P.S. § 4726

END OF DOCUMENT

§ 58.1-3220. Partial exemption for certain rehabilitated, renovated or replacement residential structures.

A. The governing body of any county, city or town may, by ordinance, provide for the partial exemption from taxation of real estate on which any structure or other improvement no less than fifteen years of age has undergone substantial rehabilitation, renovation or replacement for residential use, subject to such conditions as the ordinance may prescribe. The ordinance may, in addition to any other restrictions hereinafter provided, restrict such exemptions to real property located within described zones or districts whose boundaries shall be determined by the governing body. The governing body of a county, city or town may establish criteria for determining whether real estate qualifies for the partial exemption authorized by this provision and may require such structures to be older than fifteen years of age, or place such other restrictions and conditions on such property as may be prescribed by ordinance. Such ordinance may also provide for the partial exemption from taxation of multifamily residential units which have been substantially rehabilitated by replacement for multifamily use. Such replacement structures may exceed the total square footage of the replaced structures by no more than thirty percent.

B. The partial exemption provided by the local governing body may be an amount equal to the increase in assessed value or a percentage of such increase resulting from the rehabilitation, renovation or replacement of the structure as determined by the commissioner of revenue or other local assessing officer or an amount up to fifty percent of the cost of the rehabilitation, renovation or replacement, as determined by ordinance. The exemption may commence upon completion of the rehabilitation, renovation or replacement or on January 1 of the year following completion of the rehabilitation, renovation or replacement and shall run with the real estate for a period of no longer than fifteen years. The governing body of a county, city or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

D. The governing body of any county, city or town may assess a fee not to exceed fifty dollars for processing an application requesting the exemption provided by this section. No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

E. Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

(Code 1950, § 58-760.2; 1979, c. 195; 1980, c. 417; 1981, c. 625; 1984, cc. 675, 750; 1986, c. 271; 1989, cc. 89, 656; 1994, cc. 424, 435; 1995, c. 673.)

Annotations

Law review. - For survey of Virginia law on taxation for the year 1978-1979, see 66 Va. L. Rev. 367 (1980); for the year 1989, see 23 U. Rich. L. Rev. 839 (1989).

§ 58.1-3220.01. Local real property tax credits on certain rehabilitated, renovated or replacement residential structures.

A. The governing body of any county, city or town may, by ordinance, provide for a local real property tax credit equal to certain property tax liens owed on real estate on which any structure or other improvement no less than fifteen years of age has undergone substantial rehabilitation, renovation or replacement for residential use, subject to such conditions as the ordinance may prescribe. The credit shall be used by the owner of the property which has the real property tax liens and can be used to offset real property taxes assessed against such property. The governing body of a county, city or town may establish criteria for determining whether real estate qualifies for the credit authorized by this provision and may require such structures to be older than fifteen years of age, or place such other restrictions and conditions on such property as may be prescribed by ordinance. Such ordinance may also provide for a credit for multifamily residential units which have been substantially rehabilitated by replacement for multifamily use. Such replacement structures may exceed the total square footage of the replaced structures by no more than thirty percent.

B. The local tax credit shall be available only to those property owners who have purchased a structure which at the time of purchase contained property tax liens exceeding fifty percent of the assessed value of the property. The tax credit granted by the locality shall not exceed the amount by which the property tax liens exceeded fifty percent of the assessed value of the property at the time of purchase. The credit may be applied upon completion of the rehabilitation, renovation or replacement or on January 1 of the year following completion of the rehabilitation, renovation or replacement and may be divided over a period of no longer than ten years.

C. The governing body of any county, city or town may assess a fee not to exceed fifty dollars for processing an application requesting the credit provided by this section. No property shall be eligible for such credit unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

D. Where rehabilitation is achieved through demolition and replacement of an existing structure, the credit shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

(1996, c. 765.)

§ 58.1-3220.1. Partial exemption for certain rehabilitated, renovated or replacement hotel or motel structures.

A. The governing body of any county, city or town may, by ordinance, provide partial exemption from taxation of real estate on which a hotel or motel no less than thirty-five years of age has undergone substantial rehabilitation, renovation or replacement for residential use, subject to such conditions as the ordinance may prescribe. The ordinance may, in addition to any other restrictions hereinafter provided, restrict such exemptions to real property located within described zones or districts whose boundaries shall be determined by the governing body. The governing body of a county, city or town may establish criteria for determining whether real estate qualifies for the exemption authorized by this provision and may require such structures to be older than thirty-five years of age, or place such other restrictions and conditions on such property as may be prescribed by ordinance.

B. The "partial exemption" provided by the local governing body may not exceed either an amount equal to ninety percent of the total assessed value of the rehabilitated, renovated or replaced structure or an amount equal to the increase in assessed value resulting from the rehabilitation, renovation or replacement of the structure as determined by the commissioner of the revenue or other local assessing officer, as established by ordinance. The partial exemption may commence upon completion of the rehabilitation, renovation or replacement or on January 1 of the year following completion of the rehabilitation, renovation or replacement and shall run with the real estate for a period of no longer than twenty-five years. The governing body of a county, city or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

D. The governing body of any county, city or town may assess a fee for processing an application requesting the exemption provided by this section. No property shall be eligible for such partial exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

E. Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

(1993, c. 157; 1994, cc. 424, 435.)

§ 58.1-3221. Partial exemption for certain rehabilitated, renovated or replacement commercial or industrial structures.

A. The governing body of any county, city or town may, by ordinance, provide for the partial exemption from taxation of real estate on which any structure or other improvement no less than twenty years of age, or fifteen years of age if the structure is located in an area designated as an enterprise zone by the Commonwealth, has undergone substantial rehabilitation, renovation or replacement for commercial or industrial use, subject to such conditions as the ordinance may prescribe. The ordinance may, in addition to any other restrictions hereinafter provided, restrict such exemptions to real property located within described zones or districts whose boundaries shall be determined by the governing body. The governing body of a county, city or town may establish criteria for determining whether real estate qualifies for the partial exemption authorized by this provision and may require the structure to be older than twenty years of age, or fifteen years of age if the structure is located in an area designated as an enterprise zone by the Commonwealth, or place such other restrictions and conditions on such property as may be prescribed by ordinance. Such ordinance may also provide for the partial exemption from taxation of real estate which has been substantially rehabilitated by complete replacement for commercial and industrial use. Such replacement structures may exceed the total square footage of the replaced structures by no more than 110 percent in areas designated as enterprise zones by the Commonwealth, and by no more than 100 percent in all other areas.

B. The partial exemption provided by the local governing body may not exceed an amount equal to the increase in assessed value resulting from the rehabilitation, renovation or replacement of the commercial or industrial structure as determined by the commissioner of revenue or other local assessing officer or an amount up to fifty percent of the cost of rehabilitation, renovation or replacement as determined by ordinance. The exemption may commence upon completion of the rehabilitation, renovation or replacement, or on January 1 of the year following completion of the rehabilitation, renovation or replacement and shall run with the real estate for a period of no longer than fifteen years. The governing body of a county, city or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

D. The governing body of any county, city or town may assess a fee not to exceed fifty dollars for processing an application requesting the exemption provided by this section. No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

E. Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic landmark.

(Code 1950, § 58-760.3; 1979, c. 195; 1980, c. 417; 1984, c. 675; 1986, c. 271; 1989, c. 89; 1994, cc. 424, 435, 608; 1995, c. 673.)

Annotations

Applied in *DKM Richmond Assocs. v. City of Richmond*, 249 Va. 401, 457 S.E.2d 76 (1995).

WEST'S FLORIDA STATUTES ANNOTATED
TITLE XI. COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS
CHAPTER 163. INTERGOVERNMENTAL PROGRAMS
PART III. COMMUNITY REDEVELOPMENT

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Current through End of 1997 1st Reg. Sess.

163.340. Definitions

The following terms, wherever used or referred to in this part, have the following meanings:

(1) "Agency" or "community redevelopment agency" means a public agency created by, or designated pursuant to, s. 163.356 or s. 163.357.

(2) "Public body" or "taxing authority" means the state or any county, municipality, authority, special district as defined in s. 165.031(5), or other public body of the state, except a school district.

(3) "Governing body" means the council or other legislative body charged with governing the county or municipality.

(4) "Mayor" means the mayor of a municipality or, for a county, the chair of the board of county commissioners or such other officer as may be constituted by law to act as the executive head of such municipality or county.

(5) "Clerk" means the clerk or other official of the county or municipality who is the custodian of the official records of such county or municipality.

(6) "Federal Government" includes the United States or any agency or instrumentality, corporate or otherwise, of the United States.

(7) "Slum area" means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence: inadequate provision for ventilation, light, air, sanitation, or open spaces; high density of population and overcrowding; the existence of conditions which endanger life or property by fire or other causes; or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or welfare.

(8) "Blighted area" means either:

(a) An area in which there are a substantial number of slum, deteriorated, or deteriorating structures and conditions which endanger life or property by fire or other causes or one or more of the following factors which substantially impairs or arrests the sound growth of a county or municipality and is a menace to the public health, safety, morals, or welfare in its present condition and use:

1. Predominance of defective or inadequate street layout;
2. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
3. Unsanitary or unsafe conditions;
4. Deterioration of site or other improvements.

5. Tax or special assessment delinquency exceeding the fair value of the land; and

6. Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or

(b) An area in which there exists faulty or inadequate street layout; inadequate parking facilities; or roadways, bridges, or public transportation facilities incapable of handling the volume of traffic flow into or through the area, either at present or following proposed construction.

However, for purposes of qualifying for the tax credits authorized in chapter 220, "blighted area" means an area described in paragraph (2).

(9) "Community redevelopment" or "redevelopment" means undertakings, activities, or projects of a county, municipality, or community redevelopment agency in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight or for the provision of affordable housing, whether for rent or for sale, to residents of low or moderate income, including the elderly, and may include slum clearance and redevelopment in a community redevelopment area or rehabilitation or conservation in a community redevelopment area, or any combination or part thereof, in accordance with a community redevelopment plan and may include the preparation of such a plan.

(10) "Community redevelopment area" means a slum area, a blighted area, or an area in which there is a shortage of housing that is affordable to residents of low or moderate income, including the elderly, or a combination thereof which the governing body designates as appropriate for community redevelopment.

(11) "Community redevelopment plan" means a plan, as it exists from time to time, for a community redevelopment area.

(12) "Related activities" means:

(a) Planning work for the preparation of a general neighborhood redevelopment plan or for the preparation or completion of a communitywide plan or program pursuant to s. 163.365.

(b) The functions related to the acquisition and disposal of real property pursuant to s. 163.370(3)

(c) The development of affordable housing for residents of the area.

(13) "Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith and every estate, interest, right, and use, legal or equitable, therein, including but not limited to terms for years and liens by way of judgment, mortgage, or otherwise.

(14) "Bonds" means any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures, or other obligations.

(15) "Obligee" means and includes any bondholder, agents or trustees for any bondholders, or lessor demising to the county or municipality property used in connection with community redevelopment, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the county or municipality

(16) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic and includes any trustee, receiver, assignee, or other person acting in a similar representative capacity

(17) "Area of operation" means, for a county, the area within the boundaries of the county, and for a municipality, the area within the corporate limits of the municipality.

(18) "Housing authority" means a housing authority created by and established pursuant to chapter 421.

(19) "Board" or "commission" means a board, commission, department, division, office, body or other unit of the county or municipality.

(20) "Public officer" means any officer who is in charge of any department or branch of the government of the county or municipality relating to health, fire, building regulations, or other activities concerning dwellings in the county or municipality.

(21) "Debt service millage" means any millage levied pursuant to s. 12, Art. VII of the State Constitution.

(22) "Increment revenue" means the amount calculated pursuant to s. 163.387(1).

CR01

CREDIT(S)

1997 Electronic Pocket Part Update

CR01 Amended by Laws 1991, c. 91-45, § 33. Laws 1993, c. 93-286, § 1, eff. July 1, 1993; Laws 1994, c. 94-236, § 1, eff. July 1, 1994; Laws 1995, c. 95-147, § 1447, eff. July 10, 1995.

<<For additional credits, if any, see Historical Note field.>>

HISTORICAL AND STATUTORY NOTES

1990 Main Volume

Derivation:

Laws 1987, c. 87-243, § 72.

Laws 1985, c. 85-180, § 83.

Laws 1984, c. 84-356, §§ 2, 22.

Laws 1983, c. 83-321, § 3.

Laws 1981, c. 81-44, § 1.

Laws 1977, c. 77-391, § 1.

Laws 1969, c. 69-305, § 3.

West's F. S. A. § 163.340

FL ST § 163.340

END OF DOCUMENT

WEST'S FLORIDA STATUTES ANNOTATED
TITLE XI. COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS
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Current through End of 1997 1st Reg. Sess.

163.345. Encouragement of private enterprise

(1) Any county or municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this part, shall afford maximum opportunity, consistent with the sound needs of the county or municipality as a whole, to the rehabilitation or redevelopment of the community redevelopment area by private enterprise. Any county or municipality shall give consideration to this objective in exercising its powers under this part, including the formulation of a workable program; the approval of community redevelopment plans, communitywide plans or programs for community redevelopment, and general neighborhood redevelopment plans (consistent with the general plan of the county or municipality); the exercise of its zoning powers; the enforcement of other laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements; the development of affordable housing; the disposition of any property acquired; and the provision of necessary public improvements.

(2) In giving consideration to the objectives outlined in subsection (1), the county or municipality shall consider making available the incentives provided under the Florida Enterprise Zone Act [FN1] and chapter 420.

CR01

[FN1] Redesignated the Florida Enterprise Zone Act of 1994 by Laws 1994, c. 94-136, § 16.

CREDIT(S)

1997 Electronic Pocket Part Update

CR01 Amended by Laws 1994, c. 94-236, § 2, eff. July 1, 1994.

<<For additional credits, if any, see Historical Note field.>>

HISTORICAL AND STATUTORY NOTES

1990 Main Volume

Derivation:

Laws 1983, c. 83-231, § 4.

Laws 1969, c. 69-305, § 4.

West's F. S. A. § 163.345

FL ST § 163.345

END OF DOCUMENT

WEST'S FLORIDA STATUTES ANNOTATED
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163.350. Workable program

Any county or municipality for the purposes of this part may formulate for the county or municipality a workable program for utilizing appropriate private and public resources to eliminate and prevent the development or spread of slums and urban blight, to encourage needed community rehabilitation, to provide for the redevelopment of slum and blighted areas, to provide housing affordable to residents of low or moderate income, including the elderly, or to undertake such of the aforesaid activities or other feasible county or municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include provision for the prevention of the spread of blight into areas of the county or municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements, encouraging voluntary rehabilitation, and compelling the repair and rehabilitation of deteriorated or deteriorating structures; the development of affordable housing; and the clearance and redevelopment of slum and blighted areas or portions thereof.

CR01

CREDIT(S)

1997 Electronic Pocket Part Update

CR01 Amended by Laws 1994, c. 94-236, § 3, eff. July 1, 1994.

<<For additional credits, if any, see Historical Note field.>>

HISTORICAL AND STATUTORY NOTES

1990 Main Volume

Derivation:

Laws 1984, c. 84-356, § 3.

Laws 1969, c. 69-305, § 5.

West's F. S. A. § 163.350

FL ST § 163.350

END OF DOCUMENT

WEST'S FLORIDA STATUTES ANNOTATED
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163.355. Finding of necessity by county or municipality

No county or municipality shall exercise the authority conferred by this part until after the governing body has adopted a resolution finding that:

(1) One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist in such county or municipality; and

(2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.

CR01

CREDIT(S)

1997 Electronic Pocket Part Update

CR01 Amended by Laws 1994, c. 94-236, § 4, eff. July 1, 1994.

<<For additional credits, if any, see Historical Note field.>>

HISTORICAL AND STATUTORY NOTES

1990 Main Volume

Derivation:

Laws 1984, c. 84-356, § 4.

Laws 1969, c. 69-305, § 6.

West's F. S. A. § 163.355

FL ST § 163.355

END OF DOCUMENT

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

otherwise disposed of for the effectuation of any of the purposes of this article to:

(a) any person, firm or corporation designated by the agency and approved by the governing body or, in a city having a population of one million or more, by the mayor, as a qualified and eligible sponsor in accordance with established rules and procedures prescribed by the agency, provided that: (i) the agency has published, in at least one newspaper of general circulation in the municipality at least ten days prior to such sale, lease or other disposition, a notice which shall include a project summary of the proposed urban development action area project and such notice shall be in the form and manner prescribed by the agency; (ii) such proposed sponsor agrees to pay the minimum price or rental fixed by the agency for such **real property**; (iii) such proposed sponsor matches any bid higher than such minimum price or rental; and (iv) such sale, lease or other disposition requires effectuation of the urban development action area project within a definite and reasonable period of time; or

(b) any person, firm or corporation designated by the agency as a qualified and eligible sponsor in accordance with established rules and procedures prescribed by the agency without public auction or sealed bids, provided that (i) the price or rental to be paid by such sponsor for such **property** and all other essential terms and conditions of such sale, lease or other disposition shall be included in the notice published by the agency pursuant to subparagraph (i) of paragraph (a) of this subdivision, (ii) such sale, lease or other disposition requires the effectuation of an urban development action area project with a definite and reasonable period of time, and (iii) that such sale, lease or other disposition be approved by the governing body or, in any city having a population of one million or more, by the mayor, after a public hearing held not less than ten days after the publication of such notice.

3. A municipality may not transfer pursuant to this article any interest in any municipally owned area to any person, firm or corporation constituting (i) any former owner in fee of all or part of the **real property** in which such interest is sought to be transferred or of any other **real property** which was acquired by the municipality through **real property tax** or other lien enforcement proceedings; (ii) any spouse of such a former owner; (iii) any business entity substantially controlled by such a former owner; or (iv) any successor in interest to such a former owner, except a purchaser from such successor in interest in good faith and for value. The municipality shall require an affidavit from each person, firm or corporation to whom it proposes to sell or lease an interest in any such municipally owned area certifying that the proposed sale or lease does not violate the provisions of this subdivision. Any deed, lease, or instrument which transfers an interest in any such municipally owned area in violation of this subdivision shall be voidable by the municipality, provided that a subsequent bona fide holder of an interest in the **real property**, whether as purchaser, lessee, or mortgagee shall not be affected by this subdivision three.

4. Any lease of **real property** and appurtenances thereto for a period in excess of one year including any renewals or options to renew or for a total rental may be made only upon a written appraisal of the market value thereof verified by an appraiser with at least five years experience appraising **real property**, made within a period of sixty days prior to the authorization to enter into such lease given by the governing body or, in any city having a population of one million or more, by the mayor, and filed in the office of that body or officer and made available for public examination and copying at least thirty days before such authorization. Any sale of **real property** and appurtenances thereto shall be made only upon a written appraisal of the value thereof by an appraiser with at least five years experience appraising **real property**, made within six months prior to the authorization of such sale or other disposition by the governing body or, in any city having a population of one million or more, by the mayor, and filed in the office of that body or officer and made available for public examination and copying at least thirty days before such authorization.

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
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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-ccc 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 materia.s.

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 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 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 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

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 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

(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:

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

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

(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.

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)

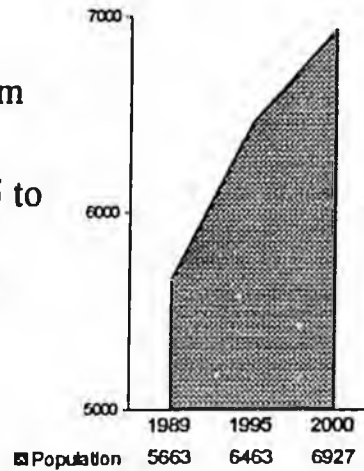
[Go back](#) [Home Page](#)

Elder Housing in Alaska: The Current and Future Status

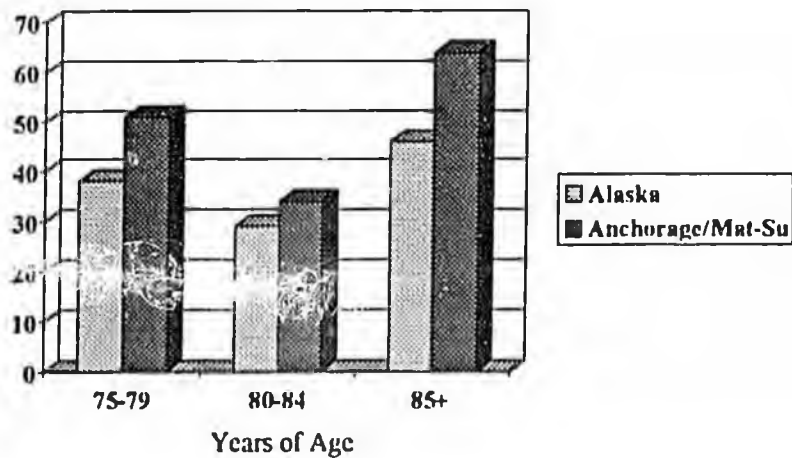
David Paschane, Director

Elder Population in Western U.S. with Future Projections

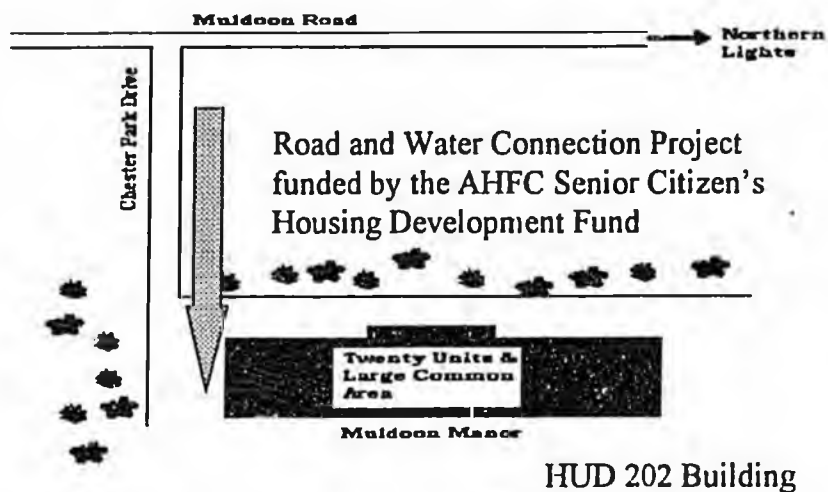
- An increase of 14% from 1989 to 1995.
- 23% increase among 75 to 84 year olds.
- 25% increase among 85 years old and older.



Percent of Elder Population Increase from 1990 to 1995



Muldoon Manor: Housing for Low-income Elderly



The Alaska Legislature Supported Muldoon Manor in 1997

- The 1997 Budget allocated funds to Elder Services Incorporated for road and water construction to the HUD housing project.
 - ESI was restricted to one grant by HUD.
 - We reapplied as AEF, received AHFC approval, and now wait the reappropriation of the funds for this project.
-

Alaska Evangelistic Fellowship
• *Elder Services, Inc*
• *Anchorage Senior Living, Inc*

2020 Muldoon Road
Anchorage, AK 99504

April 13, 1998

Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Legislator:

In the 1997 Alaska State budget, Elder Services Incorporated (ESI) was allocated funds via an AHFC grant for a road and water construction project to improve a low-income elderly housing facility called Muldoon Manor.

Due to restrictions made on ESI by the HUD grant financing the construction of Muldoon Manor, we were unable to receive both the AHFC grant and the HUD grant. Since the AHFC funds were not yet released, we made an interim construction loan, began construction, and reapplied for the AHFC grant under our sponsoring name, Alaska Evangelistic Fellowship (AEF). Initially, this caused some confusion with AHFC, however we have resolved this and they now support our receiving these funds for the project.

We now need your support in having the AHFC funds reapportioned from ESI to AEF in this current budget. Please help us in this reapportionment, as we believe the leadership of this state is also working on behalf of the older Alaskans that we seek to house

Sincerely,

David Paschane
Director



Work: 561-4276
Home: 279-0116

Elder Housing in Alaska: Strategic Geographical Planning for Quality Care

David Paschane

Rapid increases in elderly population can produce significant demands on the tertiary sectors of the economy. Well planned, quality services in housing and health care must be supplied within geographical locations that also provide access to dependable transportation and quality-of-life resources. Alaska, more than other parts of the United States, has experienced tremendous growth in the elderly population, while at the same time, the supply of appropriate services remains limited. Current improvements in this specific market indicate new opportunities for those elderly who may require a variety of service options as self-care and mobility decreases over time.

The Alaskan elderly population is growing more rapidly than the market can support with current facilities (Fidelity Appraisal, 1996). One reason for the supply gap is that the elderly population has specific needs that are primarily based on types of housing facilities and their proximity to health care assistance. Despite the variety of names used to describe housing facilities, there are five basic types. For the upper-middle income retirees, in good health, the retirement community, as a mini city, is a popular choice. Another choice for those with the ability to live independently is congregated housing where many amenities are typically provided. A third choice, and one with the most rapid market growth, is assisted living facilities for those elderly who need some daily assistance, but not full-time skilled nursing care. A less popular choice with the general public, is the continuing care facility where an elderly person receives a living unit and on site medical services for their entire life. Although this option offers a sense of security to the consumer, the risk of failure in the market is higher due the exaggerated costs. Lastly, there is the option of skilled nursing facilities where residents receive 24-hour medical attention, often necessary for the oldest segment of

the elderly population. There are two important variables in selecting from any of these options: (1) cost of housing, especially as it may change with potential changes in service needs, and (2) single person needs versus the needs of a couple who may have mutually unique needs over time. These options of housing in the market is an important topic, given that housing and health care services for the elderly are in high demand, inevitable for most people, and easily misunderstood by the younger segments of the general population.

As of 1996, the State of Alaska has seventy-three licensed assisted living homes with a total of 1,053 beds. The assisted living service is the most demanded option because of the flexibility in its range of services to the elderly population (Fidelity Appraisal, 1996). The total supply of assisted living beds for the Anchorage area is 282 and most facilities have waiting lists for potential residents. An often overlooked issue in providing facilities to the elderly, is organizing an agglomerated core of services that will provide for the varying needs of this population over time. There are limited options for those who may wish to live in independent housing while having the opportunity for themselves or a spouse to access more intense nursing care within the same proximity. The economic rents for many senior services are also magnified by proximity to urban centers. This population often requires convenient access to medical, recreational, and social services often located in urban areas, while the relative greater costs make it almost impossible to afford such housing for some elderly. One advantage for Anchorage is that these services are centrally located, but the cost of land is relatively less expensive than other urban centers. There is also the advantage to the seniors of having the surrounding esthetic appeal of mountains and recreational areas. Overall,

Anchorage offers some advantages for increasing this market; however, there are some potential limitations that require further attention as market development continues.

When planning senior services, important spatial variations in land should also be considered. The site attributes should meet specific transportation and accessibility requirements, have reasonable proximity to local services, and be zoned for future expansions of housing/care facilities. The location should be within the limits of accessing highly demanded resources in the community (e.g., hospital care); and, at the same time, not located in high crime rate areas. To varying degrees, this is the case for the facilities located in Anchorage. In addition, the management of such services also requires an experienced, highly trained labor force with the technological expertise for servicing the multiple needs of their consumers. This has been one of the criticisms of some of the established services in Anchorage (Fidelity Appraisal, 1996). Although the labor resources are likely to be concentrated in agglomeration areas those areas the size of Anchorage may lack technical expertise because of limited experience with competition and current operation procedures.

One solution to these problems has been to plan a conveniently located, new campus, with multiple choice, elderly housing facilities, and have it managed by a team organized and trained by an experienced Oregon-based company. The new design involves expanding the range of residential options so that seniors can live on one campus that provides separate facilities for congregated housing, subsidized independent living, and assisted living (M. Marlow, personal communications, November 10, 1997). However, much of the decision making on such services is based on the external environment, especially at the macro level. Societal views fluctuate

regarding elder care services and associated costs in any community. Even within the elderly population, there are conflicting views regarding the appropriateness of closely located, but extensively different facilities (W. Metzger, personal communications, October 5, 1997). For example, those that can afford congregated housing may not want to live close to those living in financially subsidized housing. Another example may be that neither type of independent living residents may want to live near those with more serious disabilities. If this is the case, it is ironic, given the likelihood that any elderly person may, at anytime, need one of these options. The most significant case of external effects is the regulatory demands made by the government on the whole spectrum of services, their funding, and their integrations with medicare. As this new operation of services begins in Alaska, it will contend with these geographic and economic problems within the local market and the ever-changing global market.

The Alaska economic base is tied tightly into the global world economy through oil, seafood, and timber prices, and this may have serious effects on the local elder services market in the future. One method of responding to a highly dependent local economic structure is to promote flexible and innovative services. Such an approach can help any facility survive the economic cycles that may impact market demands. Unfortunately, not all facilities are planned with these global market issues in mind. The new campus project, mentioned herein, has followed this model by increasing the scope of services so they can provide facilities that range from independent cooperative living to assisted living. The entire plan is to allow for flexibility so that as people's needs change over time, their opportunity to access other services is available within the same proximity (i.e., campus). Such centrally located services for the elderly also require

product differentiation; that is, the residents may demand access to a variety of services within the campus area (e.g., restaurant, beauty salon, craft studio) and this has been the unique case for this particular project. The same project includes a management team that has also encouraged flexibility throughout their operations. All employees are involved in screening operation defects in order to meet needs quickly and effectively. The result of such management is a tighter organization with greater autonomy among the labor. By increasing flexibility, facilities for the elderly can maintain a high level of appropriate care and services for their consumers, while adjusting to changes in the local and global economy.

The global market of services, for the elderly, is also effected by changes in population growth. Geographical comparisons of elderly population growth would suggest that this is also a potential effect in the Anchorage Borough, Alaska, and the whole United States. These many changes may benefit Alaska, if it is able to attract a significant share of the market. Alaska offers some interesting features that manage to attract millions of visitors who may also decide to stay if the living and care services for the elderly are competitive with other locations. Furthermore, as young families settle in Alaska, the elderly extended family members may also wish to look for long-term arrangements in Alaska. Among the more-developed countries, the United States is expecting one of the highest increases in elderly population by the year 2000 (U.S. Department of Commerce, 1991a). This trend of increased longevity, among these countries, has been consistent over the last 40 years and is attributed to some of the more efficient plans for health care services (Murray & Chen, 1993). Table 1 illustrates the ranking of these nations by their projected increases. In 1991, the United States

had one of the smaller proportions of population over 60 years old (17%). The largest proportion was in Sweden (23%) and the lowest were in Poland, Soviet Union, and Yugoslavia (15% each). The proportion of elderly population living alone varies widely among these nations, with the lowest in Japan (9%) and the highest in Sweden (40%). The United States is about average in its proportion living alone (30%), but even this is high given the complexity of needs that are presented with such living arrangements later in life. The numbers and proportions of elderly living alone have risen sharply during the past thirty years in North America (U.S. Department of Commerce, 1991a). Among women, one reason for living alone is that they tend to outlive men and be younger than their spouses.

Data, specific to Alaska, suggests a rapid increase in the elderly population. Table 2 depicts the changes that have occurred in the United States and in the Western region among the elderly. Although the growth in the younger elderly is slower (3.2% in the U.S. and 8.0% in the West), the 75 to 84 age group and the 85-plus age group have experienced rapid increases in the United States (14.2% and 19.3% respectively) and in the West (22.6% and 25.4% respectively). These rapid increases would suggest a potential growing market for elder services in these geographical areas. Even more precisely to Alaskan interests, are the data presented in Table 3. The changes in elderly population for Alaska and the Municipality of Anchorage/Matanuska-Susitna Borough (MOA/Mat-Su) display similar increases in the older year segments of the elderly population. In planning for these changes, one must also consider those data that describe self-care abilities, limitations in mobility, and poverty status among the elderly population. Table 4 includes such data for the United States, Alaska, and the

MOA/Mat-Su. Among the 65 to 74 age elderly, a greater proportion in the overall United States (4.1%) is limited in self-care and mobility than the same age group in Alaska (3.5%). However, the greatest proportions are evident in the MOA/Mat-Su (4.9%) and this area has a larger proportion of the same conditions among the 75-plus age group. If Anchorage is one of those locations that can offer the best in long-term care, proximity to services, and ease of travel, for the elderly, it will most likely attract a large share of the growing global market. Intense public debate has transpired over problems of social security costs and health care provision in the United States; however, this is less of a concern in the MOA/Mat-Su where the poverty status among the elderly is more manageable (4.7%) than the state of Alaska (7.3%) or the overall United States (12.1%).

As average life expectancy increases throughout the world, the quality-of-life for the elderly becomes an increasingly important issue. The public costs of care for this population is closely linked to the extent to which a longer life is a healthy life, rather than one characterized by chronic illness or disability. If the market demand is met with the necessary flexible consumer options, then problems associated with facilities not matching consumer needs can be avoided. Another strategy that is likely to improve this industry is developing more research on the quality-of-life provided via these facilities. Quality-of-life assessment has evolved into potentially beneficial methods of adjusting health care services (Chubon, 1987). If quality-of-life is improved, the industry remains more stable and secure within a changing market. Additionally, local policy can also help maintain this industry through improving relationships between labor (e.g., nursing care), business management, advocates for the elderly, and government. To

further develop this industry, local government can encourage new services by providing land and capital incentives to those projects that include subsidized services or housing. Together, the local government and the industry can help promote the geographical place (i.e., Anchorage) by attracting consumers through marketing the amenities of the location and the quality of services. In sum, strategic health planning of elder care is limited in Alaska and there is an increasing need for its development and support.

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U.S. Department of Commerce. (1991b). Statistical Abstract of the United States. Washington, DC: Author.

U.S. Department of Commerce. (1996). Statistical Abstract of the United States. Washington, DC: Author.

Table 1. Global Senior Population (over 60 years) Statistics for Projected Increase, 1991 Proportions, and Living Alone by More-Developed Countries

Country	% Increase by 2000	% of Pop. in 1991	% Living Alone
Canada	102	16	28
Australia	99	16	26
Yugoslavia	82	15	--
Japan	80	17	9
Poland	77	15	--
New Zealand	74	16	26
Netherlands	74	18	31
United States	69	17	30
Romania	63	16	--
Luxembourg	63	19	--
Finland	60	19	33
Switzerland	59	20	27
Czechoslovakia	57	17	32
Ireland	56	16	20
Soviet Union	53	15	--
Germany	48	21	39
France	45	19	33
Spain	44	19	14
Portugal	43	19	18
Hungary	41	19	25
Italy	40	21	25
Denmark	39	20	38
Greece	39	21	15
Austria	37	21	31
Belgium	36	21	32
Bulgaria	34	19	--
Norway	33	21	--
United Kingdom	33	21	30
Sweden	28	23	40

Note: Data are from Global Aging, U.S. Department of Commerce (1991). The United Nations defines more-developed country status.

Table 2. United States Senior Population per Age Group for 1989, 1995 and 2000 by Geographical Areas with Change in Percent

Age		U.S.	Δ	West	Δ
65-74	1989	18,182		3,397	
	1995	18,759	3.17%	3,670	8.04%
75-84	1989	9,761		1,738	
	1995	11,145	14.18%	2,131	22.61%
85+	1989	3,042		528	
	1995	3,628	19.26%	662	25.38%
Total	1989	30,985		5,663	
	1995	33,532	8.22%	6,463	14.13%
	2000	35,324	5.34%	6,927	7.18%

Note: Data are from Statistical Abstract of the United States, U.S. Department of Commerce (1991 & 1996). Data counts are for every thousand.

Table 3. Alaska Senior Population per Age Group for 1990 and 1995 by Geographical Areas with Change in Percent

Age		Alaska	Δ	MOA/Mat-Su	Δ
60-64	1990	12,813		6,180	
	1995	13,064	1.95%	6,471	4.71%
65-69	1990	9,499		4,585	
	1995	10,521	10.76%	5,069	10.56%
70-74	1990	5,892		2,640	
	1995	8,420	42.91%	4,123	56.17%
75-79	1990	3,590		1,510	
	1995	4,942	37.66%	2,281	51.06%
80-84	1990	1,914		804	
	1995	2,463	28.68%	1,077	33.96%
85+	1990	1,200		457	
	1995	1,750	45.83%	749	63.89%
Total	1990	34,908		16,176	
	1995	41,160	17.91%	19,770	22.22%

Note: Data are from Alaska Population Overview, 1995 Estimates, Alaska Department of Labor, State of Alaska (1996). Municipality of Anchorage and the Matanuska-Susitna Borough are abbreviated as MOA/Mat-Su.

Table 4. Selected Statistical Data on Senior Populations for 1990 by Geographical Areas

Age	U.S.	Alaska	MOA/Mat-Su
65-74			
Limited in Self Care & Mobility	4.07%	3.50%	4.90%
75+			
Limited in Self Care & Mobility	10.16%	11.87%	14.22%
65+			
Poverty Status	12.12%	7.25%	4.71%

Note: Data are from Market Analysis of Chester Park Assisted Living Facility, Anchorage Alaska, Fidelity Appraisal, Inc. (1996). Municipality of Anchorage and the Matanuska-Susitna Borough are abbreviated as MOA/Mat-Su.

DAVID M. PASCHANE
REGIONAL HEALTH PLANNING

1407 Kinnikinnick Drive
Anchorage, Alaska 99508

Home: 907-279-0116
Work: 907-561-4276

Education:

M.S., Behavioral and Organizational Research, University of Alaska Anchorage, 1998.
Thesis: *The function of geographical adjustment in limited transmission diseases.*

B.S. *cum laude*, Psychology, George Fox College, 1992.
Senior Paper: *Identifying a group at risk: Boredom proneness of Kenyan adolescents*

Related Work Experience:

Research Associate / Lead Intervention Counselor, IVDU Project, Alaska, Jan. 1994 – May 1998
Researcher / Facilitator, Anchorage Healthy Futures Project, Alaska, Oct. 1995 – Oct. 1997
Director, Alaska senior housing boards, Jan. 1996 – Aug. 1998
Research Assistant, Oasis Counseling Center, Nairobi, Kenya, Dec. 1991 - May 1992
Medical Spec. / Administration Spec., U. S. Army National Guard, Nov. 1986 - May 1993

Recent Honors:

1996 First Place Paper, Award for Excellence, U. S. DHHS
1996 First Place Paper, Alaska Psychological Association Award

Selected Research Examples:

Fisher, Fenaughty, Paschane, Paschane, Cagle, Orr. Hepatitis C virus infection among Alaskan drug users. *American Journal of Public Health*, 87 (10):1722-1724, 1997.

Paschane. Global variability of substance abuse: Is latitude a unique etiological factor? *International Journal of Circumpolar Health*, in press.

Paschane, Cagle, Fenaughty, Fisher. Gender differences in risk factors for gonorrhoea among Alaskan drug users. *Drugs & Society*, 13 (1/2):119-132, 1998. *Women and Substance Abuse* (ed: Stevens & Wexler). West Hazleton, PA: Hawthorn Press, 1988.

Paschane, Cagle, Fenaughty, Fisher. Drug use, sexually transmitted diseases, and sex-related risk behaviors in Alaska. *Bringing Excellence to Substance Abuse Services in Rural and Frontier America*, Center for Substance Abuse Treatment's Technical Assistance Publication No. 20, DHHS, 1997.

Paschane, Cagle, Fisher. Cocaine smokers and injection drug users in Alaska. What distinguishes Native Americans from Non-Native Americans? *Arctic Medical Research*, in press.

Paschane, Fisher, Cagle, Fenaughty. Gonorrhoea among drug users: An Alaskan versus a national sample. *American Journal of Drug and Alcohol Abuse*, 24 (2): 285-297, 1998.

Starlings, Paschane, Fisher, Fenaughty, Rowe. Public school substance abuse policies: Endorsement-execution profiles as measures of efficacy. *National Forum of Applied Educational Research Journal*, 11E (3), 1998.

HB

411

Revision Date: _____ Dept. Affected: Revenue
 Title: Local Option for Winery License BRU: Alcoholic Beverage Control Board
 Component: Alcoholic Beverage Control Board
 Sponsor: Representative Austerman
 Requestor: (H) L & C COMPONENT SERIAL NO. 100

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

HB411 allows a community to vote on an additional choice under a local option vote. If this bill is enacted communities would be able to prohibit sales of alcoholic beverages, except by a winery. This option was available prior to 1995. However, when the local option law was clarified and streamlined options not commonly used, like the winery only choice, were deleted. It is not clear why that option was eliminated in 1995.

Prepared by: Douglas B. Griffin
 Division: Alcoholic Beverage Control Board
 Approved by Commissioner: Wilson L. Condon *Pass to Kenney*
 Agency: Department of Revenue

Phone: 277-8633
 Date: March 4, 1998
 Date: March 4, 1998

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SENATE COMMITTEE REPORT

DATE: 4/17/98

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 4-28-98

Labor and Commerce Committee considered

CS FOR HOUSE BILL NO. 411(FIN)

"An Act relating to issuance of a winery license in a local option area."

and recommends:

- be replaced with _____ CS _____ (_____)
- 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	DY	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
		<i>[Signature]</i>	x		
CHAIR:		CHAIR: <i>[Signature]</i>	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>Revenue - Asc Board</i>	<i>3/18/98</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT - CSHB 411(FIN)

Revised March 23, 1998

This legislation adds a winery licensee under AS 04.11.491(a)(2) and (b)(2). Additionally, it adds a winery licensee with an additional stipulation prohibiting sales to only persons licensed under this title or in another state or country.

By adding this language, an individual could seek a local-option election in any city to ban liquor licenses except a winery, as would be allowed under this amended statute.

When the statute is amended and a local-option election held, the individual would then apply for their winery license and agree to have the Alaska Alcoholic Beverage Control Board (ABC Board) ban retail sales under the license in that particular city. The ABC Board has the authority to impose limitations on licenses as per AS 04.11.395.

The individual would then have the privilege of selling to persons/entities holding a valid Alaska liquor license. This small change will create many business opportunities, while preserving the integrity of alcohol control.

Continued economic development is essential in our village communities if they are to further their goals of self-sufficiency. The State of Alaska needs to persist in expanding opportunities for the establishment of production and marketing cooperatives.

Author: SLTHOMSEN@aol.com at CC2MHS1
Date: 2/13/98 6:36 AM
Priority: Normal
TO: Representative Alan Austerman at LAA_TRANS
CC: Cliff Stone at LAA_TRANS
Subject: Re: Winery License-AS04.11.491
Dear Representative Austerman,

As you know, my wife and I want to start a winery, Alaskan Wilderness Wines, here in Port Lions. Our goal is to create employment for ourselves and income opportunities for others. With low salmon prices, a depressed timber market, and limited alternate job opportunities within the community, new economic development is needed. We propose to produce both berry and agricultural wines using raw materials purchased from local pickers and growers. Developing an organic berry supply has great potential, as Seldovia Tribal Cache has shown. Utilizing renewable natural resources makes good sense.

All of the businesses we've contacted in Kodiak and the mainland are eager to retail the product when it becomes available. Interested establishments include: Alyeska Prince Hotel, O'Malley's on the Green, Kodiak Inn, Buskin River Inn, and the Shelikoff Lodge, just to name a few. We believe that the tourist industry here in Alaska would benefit from such a product. A "bush" facility would also fulfill the "Alaskan mystique" tourists are looking for.

In order to produce the wine here in Port Lions, as well as other similar communities, the proposed addition to Alaska Statutes is needed. Out of concern for our community, we have requested that the State Alcohol Board limit our winery license, if granted, to sale of alcoholic beverages to licensed holders only. We want to provide economic support without liquor sales, which would alleviate the concerns of some community members.

Thank you for your continued support and consideration.

Sincerely,

Steve & Lisa Thomsen

Effect of amendments. — The 1995 amendment, effective July 1, 1995, rewrote subsection (a).

NOTES TO DECISIONS

Protest upheld. — City's protest that a proposed liquor store location was too close to a senior citizens housing complex and was in an area which already contained a high concentration of bars was not arbitrary, capricious, and unreasonable. *Stoltz v. City of Fairbanks*, 703 P.2d 1155 (Alaska 1985).

Former law construed. — See *In re Alaska Labor Trades Ass'n*, 10 Alaska 472 (1945); *In re Wakefield*, 10 Alaska 599 (1945); *In re Kaye*, 11 Alaska 556 (1948); *In re Martin's Retail Liquor License No. 1517*, 15 Alaska 225 (1954).

Sec. 04.11.490. Prohibition of the sale of alcoholic beverages. [Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.491. Local options. (a) If a majority of the persons voting on the question vote to approve the option, a municipality shall adopt a local option to prohibit

(1) the sale of alcoholic beverages;
 (2) the sale of alcoholic beverages except by one or more of the following listed on the ballot:

(A) a restaurant or eating place licensee;
 (B) a beverage dispensary licensee;
 (C) a package store licensee; or
 (D) a caterer holding a permit under AS 04.11.230 to sell alcoholic beverages at a site within the municipality who is also licensed under a beverage dispensary license for premises outside of the municipality;

(3) the sale of alcoholic beverages except on premises operated by the municipality and under a type of licensed premises listed on the ballot, that may include one or more of the following:

(A) a restaurant or eating place license;
 (B) a beverage dispensary license; or
 (C) a package store license;
 (4) the sale and importation of alcoholic beverages; or
 (5) the sale, importation, and possession of alcoholic beverages.

(b) If a majority of the persons voting on the question vote to approve the option, an established village shall exercise a local option to prohibit

(1) the sale of alcoholic beverages;
 (2) the sale of alcoholic beverages except by one or more of the following listed on the ballot:

(A) a restaurant or eating place licensee;
 (B) a beverage dispensary licensee;
 (C) a package store licensee; or
 (D) a caterer holding a permit under AS 04.11.230 to sell alcoholic beverages at a site within the established village who is also licensed under a beverage dispensary license for premises outside of the established village;

(3) the sale and importation of alcoholic beverages; or
 (4) the sale, importation, and possession of alcoholic beverages.

(c) A ballot question to adopt a local option under this section must at least contain language substantially similar to: "Shall (name of municipality or village) adopt a local option to prohibit (local option under (a) or (b) of this section)? (yes or no)."

(d) The ballot for an election on the option set out in (a)(2)(A), (a)(3)(A), or (b)(2)(A) of this section must include a summary explanation of the authority to sell alcoholic beverages given to a restaurant or eating place under AS 04.11.100(a). The ballot for an election on the option set out in (a)(2)(B) or (D), (a)(3)(B), or (b)(2)(B) or (D) of this section must include a statement that a beverage dispensary license is commonly known as a

Collateral references. — 45 Am. Jur. 2d, Intoxicating Liquors, § 148.
43 C.J.S., Intoxicating Liquors, § 106.

Sec. 04.11.395. Board imposed conditions or restrictions. The board may, in the best interests of the public, impose conditions or restrictions on a license or permit issued under this chapter. (§ 18 ch 101 SLA 1995)

Effective dates. — Section 79, ch. 101, SLA 1995 makes this section effective July 1, 1995.

Sec. 04.11.400. Population limitations. (a) Except as provided in (d) — (h) of this section, a new license may not be issued and the board may prohibit relocation of an existing license

(1) outside an established village, incorporated city, unified municipality, or organized borough if after the issuance or relocation there would be (A) more than one restaurant or eating place license for each 1,500 population or fraction of that population, or (B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population, in a radius of five miles of the licensed premises, excluding the populations of established villages, incorporated cities, unified municipalities, and organized boroughs that are wholly or partly included within the radius;

(2) inside an established village, incorporated city, or unified municipality if after the issuance or relocation there would be inside the established village, incorporated city, or unified municipality

(A) more than one restaurant or eating place license for each 1,500 population or fraction of that population; or

(B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population;

(3) inside an organized borough but outside an established village or incorporated city located within the borough, if after the issuance or relocation there would be inside the borough, but outside the established villages and incorporated cities located within the borough,

(A) more than one restaurant or eating place license for each 1,500 population or fraction of that population; or

(B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population excluding the population of those established villages that have adopted a local option under AS 04.11.491(b)(1), (3), or (4), and excluding the population of incorporated cities located within the organized borough.

(b) If the radius described in (a)(1) of this section encompasses all of an established village, incorporated city, or unified municipality and the population resident inside and outside the established village, incorporated city, or unified municipality but inside the radius described in (a)(1) of the section is less than 3,000, the board may deny the issuance or relocation of the license.

(c) *[Repealed, § 88 ch 74 SLA 1985.]*

(d) The board may approve the issuance or transfer of ownership of a beverage dispensary or restaurant or eating place license without regard to (a) of this section if it appears that the issuance or transfer will encourage the tourist trade by encouraging the construction or improvement of

(1) a hotel, motel, resort, or similar business relating to the tourist trade with a dining facility or having kitchen facilities in a majority of its rental rooms and at least a minimum number of rental rooms required according to the population of the established village, incorporated city, unified municipality, or population area established under (a) of this section in which the facility will be located, as follows:

A 10 rental rooms if the population is less than 1,501;

tion or ordinance has
s or ordinances that
SLA 1980)

limitations. Queen of N.,
4 Alaska 1978), decided

of intoxicating liquors,
5.

issued to a specific
partnership, or to a
tered agent of the

on a common carrier,
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the registered office
of the board. (§ 2 ch

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which a license is

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others, a beverage
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restaurant or eating
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corporation.
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holding a legal or
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a business licensed
am § 4 ch 136 SLA

Revisor's notes. — Subsection (f) was formerly (c)
and subsections (c)(e) were formerly (d)-(f).
Relettered in 1994.
Effect of amendments. — The 1996 amendment.

effective October 1, 1996, in subsection (b), inserted
", a restaurant or eating place license," in the first
sentence and added the last sentence.

NOTES TO DECISIONS

Editor's notes. — The cases cited in the notes
below were decided under former AS 04.10.180 and
earlier statutes.

The purpose of financial interest statute was to
prevent evasion of the liquor control statutes and
regulations through the creation of hidden financial
interests in liquor businesses unknown to the regula-
tory authorities or to the public. It helped insure that
all persons with any financial interest in such busi-
nesses were answerable to the ABC Board. Barton v.
Lund, 563 P.2d 875 (Alaska 1977).

Interest, "direct or indirect," in a thing is held to
embrace a legal or equitable interest. In re Martin's
Retail Liquor License No. 1517, 15 Alaska 225 (1954).

Application to clubs. — The provisions of former
section applied to clubs as well as to all other persons
who might have or apply for any of the numerous
types of licenses authorized to be issued by law. In re
Alaska Labor Trades Ass'n, 10 Alaska 472 (1945).

Interest of manager in business prohibited. —
Where the business affairs of the club, including the
purchase and keeping and sale to members of liquor,

are so inextricably intermingled with those of the
manager of the club, the manager has an interest in
the business and a license may not be lawfully issued.
In re Alaska Labor Trades Ass'n, 10 Alaska 472 (1945).

This section was not controlling where the
party had a security interest, as opposed to a financial
interest, in the license Gibson v. Alaska ABC Bd., 377
F. Supp. 151 (D. Alaska 1974).

Statement of financial interest required. — A
statement regarding financial interest of any other
person in the business was required to be made by
former AS 04.10.190, concerning the filing, form, and
contents of an application, under the doctrine of
"contemporaneous construction of the law." In re Mar-
tin's Retail Liquor License No. 1517, 15 Alaska 171
(1954).

Revocation of license for false statement. — A
false statement in an application for a liquor license
that the applicant was the only person interested was
held so material to its issuance as to warrant revoca-
tion. In re Martin's Retail Liquor License No. 1517, 15
Alaska 171 (1954).

Collateral references. — 45 Am. Jur. 2d, Intoxi-
cating Liquors, § 123.

Sec. 04.11.460. Prior public approval. (a) A new license or the transfer of location
of an existing license may not be approved by the board in an area outside but within 50
miles of the boundaries of a municipality unless a petition asking that the license be
issued or transferred within the area containing signatures of a majority of the
permanent residents residing within one mile of the proposed premises is filed with the
board.

(b) A license may not be issued in an area that is 50 miles or more from the boundaries
of a municipality unless a petition asking that the license be issued within the area
containing the signatures of two-thirds of the permanent residents residing within a
radius of five miles of the United States post office station nearest to the proposed
licensed premises, is filed with the board. If there are two or more United States post
office stations in the vicinity of the proposed licensed premises, the nearest to the
premises constitutes the point of beginning under this subsection. If there is no United
States post office station within a radius of five miles of the proposed licensed premises,
the applicant must obtain the signatures of two-thirds of the permanent residents
residing within a five mile radius of the proposed licensed premises. A petition is not
required for the renewal of a license issued in accordance with this subsection unless
specifically required by the board.

(c) In this section, "permanent resident" means a person 21 years of age or older who
has established a permanent place of abode. (§ 2 ch 131 SLA 1980; am § 3 ch 109 SLA
1983)

Revisor's notes. — In 1980, (b) of this section was
rearranged for clarity.

Collateral references. — 45 Am. Jur. 2d, Intoxi-
cating Liquors, § 155.

HB

451

FISCAL NOTE

Bill Version: CSHB 451 (L&C)

(H) Publish Date: 4/6/98

STATE OF ALASKA 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____ Dept. Affected Law
 Title An Act relating to assistive technology devices BRU Civil Division
and mobility aids for physically disabled persons Component Fair Business Practices
 Sponsor Representative Green
 Requester House Labor and Commerce Component Serial No. 2206

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 451 adds a new Article to Title 45, Chapter 45 (Trade Practices) relating to warranties for assistive technology devices and mobility aids. The bill requires assistive technology devices and mobility aids be covered by an express warranty stating that the device or aid is free from any condition or defect that substantially impairs the use, value, or safety of the device or aid. The new Article further delineates the terms of repair and or refunds when the device or aid does not conform to the warranty.

This bill will have no fiscal impact on the Department of Law.

Prepared by Jan M. Kasson *Jan M. Kasson*
 Division Attorney General's Office
 Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date 2/10/98
 Date 2/10/98

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SENATE COMMITTEE REPORT

DATE: 4/20/98

FURTHER:

DATE TURNED
IN TO OFFICE: 4-28-98

Labor and Commerce Committee considered

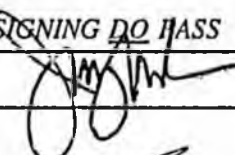
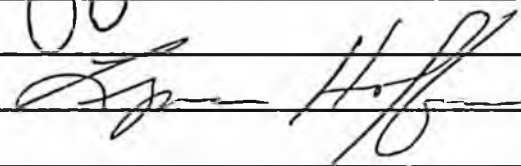
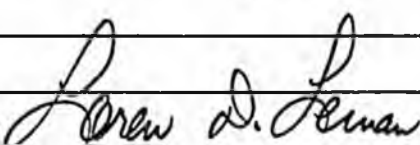
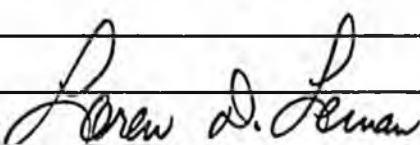
CS FOR HOUSE BILL NO. 451(JUD)

"An Act relating to assistive technology devices and mobility aids for physically disabled persons."

and recommends:

- be replaced with _____ CS _____ (_____)
- 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
	✓				
					
	✓				
CHAIR: 		CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
Law - Civil Div. S.M.	4/6/98	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Alaska State Legislature

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CHAIRMAN, JUDICIARY COMMITTEE
VICE CHAIRMAN, HEALTH, EDUCATION
& SOCIAL SERVICES COMMITTEE
MEMBER, RESOURCES COMMITTEE
FINANCE SUBCOMMITTEE
COMMERCE & ECONOMIC
DEVELOPMENT
ALASKA COURT SYSTEM

Representative Joe Green
District 10

Sponsor Statement

HB 451 - Warranties for Assistive Technology and Mobility Aids

HB 451 establishes an express warranty for technology designed to assist physically disabled persons. Under the terms of the bill, if a consumer reports a nonconformity to a manufacturer within a year of delivery, the manufacturer must repair or replace the equipment, or offer a refund of the purchase price.

Assistive technology and mobility aids for the physically disabled are not covered by "lemon laws" and consumer protection statutes in title 45. The automobile lemon law in chapter 45 makes no mention of wheel chairs. Similarly, the Unfair Trade Practices and Consumer Protection Act, found in chapter 50, makes no mention of assistive equipment. Yet, 11 states have passed such laws, and others are considering doing so.

Non-working assistive equipment can be not only inconvenient, but dangerous. Many of us have experienced the frustration of dealing with a non-responsive salesperson far from Alaska; imagine doing so without the benefit of the equipment you depend upon to communicate, or get around. When people lose their mobility, or ability to communicate, they may not be aware of, or may not be able to remove themselves from, dangerous situations. Assistive technology allows the physically disabled to operate in a manner most of us take for granted.

I ask for your support in enacting a law that affords basic protection to a group of consumers who already face obstacles unimagined by most of us.