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Co-op and Condos Alert

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The cooperative and condominium tax abatement lives to see another day, barely

By Erica F. Buckley and Nichole N. Thomas

New York's cooperative and condominium property tax abatement was signed by the Governor with changes to the definition of "qualified property" and wage requirements for building service employees.



What's the Impact?

- / For our cooperative and condominium board clients, we will work closely with tax cert counsel to determine eligibility starting in year 2022, assuming building service employees are not already paid prevailing wages
- / For our sponsor clients, we will ensure that the offering plan accurately reflects this change in the law and discuss the pros and cons of prevailing wages for building service employees during the sponsor control of the cooperative or condominium board of managers

The cooperative and condominium property tax abatement ("Tax Abatement") provided under Section 467-a of the Real Property Tax Law was intended to relieve the real estate tax burden of residential cooperative and condominium owners to more equitably match the tax burden of one to three family homeowners. Year after year, advocates argue for the New York State Assembly

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and Senate to extend the Tax Abatement for residential cooperative and condominium owners. In 2019, an extension of the Tax Abatement that included an [additional burden on cooperatives and condominiums](#) was contemplated by the New York State Legislature. This year, the Tax Abatement extension was [signed by the Governor](#). Beginning April 1, 2022, only a “qualified property” will be entitled to the Tax Abatement. A “qualified property” is defined in amended Section 467-a of the Real Property Tax Law as (i) a property with an average unit assessed value of less than or equal to \$60,000; (ii) a property with an average unit assessed value of less than or equal to \$100,000 in a cooperative or condominium with fewer than 30 residential units; or (iii) a property in which all building service employees¹ employed or to be employed at the property receive the applicable prevailing wage for the duration of the Tax Abatement, as evidenced by an affidavit certifying the same submitted by a cooperative or condominium board of managers to the commissioner of the New York City Department of Finance.

Cooperatives and Condominiums should be aware that such affidavits certifying the payment of prevailing wages to building service employees are made public records and may be produced before a court or administrative tribunal. The comptroller of the City of New York shall have the power to conduct an investigation and hearing and file a final determination as to the payment of wages owed by an owner, successor, or any employer of building service employees.

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¹A “building service employee” is any person who is regularly employed at a building who performs work in connection with the care or maintenance of such building. “Building service employee” includes, but is not limited to, watchman, guard, doorman, building cleaner, porter, handyman, janitor, gardener, groundskeeper, elevator operator and starter and window cleaner, but shall not include persons regularly scheduled to work fewer than eight hours per week in the building. See N.Y. Real. Prop. Tax Law § 467-a(1)(k).