

LOCAL LAW NO. 2 FOR 2019

A LOCAL LAW OF THE COUNTY OF ALBANY PROVIDING A REAL PROPERTY TAX EXEMPTION FROM COUNTY PROPERTY TAXES PURSUANT TO NEW YORK REAL PROPERTY TAX LAW SECTION 485-A FOR NON-RESIDENTIAL REAL PROPERTY CONVERTED TO MIXED-USE PROPERTY WITHIN THE CITY OF ALBANY

Introduced: 2/11/19

By Mr. A. Joyce:

BE IT ENACTED by the Legislature of the County of Albany as follows:

Section 1. Legislative Intent and purpose.

A. By Section 485-a of the Real Property Tax Law, the New York State Legislature authorized towns, cities and villages to provide an exemption from certain taxes for developers and building owners to convert office space and properties, formerly housing warehouse, manufacturing and retail activities, to residential housing units and commercial mixed uses.

B. Section 485-a of the Real Property Tax Law further allows a county in which such towns, cities and villages are located may, by local law, exempt such properties from its taxation in the same manner and to the same extent as such towns, cities and villages have done.

C. The City of Albany adopted such an exemption by local law in 2003 and has requested that the same be provided to the County portion of the property taxes for qualifying properties within the City of Albany.

D. The purpose of this local law is to exempt eligible properties within the City of Albany from County property taxation applied to conversions of Non-Residential Real Property to Mixed-Use Property in accordance with Section 485-a of the Real Property Tax Law.

Section 2. Definitions.

- A. "Municipality" means any town, city or village.
- B. "Applicant" means any person obligated to pay real property taxes on the property for which an exemption from real property taxes under this section is sought.
- C. "Commercial construction work" means the modernization, rehabilitation, expansion or other improvement of the portion of mixed-use property to be used for commercial purposes.
- D. "Commercial purpose or use" means the buying, selling or otherwise providing of goods or services, including hotel services, or other lawful business or commercial activities permitted in mixed-use property.

- E. "Mixed-use property" means property on which will exist, after completion of residential construction work or a combination of residential construction work and commercial construction work, a building or structure used for both residential and commercial purposes.
- F. "Person" means an individual, corporation, limited liability company, partnership, association, agency, trust, estate, foreign or domestic government or subdivision thereof, or other entity.
- G. "Residential construction work" means the creation, modernization, rehabilitation, expansion or other improvement of dwelling units, other than dwelling units in a hotel, in the portion of mixed-use property to be used for residential purposes.
- H. "Taxable Assessed Value" shall mean the taxable assessed value of property within a municipality as defined by the Real Property Tax Law of New York State.

Section 3. Exemption granted.

Non-residential real property within the City of Albany, upon conversion to mixed-use property, shall be exempt from taxation and special ad valorem levies pursuant to section 485-a of the New York Real Property Tax Law.

For a period of twelve years from the approval of an application with the Assessor of the City of Albany, the increase in assessed value of such property attributable to such conversion shall be exempt as provided below. Such exemption shall be computed with respect to the "exemption base." The exemption base shall be determined for each year in which there is an increase in assessed value so attributable from that of the previous year's assessed value. Such exemption shall be computed in accordance with the following:

Year of exemption	Percentage of Exemption
1 through 8	100% of exemption base
9	80% of exemption base
10	60% of exemption base
11	40% of exemption base
12	20% of exemption base

Section 4. Exclusions from exemption

No such exemption shall be granted unless:

- (a) Such conversion was commenced subsequent to the date on which the City of Albany's local law took effect; and
- (b) The cost of such conversion exceeds the sum of ten thousand dollars (\$10,000); and

- (c) For the purposes of this section the term “conversion” shall not include ordinary maintenance and repairs; and
- (d) No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except, where during the period of such previous exemption, payments in lieu of taxes or other payments were made to the local government in an amount that would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this section. In such case, an exemption shall be granted for a number of years equal to the twelve year exemption granted pursuant to this section less the number of years the property would have been previously exempt from real property taxes.

Section 5. Application

- (a) Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the Commissioner of the New York State Department of Taxation & Finance. Such application shall be filed with the Assessor of the City of Albany on or before the appropriate taxable status date.
- (b) The twelve year period of exemption shall be calculated from the date the application was approved by the Assessor of the City of Albany. However, in no event may such approval be construed to allow for retroactive application of this exemption.

Section 6. Add Back Provision

To ensure that the exemption granted by this Local Law is implemented without reducing County tax collections and to ensure that County property taxpayers in municipalities not requesting the exemption do not have to pay a higher share of County property taxes as a result of the exemption, the County hereby enacts an “add back” provision pursuant to Real Property Tax Law Section 844(1)(b)(ii), specifying that “taxable assessed value” for purposes of apportionment of county taxes will include the amount of assessed value partially exempt from county taxation under Section 485-a of the Real Property Tax Law, which shall ensure that the City of Albany will not pay less county property taxes in the aggregate than it would had the Real Property Tax Exemption for Non-Residential Real Property Converted to Mixed-Use Property not been applied to properties within the City of Albany.

Section 7. Effective Date

This local law shall take effect immediately upon filing in the Office of the Secretary of State and shall apply to assessment rolls for which an application has been filed with the assessor prior to the taxable status date of such municipality.

Referred to Law Committee – 2/11/19

Favorable Recommendation Law Committee – 3/28/19

On long roll call vote the following members voted in favor: Messrs. Bullock, Burgdorf, Cahill, Ms. Chapman, Messrs. Clay, Commisso, Crouse, Ms. Cunningham, Messrs. Dawson, Domalewicz, Ethier, Feeney, Fein, Frainier, Grimm, Higgins, Hogan, A. Joyce, R. Joyce, Ms. Lekakis, Messrs. Mauriello, Mayo, Mss. McKnight, McLean Lane, Messrs. Mendick, Miller, O'Brien, Messrs. Reinhardt, Smith, Stevens, Touchette, Tunny, Ward and Ms. Willingham – 34

Those opposed – 0

Adopted by unanimous vote – 4/8/19

Mr. Drake abstained