

S 6366-A PADAVAN,,,,,,,,,,,,, Same as [A 11586](#) Rules (Silver)
ON FILE: 06/06/08 Real Property Tax Law
TITLE....Relates to tax abatements for industrial and commercial work on properties in a city with a population of one million or more
06/18/07 REFERRED TO RULES
01/09/08 REFERRED TO CITIES
06/04/08 AMEND AND RECOMMIT TO CITIES
06/04/08 PRINT NUMBER 6366A
06/19/08 COMMITTEE DISCHARGED AND COMMITTED TO RULES
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06/19/08 PASSED SENATE
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06/19/08 referred to ways and means
06/24/08 substituted for a11586
06/24/08 ordered to third reading rules cal.763
06/24/08 passed assembly
06/24/08 returned to senate
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A11586 Rules (Silver) Same as [S 6366-A](#)
PADAVAN
Real Property Tax Law
TITLE....Relates to tax abatements for industrial and commercial work on properties in N.Y. city
Currently on Assembly Committee Agenda
Ways and Means (FARRELL)
OFF THE FLOOR, Monday, June 23, 2008
06/13/08 referred to ways and means
06/23/08 reported referred to rules
06/24/08 reported
06/24/08 rules report cal.763
06/24/08 substituted by s6366a
S06366 PADAVAN AMEND=A
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PADAVAN, GOLDEN, LANZA, MALTESE

Add Art 4 Title 2-F SS489-aaaaaa - 489-kkkkkk, RPT L

Relates to tax abatements for industrial and commercial work on properties in a city with a population of one million or more; establishes the eligibility for benefits; provides for the application process for such benefits; defines incentive areas as well as exclusion areas; establishes penalties for non-compliance, false statements, and omissions.

STATE OF NEW YORK

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2007-2008 Regular Sessions

IN SENATE

June 18, 2007

Introduced by Sens. PADAVAN, GOLDEN, LANZA, MALTESE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Cities in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to tax abatement for industrial and commercial work on properties in a city of one million or more persons

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 4 of the real property tax law is amended by adding
2 a new title 2-F to read as follows:

TITLE 2-F

ABATEMENT OF TAX PAYMENTS FOR CERTAIN INDUSTRIAL AND
COMMERCIAL

PROPERTIES IN A CITY OF ONE MILLION OR MORE PERSONS

7 Section 489-aaaaaa. Definitions.

8 489-bbbbbbb. Power to enact local law; industrial and commercial
9 real property tax abatement.

10 489-cccccc. Eligibility for benefits.

11 489-dddddd. Applying for benefits.

12 489-eeeeee. Reporting requirement.

13 489-ffffff. Conversion of property.

14 489-gggggg. Temporary commercial incentive area boundary commis-
15 sion; designation of special commercial abatement
16 areas; excluded and renovation areas.

17 489-hhhhhh. Administration of the benefit program.

18 489-iiiiii. Code violations; suspension, termination or revoca-
19 tion of benefits.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD13884-03-8

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1 489-jjjjjj. Penalties for non-compliance, false statements and
2 omissions.

3 489-kkkkkk. Participation of minority and women-owned business
4 enterprises.

5 § 489-aaaaaa. Definitions. When used in this title:

6 1. "Commercial construction work" means the construction of a new
7 building or structure or the modernization, rehabilitation, expansion or
8 improvement of an existing building or structure for use as commercial
9 property.

10 2. "Commercial exclusion area" means an area as defined in subdivision

11 four of section four hundred eighty-nine-gggggg of this title.

12 3. "Commercial property" means nonresidential property on which will
13 exist after completion of commercial construction work a building or
14 structure, or portion thereof, used for the buying, selling or otherwise
15 providing of goods or services including hotel services, or for other
16 lawful business, commercial or manufacturing activities; provided that
17 property or portions of property dedicated to utility property shall not
18 be considered commercial property for purposes of this title.

19 4. "Commissioner" means the commissioner of finance of a city that has
20 enacted a local law pursuant to this title.

21 5. "Completion of construction," or "completion," when relating to new
22 construction, means the earlier of the date on which the department of
23 buildings of a city that has enacted a local law pursuant to this title
24 issues a final certificate of occupancy, or when the department of
25 finance has otherwise determined that construction is complete.

26 6. "Department" means the department of finance of a city that has
27 enacted a local law pursuant to this title.

28 7. "Industrial construction work" means the construction of a new
29 building or structure or the modernization, rehabilitation, expansion or
30 improvement of an existing building or structure for use as industrial
31 property.

32 8. "Industrial property" means nonresidential property on which will
33 exist after completion of industrial construction work a building or
34 structure, or portion thereof, with at least seventy-five percent of the
35 total net square footage of the property used or immediately available
36 and held out for manufacturing activities involving assembling goods or
37 the fabrication or processing of raw materials; provided that property
38 or portions of property dedicated to utility property shall not be
39 considered industrial property for purposes of this title.

40 9. "Manufacturing activity" means an activity involving the assembly
41 of goods or the fabrication or processing of raw materials, but shall
42 not include: (a) such activity when conducted for the purpose of retail
43 sale on the premises; or (b) utility services.

44 10. "Minimum required expenditure" means the amount that an applicant
45 must expend on construction work for a project in order to qualify for
46 benefits as provided in this title.

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

50 12. "Renovation construction work" means the modernization, rehabili-
51 tation, expansion or improvement of an existing building or structure
52 where such modernization, rehabilitation, expansion or improvement is
53 physically and functionally integrated with the existing building or
54 structure, or portion thereof, does not increase the bulk of the exist-
55 ing building or structure by more than thirty percent, and does not

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1 increase the height of the existing building or structure by more than
2 thirty percent.

3 13. "Residential construction work" means any construction, moderniza-
4 tion, rehabilitation, expansion or improvement of dwelling units other
5 than dwelling units in a hotel.

6 14. "Restricted activity" means any entertainment activity that the
7 department has identified in rules promulgated pursuant to a local law
8 enacted pursuant to this title as an activity which, in the public
9 interest, should not be encouraged through the benefits of this title.

10 15. "Retail purposes" means any activity that consists predominately
11 of (a) the final sale of tangible personal property or services by a
12 vendor as defined in section eleven hundred one of the tax law, (b) the
13 sale of services that generally involve the physical, mental, and/or
14 spiritual care of individuals or the physical care of the personal prop-
15 erty of individuals, (c) retail banking services, or (d) the final sale
16 of food and/or beverage by a vendor as defined in section eleven hundred

17 one of the tax law, including the assembly, processing or packaging of
18 goods, provided that sales of such tangible personal property or
19 services are predominantly to purchasers who personally visit the facil-
20 ities at which such sales are made or such property and services are
21 provided . "Retail purposes" shall not include hotel uses as described
22 in subdivision four of section four hundred eighty-nine-cccccc of this
23 title.

24 16. "Temporary commercial incentive area boundary commission" means a
25 commission as defined in section four hundred eighty-nine-gggggg of this
26 title.

27 17. "Utility property" means property and equipment as described in
28 paragraphs (c), (d), (e), (f) and (i) of subdivision twelve of section
29 one hundred two of this chapter that is used in the ordinary course of
30 business by its owner or any other entity or property as described in
31 paragraphs (a) and (b) of subdivision twelve of section one hundred two
32 of this chapter that is owned by any entity that uses in the ordinary
33 course of business property and equipment as described in paragraphs
34 (c), (d), (e), (f) and (i) of subdivision twelve of section one hundred
35 two of this chapter, without regard to the classification of such prop-
36 erty and equipment for real property tax purposes pursuant to section
37 eighteen hundred two of this chapter, except that any such property and
38 equipment used solely to serve the building to which they are attached
39 shall not be deemed utility property.

40 § 489-bbbbbb. Power to enact local law; industrial and commercial real
41 property tax abatement. 1. Authority to enact local law. Any city having
42 a population of one million or more, acting through its local legisla-
43 tive body, is authorized and empowered to determine that incentives in
44 the form of abatement of real property taxes are necessary to encourage
45 industrial and commercial development in such city and to enact a local
46 law providing that such benefits shall be provided in the manner set
47 forth in this title.

48 2. Amount of abatement base. (a) Calculation of abatement base. Except
49 as provided in paragraph (e) of subdivision three of this section, the
50 abatement base used to determine the amount of the abatement provided
51 under this title shall be the amount by which the post-completion tax on
52 a building or structure exceeds one hundred fifteen percent of the
53 initial tax levied on a building or structure.

54 (b) Initial tax on building or structure. (i) Determination of initial
55 tax. The initial tax shall be determined by multiplying the final taxa-
56 ble assessed value, without regard to any exemptions, shown on the

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1 assessment roll with a taxable status date immediately preceding the
2 issuance of the first building permit by the initial tax rate. For
3 purposes of this subdivision, the initial tax rate shall be the final
4 tax rate applicable to the assessment roll with a taxable status date
5 immediately preceding the issuance of the first building permit. If no
6 permit was required, the initial tax and the initial tax rate shall be
7 determined based on the assessment roll with a taxable status date imme-
8 diately preceding the commencement of construction.

9 (ii) Effect of tax lot apportionment or merger. For a property as to
10 which an applicant has applied for benefits pursuant to this title, if
11 such property is apportioned or merged and such apportionment or merger
12 is not reflected in the assessment roll described in subparagraph (i) of
13 this paragraph, the initial tax for the newly created tax lot or lots
14 shall be based on the initial tax of the lot or lots from which they
15 have been created, which shall be apportioned among the newly created
16 tax lot or lots in the manner established by the department for purposes
17 of assessed valuation of real property.

18 (c) Post-completion tax on building or structure. For purposes of
19 calculating the abatement base only, the post-completion tax is deter-
20 mined by multiplying the initial tax rate by the final taxable assessed
21 value, without regard to any exemptions, that would be shown on the

22 assessment roll but for the abatement, on the assessment roll with a
23 taxable status date immediately following the earlier of:

- 24 (i) completion of construction; or
25 (ii) four years from the date of issuance of the first building
26 permit, or if no permit was required, the commencement of construction.

27 (d) (i) If the taxable assessed value is later reduced by a court
28 order or application to the tax commission, then the initial tax or the
29 post-completion tax shall be the tax as reduced.

30 (ii) The taxable assessed value used for the calculations in this
31 subdivision shall be the lower of the actual and transitional value as
32 provided in subdivision three of section eighteen hundred five of this
33 chapter.

34 (e) Mixed-use property. For a mixed-use property, the initial tax and
35 post-completion tax shall be apportioned between the residential and
36 nonresidential portions. The department may promulgate rules to deter-
37 mine the method of apportionment.

38 (f) Initial taxes not to be reduced by abatement. Except as provided
39 in paragraph (e) of subdivision three of this section, the abatement
40 provided under this title shall not be applicable in any year of the
41 benefit period to the initial tax or to the tax on the portion of the
42 assessment attributable to land. Additionally, the abatement shall not
43 result in any credit or refund of real property taxes.

44 3. Industrial and commercial abatements. (a) Abatement for commercial
45 construction work. Upon approval by the department of a final applica-
46 tion for benefits, an applicant who has performed commercial
47 construction work outside of a special commercial abatement area, as
48 designated pursuant to subdivision two of section four hundred eighty-
49 nine-gggggg of this title, or a renovation area, as defined by subdivi-
50 sion three of section four hundred eighty-nine-gggggg of this title,
51 shall be eligible for an abatement of real property taxes, as follows:

52 (i) Amount of abatement. The first year of the abatement shall be the
53 tax year with the first taxable status date that follows the sooner of
54 (A) completion of construction; or (B) four years from the date the
55 first building permit was issued, or if no permit was required, the
56 commencement of construction. For years one through eleven, the abate-

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1 ment shall be the amount of the abatement base. For years twelve through
2 fifteen, the abatement shall decrease by twenty percent each year. The
3 following table illustrates the abatement computation:

<u>Tax year during benefit period:</u>	<u>Amount of abatement:</u>
<u>Years 1 through 11</u>	<u>100% of abatement base</u>
<u>12</u>	<u>80% of abatement base</u>
<u>13</u>	<u>60% of abatement base</u>
<u>14</u>	<u>40% of abatement base</u>
<u>15</u>	<u>20% of abatement base</u>

10 (ii) Minimum required expenditure. For commercial construction work,
11 the minimum required expenditure is thirty percent of the property's
12 taxable assessed value in the tax year with a taxable status date imme-
13 diately preceding the issuance of the first building permit, or if no
14 permit was required, the commencement of construction. Expenditures for
15 residential construction work or construction work on portions of prop-
16 erty to be used for restricted activities shall not be included in the
17 minimum required expenditure.

18 (b) Abatement for industrial construction work or commercial
19 construction work in special commercial abatement areas on buildings
20 where not more than ten percent of the building or structure is used for
21 retail purposes. Upon approval by the department of a final application
22 for benefits, an applicant who has performed industrial construction
23 work in any area, where not more than ten percent of the building or
24 structure on which such work has been performed is used for retail
25 purposes, or commercial construction work in a special commercial abate-
26 ment area, as designated pursuant to subdivision two of section four

27 hundred eighty-nine-gggggg of this title, where not more than ten
28 percent of the building or structure on which such work has been
29 performed is used for retail purposes, shall be eligible for an abate-
30 ment of real property taxes, as follows:

31 (i) Amount of abatement. The first year of the abatement shall be the
32 tax year with the first taxable status date that follows the sooner of
33 (A) completion of construction; or (B) four years from the date the
34 first building permit was issued, or if no permit was required, the
35 commencement of construction. For years one through sixteen, the abate-
36 ment shall be the amount of the abatement base. The abatement shall be
37 adjusted for inflation protection as provided in subparagraph (ii) of
38 this paragraph. For years seventeen through twenty-five, the abatement
39 shall decrease by ten percent each year. The following table illustrates
40 the abatement computation:

<u>Tax year during benefit period:</u>	<u>Amount of abatement:</u>
<u>Years 1 through 16</u>	<u>100% of abatement base</u>
<u>17</u>	<u>90% of abatement base</u>
<u>18</u>	<u>80% of abatement base</u>
<u>19</u>	<u>70% of abatement base</u>
<u>20</u>	<u>60% of abatement base</u>
<u>21</u>	<u>50% of abatement base</u>
<u>22</u>	<u>40% of abatement base</u>
<u>23</u>	<u>30% of abatement base</u>
<u>24</u>	<u>20% of abatement base</u>
<u>25</u>	<u>10% of abatement base</u>

52 (ii) Inflation protection. (A) Industrial construction work. (I)
53 Effect of assessed valuation increases. For years two through thirteen
54 of the benefit period, except as provided in item (II) of this clause,
55 if there is any increase in tax in that year that is based on an
56 increase of taxable assessed valuation since the immediately prior tax
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1 year, such excess tax liability shall be added to the amount of the
2 abatement base. Such addition to the amount of the abatement base shall
3 be determined using the initial tax rate.

4 (II) Physical increases. Notwithstanding the provisions of item (I) of
5 this clause, if in any of years two through thirteen of the benefit
6 period, a physical change to the property results in an increase in the
7 taxable assessed value of the property of more than five percent for
8 that year, then any increase in taxes for that year shall not be added
9 to the amount of the abatement base in any year.

10 (III) If the taxable assessed value upon which an adjustment to the
11 abatement under this paragraph is based is later reduced by a court
12 order or application to the tax commission, then the appropriate adjust-
13 ment to the abatement base shall be made in accordance with the reduced
14 taxable assessed value.

15 (B) Commercial construction work in special commercial abatement areas
16 on buildings where not more than ten percent of the building or struc-
17 ture is used for retail purposes. (I) Effect of assessed valuation
18 increases. For years two through thirteen of the benefit period, except
19 as provided in item (II) of this clause, if there is any increase in tax
20 in that year that is based on an increase of taxable assessed valuation
21 since the immediately prior tax year that exceeds five percent, such
22 excess tax liability shall be added to the amount of the abatement base.
23 Such addition to the amount of the abatement base shall be determined
24 using the initial tax rate.

25 (II) Physical increases. Notwithstanding the provisions of item (I) of
26 this clause, if in any of years two through thirteen of the benefit
27 period, a physical change to the property results in an increase in the
28 taxable assessed value of the property of more than five percent for
29 that year, then any increase in taxes for that year shall not be added
30 to the amount of the abatement base in any year.

31 (III) If the taxable assessed value upon which an adjustment to the

32 abatement under this paragraph is based is later reduced by a court
33 order or application to the tax commission, then the appropriate adjust-
34 ment to the abatement base shall be made in accordance with the reduced
35 taxable assessed value.

36 (C) Mixed-use property. For a property as to which benefits are given
37 for both industrial and commercial construction, the inflation
38 protection provided under this subparagraph shall be based on the
39 predominant use of the property as determined by the department.

40 (iii) Minimum required expenditure. For industrial construction work
41 or commercial construction work in a special commercial abatement area,
42 the minimum required expenditure is thirty percent of the property's
43 taxable assessed value in the tax year with a taxable status date imme-
44 diately preceding the issuance of the first building permit, or if no
45 permit was required, the commencement of construction. Expenditures for
46 residential construction work or construction work on portions of prop-
47 erty to be used for restricted activities shall not be included in the
48 minimum required expenditure.

49 (c) Abatement for industrial construction work or commercial
50 construction work in special commercial abatement areas on buildings
51 where more than ten percent of the building or structure is used for
52 retail purposes. Upon approval by the department of a final application
53 for benefits, an applicant who has performed industrial construction
54 work in any area, where more than ten percent of the building or struc-
55 ture on which such work has been performed is used for retail purposes,
56 or commercial construction work in a special commercial abatement area,

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1 as designated pursuant to subdivision two of section four hundred eight-
2 y-nine-gggggg of this title, where more than ten percent of the building
3 or structure on which such work has been performed is used for retail
4 purposes, shall be eligible for an abatement of real property taxes on
5 the non-retail portion of such building or structure and up to ten
6 percent of such building or structure used for retail purposes, in
7 accordance with paragraph (b) of this subdivision, and shall be eligible
8 for an abatement of real property taxes on the remaining retail portion
9 of such building or structure, as follows:

10 (i) Amount of abatement. The first year of the abatement shall be the
11 tax year with the first taxable status date that follows the sooner of
12 (A) completion of construction; or (B) four years from the date the
13 first building permit was issued, or if no permit was required, the
14 commencement of construction. For years one through eleven, the abate-
15 ment shall be the amount of the abatement base. For years twelve through
16 fifteen, the abatement shall decrease by twenty percent each year. The
17 abatement shall be adjusted for inflation protection as provided in
18 subparagraph (ii) of this paragraph. The following table illustrates the
19 abatement computation:

<u>Tax year during benefit period:</u>	<u>Amount of abatement:</u>
<u>Years 1 through 11</u>	<u>100% of abatement base</u>
<u>12</u>	<u>80% of abatement base</u>
<u>13</u>	<u>60% of abatement base</u>
<u>14</u>	<u>40% of abatement base</u>
<u>15</u>	<u>20% of abatement base</u>

26 (ii) Inflation protection. (A) Industrial construction work. (I)
27 Effect of assessed valuation increases. For years two through thirteen
28 of the benefit period, except as provided in item (II) of this clause,
29 if there is any increase in tax in that year that is based on an
30 increase of taxable assessed valuation since the immediately prior tax
31 year, such excess tax liability shall be added to the amount of the
32 abatement base. Such addition to the amount of the abatement shall be
33 determined using the initial tax rate.

34 (II) Physical increases. Notwithstanding the provisions of item (I) of
35 this clause, if in any of years two through thirteen of the benefit
36 period, a physical change to the property results in an increase in the

37 taxable assessed value of the property of more than five percent for
38 that year, then any increase in taxes for that year shall not be added
39 to the amount of the abatement base in any year.

40 (III) If the taxable assessed value upon which an adjustment to the
41 abatement under this paragraph is based is later reduced by a court
42 order or application to the tax commission, then the appropriate adjust-
43 ment to the abatement base shall be made in accordance with the reduced
44 taxable assessed value.

45 (B) Commercial construction work in special commercial abatement areas
46 on buildings where more than ten percent of the building or structure is
47 used for retail purposes. (I) Effect of assessed valuation increases.
48 For years two through thirteen of the benefit period, except as provided
49 in item (II) of this clause, if there is any increase in tax in that
50 year that is based on an increase of taxable assessed valuation since
51 the immediately prior tax year that exceeds five percent, such excess
52 tax liability shall be added to the amount of the abatement base. Such
53 addition to the amount of the abatement base shall be determined using
54 the initial tax rate.

55 (II) Physical increases. Notwithstanding the provisions of item (I) of
56 this clause, if in any of years two through thirteen of the benefit

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1 period, a physical change to the property results in an increase in the
2 taxable assessed value of the property of more than five percent for
3 that year, then any increase in taxes for that year shall not be added
4 to the amount of the abatement base in any year.

5 (III) If the taxable assessed value upon which an adjustment to the
6 abatement under this paragraph is based is later reduced by a court
7 order or application to the tax commission, then the appropriate adjust-
8 ment to the abatement base shall be made in accordance with the reduced
9 taxable assessed value.

10 (C) Mixed-use property. For a property as to which benefits are given
11 for both industrial and commercial construction, the inflation
12 protection provided under this subparagraph shall be based on the
13 predominant use of the property as determined by the department.

14 (iii) Minimum required expenditure. For industrial construction work
15 or commercial construction work in a special commercial abatement area,
16 the minimum required expenditure is thirty percent of the property's
17 taxable assessed value in the tax year with a taxable status date imme-
18 diately preceding the issuance of the first building permit, or if no
19 permit was required, the commencement of construction. Expenditures for
20 residential construction work or construction work on portions of prop-
21 erty to be used for restricted activities shall not be included in the
22 minimum required expenditure.

23 (d) Abatement for renovation construction work in renovation areas.
24 Subject to the provisions of subparagraph (iii) of this paragraph, upon
25 approval by the department of a final application for benefits, an
26 applicant who has performed renovation construction work in a renovation
27 area, as defined by subdivision three of section four hundred eighty-
28 nine-gggggg of this title, shall be eligible for an abatement of real
29 property taxes, as follows:

30 (i) Amount of abatement. For the renovation areas defined in para-
31 graphs (a) and (b) of subdivision three of section four hundred eighty-
32 nine-gggggg of this title, the first year of the abatement shall be the
33 tax year with the first taxable status date that follows the sooner of
34 (A) completion of construction; or (B) four years from the date the
35 first building permit was issued, or if no permit was required, the
36 commencement of construction. For years one through eight, the abatement
37 shall be the amount of the abatement base. For years nine through
38 twelve, the abatement shall decrease by twenty percent each year. The
39 following table illustrates the abatement computation:

<u>Tax year during benefit period:</u>	<u>Amount of abatement:</u>
<u>Years 1 through 8</u>	<u>100% of abatement base</u>

42	<u>9</u>	<u>80% of abatement base</u>
43	<u>10</u>	<u>60% of abatement base</u>
44	<u>11</u>	<u>40% of abatement base</u>
45	<u>12</u>	<u>20% of abatement base</u>

46 (ii) Amount of abatement. For the renovation area defined in paragraph
 47 (c) of subdivision three of section four hundred eighty-nine-gggggg of
 48 this title, the first year of the abatement shall be the tax year with
 49 the first taxable status date that follows the sooner of (A) completion
 50 of construction; or (B) four years from the date the first building
 51 permit was issued, or if no permit was required, the commencement of
 52 construction. For years one through five, the abatement shall be the
 53 amount of the abatement base. For years six through nine, the abatement
 54 shall decrease by twenty percent each year. In year ten, the abatement
 55 shall be twenty percent of the abatement base. The following table
 56 illustrates the abatement computation:

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1	<u>Tax year during benefit period:</u>	<u>Amount of abatement:</u>
2	<u>Years 1 through 5</u>	<u>100% of abatement base</u>
3	<u>6</u>	<u>80% of abatement base</u>
4	<u>7</u>	<u>60% of abatement base</u>
5	<u>8</u>	<u>40% of abatement base</u>
6	<u>9</u>	<u>20% of abatement base</u>
7	<u>10</u>	<u>20% of abatement base</u>

8 (iii) If more than five percent of any building or structure upon
 9 which renovation construction work is performed is used for retail
 10 purposes, no abatement shall be granted for the retail portions of such
 11 building or structure in excess of five percent, but five percent of
 12 such building or structure used for retail purposes shall be eligible
 13 for an abatement of real property taxes in accordance with subparagraph
 14 (i) or subparagraph (ii) of this paragraph, as applicable; provided,
 15 however, that notwithstanding any other provision of this title, any
 16 building or structure located in the renovation area defined in para-
 17 graph (a) of subdivision three of section four hundred eighty-nine-
 18 gggggg of this title shall be eligible for an abatement in accordance
 19 with subparagraph (i) of this paragraph regardless of the amount of the
 20 building or structure used for retail purposes.

21 (iv) Minimum required expenditure. For renovation construction work in
 22 renovation areas, the minimum required expenditure is thirty percent of
 23 the property's taxable assessed value in the tax year with a taxable
 24 status date immediately preceding the issuance of the first building
 25 permit, or if no permit was required, the commencement of construction.
 26 Expenditures for construction work on portions of the property to be
 27 used for retail purposes that exceed five percent of the building or
 28 structure in renovation areas defined in paragraphs (b) and (c) of
 29 subdivision three of section four hundred eighty-nine-gggggg of this
 30 title, for residential construction work, or for construction work on
 31 portions of the property to be used for restricted activities, shall not
 32 be included in the minimum required expenditure.

33 (e) Additional industrial abatement. In addition to the abatement for
 34 industrial construction work provided in paragraph (b) of this subdivi-
 35 sion, an applicant who performs industrial construction work that meets
 36 the eligibility requirements set forth in this title shall be eligible
 37 for an additional abatement, calculated as a percentage of the initial
 38 tax, as follows:

39 (i) Amount of abatement. The first year of the abatement shall be the
 40 tax year with the first taxable status date that follows the sooner of
 41 (A) completion of construction; or (B) four years from the date the
 42 first building permit was issued, or if no permit was required, the
 43 commencement of construction. The amount of the additional industrial
 44 abatement shall be as follows:

45	<u>Tax year during benefit period:</u>	<u>Amount of additional abatement:</u>
46	<u>1 through 4</u>	<u>50% of the initial tax amount</u>

47	<u>5</u>	<u>40% of the initial tax amount</u>
48	<u>6</u>	<u>40% of the initial tax amount</u>
49	<u>7</u>	<u>30% of the initial tax amount</u>
50	<u>8</u>	<u>30% of the initial tax amount</u>
51	<u>9</u>	<u>20% of the initial tax amount</u>
52	<u>10</u>	<u>20% of the initial tax amount</u>
53	<u>11</u>	<u>10% of the initial tax amount</u>
54	<u>12</u>	<u>10% of the initial tax amount</u>

55 (ii) Minimum required expenditure. For the additional industrial
56 abatement, the minimum required expenditure is forty percent of the

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1 property's taxable assessed value in the tax year with a taxable status
2 date immediately preceding the issuance of the first building permit, or
3 if no permit was required, the commencement of construction. Expendi-
4 tures for residential construction work or construction work on portions
5 of property to be used for restricted activities shall not be included
6 in the minimum required expenditure.

7 (f) Abatement for commercial construction work on new construction in
8 certain areas of the borough of Manhattan. Notwithstanding any other
9 provision of law, upon approval by the department of a final application
10 for benefits, an applicant who has performed commercial construction
11 work on a new building or structure, in the geographical area as speci-
12 fied in subparagraph (iv) of this paragraph, shall be eligible for an
13 abatement of real property taxes, as follows:

14 (i) Amount of abatement. The first year of the abatement shall be the
15 tax year with the first taxable status date that follows the sooner of
16 (A) completion of construction; or (B) four years from the date the
17 first building permit was issued, or if no permit was required, the
18 commencement of construction. For years one through four, the abatement
19 shall be the amount of the abatement base. For years five through
20 eight, the abatement shall decrease by twenty percent each year. The
21 following table illustrates the abatement computation:

22	<u>Tax year during benefit period:</u>	<u>Amount of abatement:</u>
23	<u>Years 1 through 4</u>	<u>100% of abatement base</u>
24	<u>5</u>	<u>80% of abatement base</u>
25	<u>6</u>	<u>60% of abatement base</u>
26	<u>7</u>	<u>40% of abatement base</u>
27	<u>8</u>	<u>20% of abatement base</u>

28 (ii) Minimum required expenditure. The minimum required expenditure is
29 thirty percent of the property's taxable assessed value in the tax year
30 with a taxable status date immediately preceding the issuance of the
31 first building permit, or if no permit was required, the commencement of
32 construction. Expenditures for residential construction work or
33 construction work on portions of property to be used for restricted
34 activities shall not be included in the minimum required expenditure.

35 (iii) Special eligibility requirements. Notwithstanding any other
36 provision of this title, no benefits shall be granted pursuant to this
37 paragraph unless the building or structure meets the requirements of
38 clauses (A) and (B) of this subparagraph, and further meets at least two
39 of the requirements set forth in clauses (C) through (G) of this subpar-
40 agraph:

41 (A) The height of at least forty percent of the floors in such build-
42 ing or structure shall be not less than twelve feet, nine inches meas-
43 ured from the top of the slab comprising the floor to the bottom of the
44 slab comprising the ceiling;

45 (B) Such building or structure shall be served by fiber-optic telecom-
46 munications wiring and shall contain vertical penetrations for the
47 distribution of fiber optic cabling to individual tenants on each floor;

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

50 (D) A minimum of two hundred thousand gross square feet or twenty-five
51 per centum of such building or structure is comprised of floors of not

52 less than forty thousand gross square feet;
53 (E) At least ten per centum of the gross square footage of such build-
54 ing or structure is comprised of floors that contain no more than eight
55 structural columns, excluding any columns within the core or on the
56 periphery of such building or structure;

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

3 (G) Emergency backup power sufficient to accommodate a need of six
4 watts per net square foot is available in at least two hundred thousand
5 gross square feet or twenty-five per centum of such building or struc-
6 ture.

7 (iv) Geographical area. Abatements will only be granted for new
8 construction work pursuant to this paragraph in the following geograph-
9 ical area: the area in the borough of Manhattan bounded by Murray
10 Street on the north starting at the intersection of West Street and
11 Murray Street; running easterly along the center line of Murray Street;
12 connecting through City Hall Park with the center line of Frankfort
13 Street and running easterly along the center line of Frankfort and Dover
14 Streets to the intersection of Dover Street and South Street; running
15 southerly along the center line of South Street to Peter Minit Plaza;
16 connecting through Peter Minit Plaza to the center line of State Street
17 and running northwesterly along the center line of State Street to the
18 intersection of State Street and Battery Place; running westerly along
19 the center line of Battery Place to the intersection of Battery Place
20 and West Street; and running northerly along the center line of West
21 Street to the intersection of West Street and Murray Street, except the
22 area in the borough of Manhattan bounded by Church Street on the east
23 starting at the intersection of Liberty Street and Church Street;
24 running northerly along the center line of Church Street to the inter-
25 section of Church Street and Vesey Street; running westerly along the
26 center line of Vesey Street to the intersection of Vesey Street and West
27 Broadway; running northerly along the center line of West Broadway to
28 the intersection of West Broadway and Barclay Street; running westerly
29 along the center line of Barclay Street to the intersection of Barclay
30 Street and Washington Street; running southerly along the center line of
31 Washington Street to the intersection of Washington Street and Vesey
32 Street; running westerly along the center line of Vesey Street to the
33 intersection of Vesey Street and West Street; running southerly along
34 the center line of West Street to the intersection of West Street and
35 Liberty Street; and running easterly along the center line of Liberty
36 Street to the intersection of Liberty Street and Church Street.

37 4. Limitations on abatement. (a) Subsequent abatement. With respect to
38 any property that has received or is receiving abatement benefits under
39 this title, an applicant shall not file a preliminary application for
40 new abatement benefits under this title for an additional construction
41 project on the same portion of the property for which construction work
42 is the subject of abatement benefits under this title until at least
43 four years have elapsed since the first day of the first tax year of
44 such abatement benefits under the prior abatement, and, in the event
45 that such new benefits are granted, then notwithstanding any other
46 provision of this title or any other law, the initial tax for any such
47 new abatement will be determined without regard to the prior abatement
48 and any other abatement or exemption granted to the property.

49 (b) Abatement benefits granted under this title shall not in any year
50 exceed the real property taxes imposed on such property.

51 (c) Once an abatement is granted, no additional benefits pursuant to
52 this title shall be granted for construction work that is substantively
53 a part of eligible construction work for which benefits have been
54 approved or granted.

55 (d) No benefits shall be granted for residential construction work.

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1 (e) Any parcel partly located in an excluded area shall be deemed to
2 be entirely located in such area.

3 (f) Where a tax lot contains multiple structures or buildings with
4 eligible and non-eligible uses, the initial tax shall be apportioned
5 under rules promulgated by the commissioner and only the tax attribut-
6 able to the eligible portion of the property shall be abated.

7 (g) (i) No benefits under this title may be received by a property
8 that is concurrently receiving exemption or abatement of real property
9 taxes under any other law, except for an exemption under (A) section
10 four hundred twenty-a, four hundred twenty-b or four hundred
11 fifty-nine-b of this chapter; or (B) any section of this chapter as to
12 which a city that has enacted a local law pursuant to this title has
13 also enacted a local law to implement such exemption and as to which
14 exemption is granted only if the property is the primary or legal resi-
15 dence of one or more of the owners of the property, including such
16 sections in which exemption may be granted if an owner is absent from
17 the residence while receiving medical benefits; or (C) title two-D of
18 this article for a separate project involving separate parts of the
19 building or structure that was completed prior to the application for
20 benefits.

21 (ii) For purposes of this paragraph, "property" means the real proper-
22 ty contained by an individual tax lot.

23 (iii) Notwithstanding subparagraph (ii) of this paragraph, where a
24 property is owned in condominium form, and an application for benefits
25 under this title includes more than one tax lot in the same condominium,
26 then for purposes of this paragraph, "property" shall include any or all
27 such tax lots that are included in the application.

28 § 489-cccccc. Eligibility for benefits. 1. Time limit for meeting
29 minimum required expenditure. Applicants must meet the appropriate mini-
30 mum required expenditure as provided in subdivision three of section
31 four hundred eighty-nine-bbbbbb of this title relating to the abatement
32 for which such project qualifies as follows:

33 (a) No later than four years from the date of issuance of the first
34 building permit, or if no permit was required, the commencement of
35 construction.

36 (b) Mixed use properties. Expenditures for construction work related
37 to the common areas and systems of such property shall be allocated
38 under rules promulgated by the department between the residential,
39 nonresidential and retail, if any, portions of the property.

40 2. Time limit for completion of construction. Construction of build-
41 ings or structures for which benefits have been approved shall be
42 completed no later than five years from the date of issuance of the
43 first building permit, or if no permit was required, the commencement of
44 construction. Failure to meet this requirement shall result in termi-
45 nation of any inflation protection provided under subdivision three of
46 section four hundred eighty-nine-bbbbbb of this title for any tax year
47 that begins following the date by which completion of construction is
48 required under this paragraph.

49 3. Non-permissible uses. To be eligible for benefits, the property may
50 not be used for a non-permissible purpose. Accordingly, no abatement
51 benefits under this title shall be granted for work to be performed on
52 property to be used for the following purposes:

53 (a) Residential. No abatement benefits under this title shall be
54 granted for construction work for residential purposes, or for work on a
55 structure or building where twenty percent or more of the total rentable
56 square footage of such property is or will be dedicated to residential

1 purposes, provided however that where less than five percent of a prop-
2 erty's rentable square footage is or will be dedicated to residential
3 purposes, that use shall be considered de minimus and shall not be
4 considered in determining benefits under this title.

5 (i) For purposes of this paragraph, "property" means the real property
6 contained by an individual tax lot.

7 (ii) Notwithstanding subparagraph (i) of this paragraph, where a
8 building or structure is owned in condominium form, and an application
9 for benefits under this title includes more than one property in the
10 same condominium, then for purposes of this paragraph, the five percent
11 and twenty percent of the rentable square footage shall be determined
12 based on the aggregate usage of all such properties.

13 (iii) Hotel uses, as described in subdivision four of this section,
14 shall not be considered residential.

15 (b) Utility property. No abatement benefits under this title shall be
16 provided for utility property.

17 (c) Restricted activity. No benefits pursuant to this title shall be
18 granted for construction work on property any part of which is to be
19 used for a restricted activity.

20 4. Hotel uses. Benefits shall be available for commercial construction
21 work or renovation construction work on a building or structure for the
22 property's square footage used to provide lodging and support services
23 for transient guests.

24 5. Filing requirements. (a) Time to file. (i) Preliminary application.
25 (A) Building permit. No benefits pursuant to this title shall be granted
26 for any construction work unless the applicant filed a preliminary
27 application for such benefits on or before the date of issuance of the
28 first building permit for such work. This requirement may be satisfied
29 where the applicant's architect, contractor or other representative
30 authorized to file the application for such building permit files with
31 the department on behalf of the applicant a preliminary application
32 containing such information as the department shall prescribe by rule.

33 (B) No building permit required. Where construction work does not
34 require a building permit, a notarized letter from the project's archi-
35 tect or engineer notifying the department of this fact shall be filed
36 within thirty calendar days of the commencement of construction. In such
37 circumstance, such letter shall also satisfy the requirement of a
38 preliminary application if the letter contains all of the information
39 required for a preliminary application under rules prescribed by the
40 department.

41 (ii) Final application. Applicants shall file a final application for
42 benefits no later than one year from the date of issuance of the first
43 building permit for construction work, or, where construction work does
44 not require a building permit, no later than one year from the date of
45 commencement of construction.

46 (b) Who may file for benefits. An applicant shall be:

47 (i) obligated to pay real property tax on the property, either by
48 virtue of ownership or contract; or

49 (ii) the record owner or lessee of property that is exempt from real
50 property taxation who has entered into an agreement to sell or lease
51 such property to another person. Such applicant shall be a co-applicant
52 with such owner or lessee.

53 (c) Applicant affidavit. No benefits pursuant to this title shall be
54 granted for any construction work unless the applicant provides, togeth-
55 er with the final application, an affidavit setting forth the following
56 information:

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1 (i) a statement that within the seven years immediately preceding the
2 date of the preliminary application for benefits, neither the applicant,
3 nor any person owning a substantial interest in the property as defined
4 in subparagraph (iii) of this paragraph, nor any officer, director or
5 general partner of the applicant or such person was finally adjudicated
6 by a court of competent jurisdiction to have violated section two
7 hundred thirty-five of the real property law or any section of article
8 one hundred fifty of the penal law or any similar arson law of another
9 state with respect to any building, or was an officer, director or

10 general partner of a person at the time such person was finally adjudi-
11 cated to have violated such law; and

12 (ii) a statement setting forth any pending charges alleging violation
13 of section two hundred thirty-five of the real property law or any
14 section of article one hundred fifty of the penal law or any similar
15 arson law of another jurisdiction with respect to any building by the
16 applicant or any person owning a substantial interest in the property as
17 defined in subparagraph (iii) of this paragraph, or any officer, direc-
18 tor or general partner of the applicant or such person.

19 (iii) "Substantial interest" as used in this subdivision shall mean
20 ownership and control of an interest of ten percent or more in a proper-
21 ty or any person owning a property.

22 (iv) If any person described in the statement required by subparagraph
23 (ii) of this paragraph is finally adjudicated by a court of competent
24 jurisdiction to be guilty of any charge listed in such statement, the
25 recipient shall cease to be eligible for benefits pursuant to this title
26 and shall pay with interest any taxes for which an abatement was claimed
27 pursuant to this title.

28 6. Requirement to file income and expense statements. No benefits
29 pursuant to this title shall be granted for any property in a city that
30 requires income and expense statements to be filed for income producing
31 property, unless income and expense statements are filed for the proper-
32 ty with respect to the tax year as to which the assessment roll
33 described in paragraph (b) of subdivision two of section four hundred
34 eighty-nine-bbbbbb of this title applies, and all subsequent tax years
35 up to and including the tax year on which the assessment roll described
36 in paragraph (c) of subdivision two of section four hundred eighty-nine-
37 bbbbb of this title applies.

38 7. Co-application with public entity. A co-applicant with a public
39 entity may be eligible for abatement benefits, provided that for any
40 period for which the property is exempt from real property tax because
41 it is owned or controlled by a public entity, no benefits shall be
42 available to such recipient under this title. Such recipient may receive
43 benefits under this title when the property is no longer eligible for an
44 exemption as follows: (a) No benefits under this title shall be provided
45 during the period of exemption; (b) during such period of exemption, the
46 years of the benefit period applicable to the project provided in subdivi-
47 vision three of section four hundred eighty-nine-bbbbbb of this title
48 shall not be tolled, but shall run in accordance with the applicable
49 schedule provided therein; and (c) the recipient shall, starting with
50 the date the exemption ceases, and continuing until the abatement bene-
51 fit period expires, receive the abatement benefits to which such recipi-
52 ent is entitled in the tax year that corresponds to the year of the
53 benefit period provided in subdivision three of section four hundred
54 eighty-nine- bbbbbb of this title.

55 § 489-ddddd. Applying for benefits. 1. Application. (a) Application
56 for benefits pursuant to this title may be made immediately following

1 the effective date of a local law enacted pursuant to this title and
2 continuing until June thirtieth, two thousand thirteen.

3 (b) Application content. The preliminary and final applications shall
4 be in any format designated by the commissioner, including electronic
5 format. The applications shall require, and applicants shall provide,
6 information and documentation sufficient to determine eligibility for
7 abatement benefits. The required information and documentation for both
8 applications shall be prescribed by the department by rule. Such infor-
9 mation and documentation may include, but need not be limited to, certi-
10 fied statements related to the project, project costs, filings with
11 other governmental entities, and work performed or to be performed on
12 such project. At the department's sole discretion, an applicant may be
13 required to furnish certified statements made by the applicant's archi-
14 tect or engineer or both.

15 (c) Compliance. The application shall also state that the applicant
16 agrees to comply with and be subject to the rules issued from time to
17 time by the department to secure compliance with all applicable city,
18 state and federal laws or which implement mayoral directives and execu-
19 tive orders designed to ensure equal employment opportunity. If required
20 by local law or rule as described in section four hundred eighty-nine-
21 kkkkkk of this title, such application shall also state that the appli-
22 cant agrees to comply with the program established thereby to ensure
23 meaningful participation of minority and women-owned business enter-
24 prises in construction work for which the applicant receives benefits.

25 (d) Affidavit of no violations. No benefits pursuant to this title
26 shall be granted for any construction work unless the applicant shall
27 file with the application, the affidavit required under paragraph (c) of
28 subdivision five of section four hundred eighty-nine-cccccc of this
29 title.

30 (e) Electronic filing of application. The commissioner may, by rule,
31 require any application for benefits under this title to be submitted
32 electronically in such form and manner as the commissioner may deter-
33 mine. For good cause, the commissioner may waive any rule requiring
34 electronic filing and may permit an application to be filed in another
35 manner.

36 2. Fees. The department may provide by rule for reasonable administra-
37 tive charges or fees necessary to defray expenses in administering this
38 benefit program.

39 § 489-eeeeee. Reporting requirement. 1. Continuing use. For the dura-
40 tion of the benefit period, the recipient of benefits shall file bienni-
41 ally with the department, on or before the appropriate taxable status
42 date, a statement of the continuing use of such property and any changes
43 in use that have occurred. This statement shall be in a form determined
44 by the department and may be in any format the department determines, in
45 its discretion, is appropriate, including electronic format. The depart-
46 ment shall have authority to terminate such benefits upon failure of a
47 recipient to file such statement by the appropriate taxable status date.
48 The burden of proof shall be on the recipient to establish continuing
49 eligibility for benefits and the department shall have the authority to
50 require that statements filed under this subdivision be certified.

51 2. Conversion of construction. A recipient shall file an amendment to
52 the latest statement of continuing use prior to:

53 (a) converting square footage within property that is the subject of
54 benefits for industrial construction work from use for the manufacturing
55 activities described in such statement of continuing use where such
56 conversion would result in less than sixty-five percent of total net

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1 square footage being used or held out for use for manufacturing activ-
2 ities; or

3 (b) converting any portion of property that is the subject of benefits
4 for industrial construction work for use for any restricted activity or
5 as residential property.

6 (c) For all other use conversions, applicants shall immediately notify
7 the department of a change in use, in a manner that the department may
8 determine.

9 3. Minimum required expenditure. No later than sixty days after the
10 minimum required expenditure must be made under subdivision one of
11 section four hundred eighty-nine-cccccc of this title, the applicant
12 shall submit to the department a certified statement that the applicant
13 has made the minimum required expenditure as required by this title.

14 § 489-fffff. Conversion of property. 1. Conversion from commercial to
15 industrial use. Where a property has been granted benefits for commer-
16 cial or renovation construction work, but such property is used as
17 industrial property before the benefits period expires, such property
18 shall continue to receive benefits for commercial or renovation
19 construction work.

20 2. Conversion from industrial use to commercial use. Where a property
21 has been granted benefits for industrial construction work, and where,
22 before the benefit period expires, less than seventy-five percent of the
23 total net square footage is used or held out for use for manufacturing
24 activities, no further benefits for industrial construction work shall
25 be provided except as provided in this subdivision. Taxes, together with
26 interest, shall become due and owing after such date of the use for
27 purposes other than industrial, except as provided in this subdivision.

28 (a) Any applicant whose property has been granted a tax abatement
29 under this title for industrial construction work in a special commer-
30 cial abatement area who would have been eligible to receive benefits for
31 commercial construction work at the time such applicant applied for
32 benefits shall continue to receive an abatement for industrial
33 construction work.

34 (b) Any applicant whose property has been granted benefits under this
35 title for industrial construction work other than in a special commer-
36 cial abatement area who would have been eligible to receive benefits for
37 commercial construction work at the time such applicant applied for
38 benefits shall, commencing with the date of conversion to commercial
39 property and continuing until the expiration of the benefit period for
40 commercial construction work, receive any abatement which such applicant
41 would have received in the corresponding tax year pursuant to the bene-
42 fits granted for commercial construction work.

43 (c) Any applicant whose property has been granted benefits under this
44 title for industrial construction work in any area of the city on whose
45 property at least sixty-five percent of the net square footage continues
46 to be used or held out for use for manufacturing activities after
47 conversion to commercial property, shall not be required to pay the pro
48 rata share of tax for which an abatement was claimed during the tax year
49 in which such conversion occurred.

50 (d) Where the property is receiving the additional industrial abate-
51 ment pursuant to paragraph (e) of subdivision three of section four
52 hundred eighty- nine-bbbbbbb of this title, such additional industrial
53 abatement shall cease from the date of conversion to commercial proper-
54 ty.

55 3. Conversion to restricted use. Any applicant whose property has been
56 granted benefits for commercial, industrial or renovation construction

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1 work, and who uses such property for any restricted activity prior to
2 the expiration of the benefit period, shall cease to be eligible for
3 further abatement as of the date such property was first used for any
4 restricted activity. Such recipient of benefits that cease under this
5 subdivision shall pay with interest any taxes for which an abatement was
6 claimed after such date, including the pro rata share of tax for which
7 any abatement was claimed during the tax year in which such use
8 occurred.

9 4. Conversion to residential use. (a) Any applicant whose property has
10 been granted benefits for commercial, industrial or renovation
11 construction work and who, before the benefit period expires, uses the
12 property or a portion of the property as residential property, shall
13 cease to be eligible for further abatement for commercial, industrial or
14 renovation construction work as of the date such property was first used
15 as residential property, as follows:

16 (i) if twenty percent or more of the rentable square footage of the
17 property is used as residential property, then the entire building shall
18 cease to be eligible for further abatement;

19 (ii) if less than twenty percent of the rentable square footage of the
20 property is used as residential property, then that portion of such
21 property used as residential property shall cease to be eligible for
22 further abatement;

23 (iii) notwithstanding subparagraph (ii) of this paragraph, where less
24 than five percent of a property's rentable square footage is used as

25 residential property, that use will be considered de minimus and will
26 not be a basis for benefits to cease under this subdivision; and

27 (iv) such recipient of benefits that cease under this subdivision
28 shall pay, with interest, any taxes for which an abatement was claimed
29 after the conversion of the property as described in this subdivision,
30 including the pro rata share of tax for which such abatement was claimed
31 during the tax year in which such use occurred. The abatement shall
32 continue for the commercial, industrial or renovation construction work
33 for the portion of the property that continues to be used for commercial
34 purposes.

35 (b) For purposes of paragraph (a) of this subdivision, "property"
36 means the real property contained by an individual tax lot.

37 (c) Notwithstanding paragraph (b) of this subdivision, where a build-
38 ing or structure is owned in condominium form, and an application for
39 benefits under this title includes more than one property in the same
40 condominium, then for purposes of this subdivision, the five percent and
41 twenty percent of the rentable square footage shall be determined based
42 on the aggregate usage of all such properties.

43 5. Conversion to retail use. (a) Where a property has been granted
44 benefits for industrial or commercial construction work in special
45 commercial abatement areas on buildings where not more than ten percent
46 of the building or structure is used for retail purposes and where,
47 before the benefit period expires, the property or a portion thereof is
48 converted so that ten percent or more of the building or structure is
49 used for retail purposes, the department shall recalculate the abatement
50 upon conversion as provided in subdivision six of this section.

51 (b) Where a property has been granted benefits for renovation
52 construction work in renovation areas and where, before the benefit
53 period expires, the property or a portion of the property is converted
54 so that more than five percent of the building or structure is used for
55 retail purposes, the department shall recalculate the abatement upon
56 conversion as provided in subdivision six of this section.

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1 6. Recalculation of abatement upon conversion. If, during the benefit
2 period, a recipient converts square footage within any building or
3 structure, the department may recalculate the benefit granted pursuant
4 to this title to reflect the benefit for which the current use is eligi-
5 ble under this title and rules that may be promulgated by the depart-
6 ment.

7 7. The burden shall at all times be on the recipient to demonstrate by
8 clear and convincing evidence that property subject to benefits under
9 this title is used as stated in the preliminary and final applications
10 for benefits filed by the recipient with the department.

11 § 489-gggggg. Temporary commercial incentive area boundary commission;
12 designation of special commercial abatement areas; excluded and reno-
13 vation areas. 1. Commission members. Any city enacting a local law
14 pursuant to section four hundred eighty-nine-bbbbbb of this title shall
15 establish a temporary commercial incentive area boundary commission to
16 consist of the deputy mayor for economic development and planning, the
17 commissioner of finance, the chair of the city planning commission, the
18 director of management and budget, the borough presidents, the speaker
19 of the city council and a public member appointed by the mayor to serve
20 at the mayor's pleasure. Each member except the public member shall have
21 the power to designate an alternate to represent him or her at commis-
22 sion meetings to exercise all the rights and powers of such member,
23 including the right to vote, provided that such designation be made in
24 writing to the chair of the commission. The deputy mayor for economic
25 development and planning shall serve as commission chair. Each borough
26 president shall be entitled to vote only on the designation of areas
27 within his or her borough. Commission members who shall be officers or
28 employees of such city shall serve without compensation but shall be
29 reimbursed for expenses necessarily incurred in the performance of their

30 duties. Any other commission member shall receive as exclusive compen-
31 sation for his or her services one hundred dollars per diem, or another
32 reasonable amount as determined by the deputy mayor for economic devel-
33 opment and planning, provided, however, that the total compensation paid
34 to any such member shall not exceed twelve hundred dollars for any
35 calendar year, or another reasonable amount determined by the deputy
36 mayor for economic development and planning. A majority of members of
37 such commission entitled to vote on a matter shall constitute a quorum
38 for such issue. Decisions shall be made by majority vote of those pres-
39 ent entitled to vote on a matter. Notwithstanding any other law to the
40 contrary, no officer or employee of the state or any of its subdivisions
41 or any public benefit corporation shall be deemed to have forfeited his
42 or her office or employment or any benefits provided under the retire-
43 ment and social security law or under any public retirement system main-
44 tained by the state or any of its subdivisions by reason of accepting
45 membership on such commission.

46 2. Designation of special commercial abatement areas. (a) The commis-
47 sion shall meet in two thousand nine and at least once every five years
48 thereafter to determine the boundaries of special commercial abatement
49 areas which it is authorized, but not required, to designate pursuant to
50 this section. The areas designated by the commission established pursu-
51 ant to title two-D of this article in effect as of June thirtieth, two
52 thousand eight shall remain in effect until the first taxable status
53 date after the local legislative body approves a new designation pursu-
54 ant to paragraph (d) of this subdivision.

55 (b) In years when special commercial abatement areas are to be desig-
56 nated, no later than October first, the commission shall provide public

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1 notice of such designation by publishing a notice at least once in a
2 newspaper of general circulation setting forth the proposed boundaries.
3 Notice may also be provided electronically or in an electronic medium,
4 such as a website, in a manner the commission determines to be appropri-
5 ate. Notice must be provided not earlier than five nor later than
6 fifteen days before the date of the commission's public hearing to hear
7 all persons interested in the designation of the areas. A copy of the
8 notice shall be forwarded to the local legislative body and each commu-
9 nity board of the city.

10 (c) The commission shall make such designation, and notify the local
11 legislative body of such designation, not later than November first of
12 each year when special commercial abatement areas are to be designated.

13 (d) Within thirty days after the first stated meeting of the local
14 legislative body following the receipt of notice of such designation,
15 the local legislative body may, by majority vote, disapprove such desig-
16 nation. If, within such thirty-day period, the local legislative body
17 fails to act or fails to act by the required vote, the local legislative
18 body shall be deemed to have approved such designation. Such designation
19 shall take effect on the first taxable status date after the local
20 legislative body approves such designation and shall remain in effect
21 until the first taxable status date after the local legislative body
22 approves such new designation.

23 (e) In the city of New York, the commission may designate any area
24 other than the area lying south of the center line of 96th Street in the
25 borough of Manhattan, to be a special commercial abatement area if it
26 determines that market conditions in the area are such that the avail-
27 ability of a special abatement is required in order to encourage commer-
28 cial construction work in such area. In making such determination, the
29 commission shall consider, among other factors, the existence in such
30 area of a special need for commercial and job development, high unem-
31 ployment, economic distress or unusually large numbers of vacant, under-
32 utilized, unsuitable or substandard structures, or other substandard,
33 unsanitary, deteriorated or deteriorating conditions, with or without
34 tangible blight.

35 (f) If the commission fails to meet for more than five years, all new
36 applications for special commercial abatement area benefits postmarked
37 after the fifth anniversary of the commission's last meeting shall be
38 deemed applications for regular area benefits.

39 3. Renovation areas. In the city of New York, the following areas of
40 Manhattan shall be designated as renovation areas. Except as provided in
41 paragraph (f) of subdivision three of section four hundred eighty-nine-
42 bbbbbb of this title, new commercial construction in a renovation area
43 shall not be eligible for abatement benefits. Renovation areas shall be
44 limited to:

45 (a) the area in the borough of Manhattan bounded by Murray Street on
46 the north starting at the intersection of West Street and Murray Street;
47 running easterly along the center line of Murray Street; connecting
48 through City Hall Park with the center line of Frankfort Street and
49 running easterly along the center line of Frankfort and Dover Streets to
50 the intersection of Dover Street and South Street; running southerly
51 along the center line of South Street to Peter Minuit Plaza; connecting
52 through Peter Minuit Plaza to the center line of State Street and
53 running northwesterly along the center line of State Street to the
54 intersection of State Street and Battery Place; running westerly along
55 the center line of Battery Place to the intersection of Battery Place

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1 and West Street; and running northerly along the center line of West
2 Street to the intersection of West Street and Murray Street;

3 (b) the area in the borough of Manhattan defined as the special
4 garment center district by chapter one of article XII of the zoning
5 resolution of the city of New York; and

6 (c) the area in the borough of Manhattan south of the center line of
7 59th street, other than the areas designated renovation areas by para-
8 graphs (a) and (b) of this subdivision.

9 4. Commercial exclusion area. Except as provided in paragraph (f) of
10 subdivision three of section four hundred eighty-nine-bbbbbbb of this
11 title, any area in the borough of Manhattan lying south of the center
12 line of 96th Street, other than the areas designated renovation areas by
13 subdivision three of this section, shall be a commercial exclusion area.
14 Commercial construction projects in the commercial exclusion area shall
15 not be eligible to receive tax abatements pursuant to this title.

16 5. Eligible industrial construction projects may receive tax abate-
17 ments pursuant to paragraphs (b) and (e) of subdivision three of section
18 four hundred eighty- nine-bbbbbbb of this title in any area of the city
19 of New York.

20 § 489-hhhhhh. Administration of the benefit program. The department
21 shall have the following additional functions, powers and duties:

22 1. To require that any documents submitted in support of or as part of
23 an application be certified;

24 2. To audit documents submitted by an applicant, to require the
25 production of books, records and documents with respect to information
26 relating to any application made pursuant to, or whether the applicant
27 has complied with, the requirements of this title;

28 3. To revoke or suspend benefits due to non-compliance with a request
29 made under this section;

30 4. To enter and inspect property to determine a property's use and to
31 determine whether (a) any such property is being used for any restricted
32 use, or

33 (b) any property for which benefits have been granted for industrial
34 construction work is being used as commercial property, or (c) any
35 industrial or commercial property is being used as residential or mixed-
36 use property, or (d) all or part of the nonresidential portion of mixed-
37 use property is being used as residential property;

38 5. To make and promulgate a rule that increases up to fifty percent
39 the amount of the minimum required expenditure required under this
40 title, if, after consultation with the deputy mayor for economic devel-

41 opment and planning, the commissioner determines that a greater minimum
42 required expenditure is required to encourage significant industrial and
43 commercial development; and

44 6. To make and promulgate any other rules to carry out the purposes of
45 this title. Such rules shall provide that for construction work, recipi-
46 ents of benefits and their contractors shall be equal opportunity
47 employers and may also provide that persons employed in the construction
48 work shall implement a training program for economically disadvantaged
49 persons enrolled or eligible to be enrolled in training programs
50 approved by the department of labor.

51 § 489-iiiiiii. Code violations; suspension, termination or revocation
52 of benefits. 1. A local law enacted pursuant to this title may provide
53 that abatement benefits shall be suspended, terminated or revoked if the
54 recipient is found to have failed to cure violations of the applicable
55 building, fire, or air pollution control codes on the property for which
56 benefits have been granted. Such local law shall define the circum-

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1 stances where benefits may be suspended, terminated or revoked and
2 provide procedures for benefit suspension, termination or revocation.

3 2. All taxes plus interest required to be paid retroactively pursuant
4 to this title shall constitute a tax lien as of the date it is deter-
5 mined such taxes and interest are owed. Interest shall be calculated
6 from the date the taxes would have been due but for the abatement
7 claimed pursuant to this title at the interest rate imposed by such city
8 for non-payment of property tax.

9 § 489-jjjjjj. Penalties for non-compliance, false statements and omis-
10 sions. Denial, reduction, suspension, termination or revocation. The
11 department may deny, reduce, suspend, terminate or revoke any abatement
12 benefits where:

13 1. A recipient fails to comply with the requirements of this title or
14 the related rules promulgated by the department; or

15 2. An application, certificate, report or other document delivered by
16 an applicant or recipient hereunder contains a false or misleading
17 statement as to a material fact or omits to state any material fact
18 necessary to make the statements not false or misleading, and may
19 declare any applicant or recipient who makes such false or misleading
20 statement or omission ineligible for future tax abatements for this
21 property or another property.

22 § 489-kkkkkk. Participation of minority and women-owned business
23 enterprises. A city enacting a local law pursuant to this title may
24 provide for a program to ensure meaningful participation of minority and
25 women-owned business enterprises in construction work for which an
26 applicant receives benefits. Such program may be established, and
27 amended from time to time, by local law, or by rule of the department
28 not inconsistent with any such local law.

29 § 2. This act shall take effect July 1, 2008, provided that if it
30 shall have become a law subsequent to that date, this act shall take
31 effect immediately and shall be retroactive to and deemed to have been
32 in full force and effect as of July 1, 2008, and provided, further, that
33 any actions including the enactment of local laws and promulgation of
34 rules, necessary to carry out the purposes of this act may be taken
35 before the effective date of this act, provided that such local laws or
36 rules shall not take effect before the effective date of this act.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S6366A

SPONSOR: PADAVAN| | | | | | | | | | | | | | | | | | | | | |

TITLE OF BILL:

An act to amend the real property tax law, in relation to tax abatement for industrial and commercial work on properties in a city of one million or more persons

SUMMARY OF PROVISIONS:

This bill will add a new Title 2-F to Article 4 of the Real Property Tax Law ("RPTL") to authorize a city with a population of one million or more to provide an abatement of real property taxes for the construction, alteration or improvement of certain industrial or commercial properties in specified areas of New York City (ICAP). This program would replace the current Industrial and Commercial Incentive Program ("ICIP"), due to sunset June 30, 2008, which primarily provides tax incentives through multi-year tax exemptions.

Section 1 of the bill adds a new Title 2-F to Article 4 of the RPTL to provide a tax incentive to owners of commercial and industrial properties in New York City to improve these properties or to construct new, modern buildings and structures via a multi-year tax abatement. Title 2-F will consist of Sections 489-aaaaaa through 489-kkkkkk of the RPTL.

Section 489-aaaaaa provides specific definitions for terms used in the title and incorporates most of the definitions used in the current ICIP. However, as ICAP will not provide any benefits for the construction or alteration of "utility property", Section 489-aaaaaa adds a definition for that term. "Utility property" is defined to include the property and equipment as defined in the RPTL that is used in the ordinary course of business by a utility, and land and buildings owned by a utility, without regard to the classification of such property and equipment pursuant to § 1802 of the RPTL. In addition, Section 489-aaaaaa adds a definition for "retail purposes" because in certain areas, a property may be subject to varying abatement schedules depending on the percentage of the property that is dedicated to retail purposes.

"Retail purposes" is defined as any activity that consists predominately of (i) the final sale of tangible personal property or services by a vendor as defined in Section 1101 of the Tax Law. (ii) the sale of services that generally involve the physical mental, and or spiritual care of individuals.

In order for the project to qualify for a tax abatement, the construction work must meet a minimum required expenditure (MRE) equal to thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the first building permit, or if no permit is required, the commencement of construction. Depending on which abatement is applicable, expenses for certain types of construction work may not qualify as eligible for inclusion in the MRE.

ICAP also provides an additional tax abatement benefit for industrial construction projects that meet a higher NIRE (forty percent), which will be equal to specified percentages of the pre-construction property taxes on the property. Finally, no tax benefit will be granted pursuant to this title if a property is concurrently receiving an exemption or abatement of real property tax under any other law, with a small number of exceptions such as exemptions available to property owned by not-for-profit organizations.

Section 489-cccccc describes the requirements an applicant must meet in order to qualify for tax benefits under this title. First, the minimum required expenditure must be met no later than four years from the date of issuance of the first building permit or, if no permit was required, the commencement of construction. Section 489-cccccc also sets out "non-permissible uses" under the abatement program.

Section 489-ddddddd describes the application process for obtaining benefits, including application content, electronic filing and authority for the Department of Finance to establish fees to defray the costs of administering this program.

Section 489-eeeeeee describes reporting requirements that the recipient must meet throughout the benefit period, including a statement of continuing use that must be filed biennially.

Section 489-ffffff concerns the conversion of properties from one use to another. Where an industrial property receiving benefits for industrial construction is not located in a special commercial abatement area and the property is converted to commercial use, then the property, from the date of such conversion and continuing until the expiration of the benefit period for commercial construction work, may receive any abatement such applicant would have received in the corresponding tax year pursuant to the benefits granted for commercial construction work (unless located in an exclusion area). Where a property has been granted benefits for commercial, industrial or renovation construction work and the property is converted to residential property or converted to use for any restricted activity prior to the expiration of the benefit period, benefits may be terminated or, if only a portion of such property is converted, the benefits will be proportionately reduced but continue for the portion of the property that continues to be used for eligible commercial purposes. Where any property that is converted is receiving the additional industrial abatement, such additional industrial abatement shall cease from the date of conversion to commercial property. For purposes of conversion of industrial or commercial property to residential uses, the bill defines "property" to mean the real property contained in an individual tax lot. The bill further sets out ramifications when recipients convert property not used for retail purposes to uses for retail purposes.

Shortening of Benefit Terms: Benefits in Manhattan south of 59th Street are currently offered for 12 years. Such generous benefit terms are unnecessary to induce economic activity in the most successful commercial areas in the country. Reducing the term of the benefit from 12 to 10 years for non-retail commercial activity in Manhattan south of 59th Street would save the City millions of dollars per year while not significantly reducing the economic activity generated by the program. To support the continued redevelopment of Lower Manhattan, the area south of Murray Street will retain the current 12 year benefit schedule.

Restructuring of Inflation Protection: Inflation protection, because it provides greater benefits far into the future, is valued significantly less by developers than what it costs the City. Reducing the cost of

this benefit will not significantly decrease the amount of economic activity generated by the program but will provide significant savings to the City.

Make Utilities Ineligible: Utilities were initially excluded from ICIP but became eligible after a successful 1994 lawsuit and now receive in excess of 15% of all benefits. It is proposed that utilities be shifted to a discretionary program that can provide more narrowly tailored benefits tied to City goals such as clean energy.

Administrative Reforms: A range of other administrative proposals offered herein will improve the transparency, predictability and administration of ICIP.

This bill will transform ICIP from an inefficient drain on the City's budget to a program that creates significant new economic activity at the lowest possible cost, saving City taxpayers hundreds of millions of dollars in the short term.

LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

This act shall take effect on July 1, 2008.
