

**Limited Review of the Department of Assessment
Collection of Payments in Lieu of Taxes
(PILOT) Revenue**

Appendix B - Legal References

The following five laws appear in this Appendix B in the order shown below.

New York State General Municipal Law, Article 18-A	55 Pages
New York State Real Property Tax Law, Section 412-a	1 Pages
New York State Real Property Tax Law, Section 485-b	4 Pages
New York State Real Property Tax Law, Section 520	2 Pages
New York State Real Property Tax Law, Section 553	4 Pages

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NY CLS Gen Mun, Art. 18-A Note

Current through 2018 Chapters 1-274

***New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3)***

Article 18-A Industrial Development

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NY CLS Gen Mun, Art. 18-A, Title 1 Note

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)*

Title 1 Agencies, Organization and Powers

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 850

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)*

§ 850. Short title

This chapter may be cited as the "New York State Industrial Development Agency Act."

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 852

Current through 2018 Chapters 1-274

***New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)***

§ 852. Policy and purposes of article

It is hereby declared to be the policy of this state to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation, economically sound commerce and industry and economically sound projects identified and called for to implement a state heritage area management plan as provided in title G of the parks, recreation and historic preservation law through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies which are hereby declared to be governmental agencies and instrumentalities and to grant to such industrial development agencies the rights and powers provided in this article.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state by the conservation, protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial, manufacturing, warehousing, commercial, recreation, horse racing facilities, railroad facilities, automobile racing facilities and research facilities and to grant such industrial development agencies the rights and powers provided by this article with respect to industrial pollution control facilities.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state and to increase trade through promoting the development of facilities to provide recreation for the citizens of the state and to attract tourists from other states.

The use of all such rights and powers is a public purpose essential to the public interest, and for which public funds may be expended.

History

Add, L 1969, ch 1030, § 1; amd, L 1971, ch 978; L 1974, ch 954, § 1, eff June 13, 1974; L 1977, ch 267, § 16, eff June 19, 1977; L 1977, ch 630, § 1, eff Aug 1, 1977; L 1980, ch 803, § 1, eff June 30, 1980; L 1982, ch 541, § 5, eff July 20, 1982; L 2005, ch 747, § 15, eff Oct 18, 2005; L 2011, ch 478, § 1, eff Aug 17, 2011.

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NY CLS Gen Mun § 854

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 854. Definitions

As used in this act, unless the context otherwise requires:

- (1) "Agency"—shall mean an Industrial Development Agency created pursuant to this act.
- (2) "Bonds"—shall mean the bonds, notes, interim certificates and other obligations issued by the agency pursuant to this act.
- (3) "Municipality"—shall mean any county, city, village, town or Indian reservation in the state.
- (4) "Project" - shall mean any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes or other economically sound purposes identified and called for to implement a state designated urban cultural park management plan as provided in title G of the parks, recreation and historic preservation law and which may include or mean an industrial pollution control facility, a recreation facility, educational or cultural facility, a horse racing facility, a railroad facility or an automobile racing facility, provided, however, no agency shall use its funds or provide financial assistance in respect of any project wholly or partially outside the municipality for whose benefit the agency was created without the prior consent thereto by the governing body or bodies of all the other municipalities in which a part or parts of the project is, or is to be, located, and such portion of the project located outside such municipality for whose benefit the agency was created shall be contiguous with the portion of the project inside such municipality.
- (5) "Governing body"—shall mean the board or body in which the general legislative powers of the municipality are vested.
- (6) "Mortgage"—shall mean a mortgage or other security device.
- (7) "Revenues"—shall mean all rents, revenues, fees, charges and other sources of income derived by the agency from the leasing, sale or other disposition of a project or projects.
- (8) "Industrial pollution control facility"—shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property deemed necessary therewith, which if within any city are not of a character or nature then or formerly furnished or supplied by the city, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing, commercial, recreation and research facilities, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site.

(9)"Recreation facility"—shall mean any facility for the use of the general public as spectators or participants in recreation activities, including but not limited to skiing, golfing, swimming, tennis, ice skating or ice hockey facilities, together with all buildings, structures, machinery, equipment, facilities and appurtenances thereto which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of any such facility, including overnight accommodations and other facilities incidental thereto and facilities that may permit the use of recreation facilities by the general public as participants in recreation activities, but shall not include facilities for automobile or horse racing or other similar activities.

(10)"Horse racing facility"—shall mean any facility for the use of the general public for purpose of conducting pari-mutuel wagering, licensed by the state racing and wagering board, as of January first, nineteen hundred seventy-seven, except non-profit racing associations, including buildings, structures, machinery, equipments, facilities and appurtenances thereto, the construction, reconstruction, acquisition and/or improvement of which shall have been approved by the state racing and wagering board, and which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of such racing facility.

(11)"Railroad facility"—shall mean, but shall not be limited to, railroad rights-of-way, beds, bridges, viaducts, tracks, switches and rolling stock and any other attendant structure, equipment, facility or property necessary or appropriate to railroading conducted in conjunction with industrial, commercial, manufacturing, recreational or warehousing operations; provided, however, that (i) no agency shall itself operate a railroad facility for freight or passenger service, but may lease or otherwise make such facility available to an operator, subject to an agreement for the maintenance and operation of such facility for freight or passenger service, provided that passenger service does not constitute the primary purpose of the railroad facility; (ii) prior to undertaking any project involving acquisition, construction, reconstruction, improvement, maintenance, equipping or furnishing of a railroad facility, an agency shall submit its plans for the proposed project to the commissioner of transportation; the commissioner shall, within sixty days of his receipt of the proposal, submit an analysis of the financial and operational feasibility of the proposed project, along with any recommendations for modification for improving the project's viability, to the agency, the governor, the commissioner of commerce, the temporary president of the senate, the speaker of the assembly and the governing body of the municipality in which the agency is located; and (iii) no agency shall enter into any contract for the acquisition, construction, reconstruction, improvement, maintenance, equipping or furnishing of a railroad facility until fifteen days after the submission of the analysis and recommendations of the commissioner of transportation, or seventy-five days after submission of the agency's plan to the commissioner, whichever is earlier.

(12)"Educational or cultural facility"—shall mean any facility identified and called for to implement a state designated heritage area management plan as provided in title G of the parks, recreation and historic preservation law that is open to the public at large as participants in educational and cultural activities including but not limited to theaters, museums, exhibitions and festival and interpretive facilities, together with buildings, structures, machinery, equipment, facilities and appurtenances thereto which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of any such facility, including overnight accommodations and other facilities incidental thereto and facilities that may permit the use of educational or cultural facilities by the general public.

(13)[Expired and repealed]

(14)"Financial assistance" - shall mean the proceeds of bonds issued by an agency, straight-leases, or exemptions from taxation claimed by a project occupant as a result of an agency taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant or of such project occupant acting as an agent of an agency.

(15)"Straight-lease transaction" - shall mean a transaction in which an agency takes title, possession or control (by lease, license or otherwise) to the property or equipment of a project occupant, entitling such property or equipment to be exempt from taxation according to the provisions of section eight

hundred seventy-four of this article, and no financial assistance in the form of the proceeds of bonds issued by the agency is provided to the project occupant.

(16)"Affected tax jurisdiction" - shall mean any municipality or school district, in which a project is located, which will fail to receive real property tax payments, or other tax payments which would otherwise be due, except for the tax exempt status of an agency involved in a project.

(17)"Payments in lieu of taxes" - shall mean any payment made to an agency, or affected tax jurisdiction equal to the amount, or a portion of, real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction if the project was not tax exempt by reason of agency involvement.

(18)"Highly distressed area" - shall mean

(a)a census tract or tracts or block numbering areas or areas or such census tract or block numbering area contiguous thereto which, according to the most recent census data available, has:

(i)a poverty rate of at least twenty percent for the year to which the data relates or at least twenty percent of households receiving public assistance; and

(ii)an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; or

(b)a city, town, village or county within a city with a population of one million or more for which: (i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and (ii) the ratio of the income per resident; as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average; or

(c)an area which was designated an empire zone pursuant to article eighteen-B of this chapter.

(19)"Continuing care retirement community" - shall mean any facility that has been granted a certificate of authority pursuant to article forty-six or forty-six-A of the public health law and is established to provide, pursuant to continuing care retirement contracts approved pursuant to article forty-six of the public health law, or fee-for-service continuing care contracts approved pursuant to article forty-six-A of the public health law, a comprehensive, cohesive living arrangement for the elderly, and certified by the commissioner of health, that (i) has been approved for the issuance of industrial development agency bonds by the continuing care retirement community council pursuant to section forty-six hundred four-a of the public health law except that paragraphs b and g of subdivision two of section forty-six hundred four-a of the public health law shall not apply to a continuing care retirement community granted a certificate of authority pursuant to article forty-six-A of the public health law and (ii) is a not-for-profit corporation as defined in section one hundred two of the not-for-profit corporation law that is (a) eligible for tax-exempt financing under section forty-six hundred four-a of the public health law and this chapter and (b) is exempt from taxation pursuant to section 501(c)(3) of the federal internal revenue code; except that "continuing care retirement community" shall not include a facility granted a certificate of authority upon application of a state or local government applicant.

(20)"Automobile racing facility" shall mean any closed-course motorsports complex and its ancillary grounds that has at least fifty thousand fixed seats for race patrons and hosts at least one NASCAR Sprint Cup series race and at least two other nationally recognized racing events each calendar year.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969; amd, L 1971, ch 978, §§ 2, 3; L 1972, ch 190, § 1, eff May 2, 1972; L 1973, ch 353, § 1; L 1974, ch 954, §§ 2-4, eff June 13, 1974; L 1977, ch 267, §§ 17, 18, eff June 19, 1977; L 1977, ch 630, §§ 2, 3, eff Aug 1, 1977; L 1980, ch 803, §§ 2, 3, eff June 30, 1980; L 1982, ch 541, §§ 6, 7, eff July 20,

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1982; L 1986, ch 905, §§ 1, 2; L 1988, ch 633, § 1, eff Sept 1, 1988; L 1993, ch 356, §§ 3, 4, eff Oct 19, 1993; L 1994, ch 66, §§ 8, 9, eff April 18, 1994; L 1997, ch 444, § 2, eff Oct 19, 1997, expired and deemed repealed Jan 31, 2008; L 1997, ch 652, §§ 70, 71, eff Sept 24, 1997; L 1999, ch 444, § 1, eff Aug 31, 1999; L 2000, ch 63, § 15 (Part GG), eff May 15, 2000; L 2005, ch 58, § 49 (Part C), eff April 12, 2005, deemed eff on and after April 1, 2005; L 2005, ch 747, § 16, eff Oct 18, 2005; L 2011, ch 478, §§ 2, 3, eff Aug 17, 2011; L 2013, ch 59, § 6 (Part J), eff March 28, 2013.

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NY CLS Gen Mun § 856

Current through 2018 Chapters 1-274

***New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)***

§ 856. Organization of industrial development agencies

1.

(a) Upon the establishment of an industrial development agency by special act of the legislature, the governing body of the municipality for whose benefit such agency is established shall file within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, in the office of the secretary of state, a certificate setting forth: (1) the date of passage of the special act establishing the agency; (2) the name of the agency; (3) the names of the members and their terms of office, specifying which member is the chairman; and (4) facts establishing the need for the establishment of an agency in such municipality.

(b) Every such agency shall be perpetual in duration, except that if (1) such certificate is not filed with the secretary of state within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, or if (2) at the expiration of ten years subsequent to the effective date of the special act, there shall be outstanding no bonds or other obligations theretofore issued by such agency or by the municipality for or in behalf of the agency, then the corporate existence of such agency shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(c) On or before March first of each year, the secretary of state shall prepare a list of agencies which failed to file a certificate in accordance with provisions of paragraph (a) of this subdivision within the preceding calendar year and transmit a copy of such list to the state comptroller and the commissioner of the department of economic development. On or before March first of each year the commissioner of the department of economic development shall prepare a list of agencies which have dissolved pursuant to paragraph (b) of this subdivision or have ceased to exist pursuant to section eight hundred eighty-two of this chapter and shall transmit a copy of such list to the state comptroller.

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an agency shall consist of not less than three nor more than seven members who shall be appointed by the governing body of each municipality and who shall serve at the pleasure of the appointing authority. Such members may include representatives of local government, school boards, organized labor and business. A member shall continue to hold office until his successor is appointed and has qualified. The governing body of each municipality shall designate the first chairman and file with the secretary of state a certificate of appointment or reappointment of any member. Such members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

3. A majority of the members of an agency shall constitute a quorum.

4. Any one or more of the members of an agency may be an official or an employee of the municipality. In the event that an official or an employee of the municipality shall be appointed as a member of the agency, acceptance or retention of such appointment shall not be deemed a forfeiture of his municipal office or

employment, or incompatible therewith or affect his tenure or compensation in any way. The term of office of a member of an agency who is an official or an employee of the municipality when appointed as a member thereof by special act of the legislature creating the industrial development agency shall terminate at the expiration of the term of his municipal office.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969; amd, L 1978, ch 143, § 1, eff May 16, 1978; L 1989, ch 692, § 3, eff Jan 1, 1990; L 1993, ch 356, § 5, eff Oct 19, 1993 (see 1993 note below).

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NY CLS Gen Mun § 858

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 858. Purposes and powers of the agency

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities and continuing care retirement communities, provided, however, that, of agencies governed by this article, only agencies created for the benefit of a county and the agency created for the benefit of the city of New York shall be authorized to provide financial assistance in any respect to a continuing care retirement community, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living; and to carry out the aforesaid purposes, each agency shall have the following powers:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at pleasure;
- (3) To acquire, hold and dispose of personal property for its corporate purposes;
- (4) To acquire by purchase, grant, lease, gift, pursuant to the provisions of the eminent domain procedure law, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes in compliance with the local zoning and planning regulations and shall take into consideration regional and local comprehensive land use plans and state designated heritage area management plans, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the agency shall determine. In the case of railroad facilities, however, the phrase to use real property or rights or easements therein shall not be interpreted to include operation by the agency of rail service upon or in conjunction with such facilities.
- (5) To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of a project or projects.
- (6) With the consent of the municipality, to use agents, employees and facilities of the municipality, paying the municipality its agreed proportion of the compensation or costs;
- (7) To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the agency;
- (8)
 - (a) To appoint an attorney, who may be the counsel of the municipality, and to fix the attorney's compensation for services which shall be payable to the attorney, and to retain and employ private consultants for professional and technical assistance and advice;
 - (b) An attorney acting as bond counsel for a project must file with the agency a written statement in which the attorney identifies each party to the transaction which such attorney represents. If bond counsel provides any legal services to parties other than the agency the written statement must

describe the nature of legal services provided by such bond counsel to all parties to the transaction, including the nature of the services provided to the agency.

(9)To make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private; provided, however, that any extension of an existing contract, lease or other agreement entered into by an agency with respect to a project shall be guided by the provisions of this article;

(10)To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;

(11)To accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

(12)To borrow money and to issue bonds and to provide for the rights of the holders thereof;

(13)To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the agency may deem desirable;

(14)To designate the depositories of its money either within or without the state;

(15)To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project. A copy of any such agreement shall be delivered to each affected tax jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes made by an agency shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the agency's activities render a project non-taxable by affected tax jurisdictions;

(16)To establish and re-establish its fiscal year; and

(17)To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969; amd, L 1971, ch 978, § 4; L 1974, ch 669, § 1, eff May 30, 1974; L 1974, ch 954, § 5, eff June 13, 1974; L 1977, ch 267, § 19, eff June 19, 1977; L 1977, ch 630, § 4, eff Aug 1, 1977; L 1978, ch 727, § 6, eff July 1, 1978; L 1980, ch 803, §§ 4, 5, eff June 30, 1980; L 1982, ch 541, § 8, eff July 20, 1982; L 1993, ch 356, § 6, eff Oct 19, 1993 (see 1993 note below), 7, eff Jan 1, 1994 (see 1993 note below); L 1994, ch 66, § 10, eff April 18, 1994 (see 1994 note below); L 1997, ch 444, § 7, eff Aug 20, 1997; L 1997, ch 659, § 72, eff Sept 24, 1997; L 2005, ch 747, § 17, eff Oct 18, 2005; L 2011, ch 478, § 4, eff Aug 17, 2011.

NY CLS Gen Mun § 858-a

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 858-a. Compensation, procurement and investment

1.The compensation of an officer or full-time employee of the agency (but not including part-time employees or consultants, including accountants, attorneys and bond counsel to the agency) shall not be contingent on the granting of financial assistance by an agency.

2.The provisions of section one hundred four-b of this chapter shall be applicable to the procurement of goods and services paid for by an agency for its own use and account.

3.The provisions of sections ten and eleven of this chapter shall be applicable to deposits and investments of funds for an agency's own use and account.

History

Add, L 1993, ch 356, § 8, eff Oct 19, 1993 (see 1993 note below).

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NY CLS Gen Mun § 858-b

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New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 858-b. Equal employment opportunities

1. Each agency shall ensure that all employees and applicants for employment are afforded equal employment opportunity without discrimination.

2. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the agency shall be listed with the New York state department of labor community services division, and with the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located. Except as is otherwise provided by collective bargaining contracts or agreements, sponsors of projects shall agree, where practicable, to first consider persons eligible to participate in the federal job training partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the community services division of the department of labor for such [such]⁴ new employment opportunities.

History

Add, L 1993, ch 356, § 9, eff Oct 19, 1993 (see 1993 note below).

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⁴ Brackets have been inserted around this word as it is superfluous.

NY CLS Gen Mun § 859

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 859. Financial records

1.

(a) Each agency shall maintain books and records in such form as may be prescribed by the state comptroller.

(b) Within ninety days following the close of its fiscal year, each agency or authority shall prepare a financial statement for that fiscal year in such form as may be prescribed by the state comptroller. Such statement shall be audited within such ninety day period by an independent certified public accountant in accordance with government accounting standards established by the United States general accounting office. The audited financial statement shall include supplemental schedules listing all straight-lease transactions and bonds and notes issued, outstanding or retired during the applicable accounting period whether or not such bonds, notes or transactions are considered obligations of the agency. For each issue of bonds or notes such schedules shall provide the name of each project financed with proceeds of each issue, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each bond or note was issued, date of issue, interest rate at issuance and if variable the range of interest rates applicable, maturity date, federal tax status of each issue, and an estimate of the number of jobs created and retained by each project. For each straight-lease transaction, such schedules shall provide the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project.

(c) Within thirty days after completion, a copy of the audited financial statement shall be transmitted to the commissioner of the department of economic development, the state comptroller and the governing body of the municipality for whose benefit the agency was created.

(d) An agency with no bonds or notes issued or outstanding and no projects during the applicable accounting period may apply to the state comptroller for a waiver of the required audited financial statement. Application shall be made on such form as the comptroller may prescribe.

(e) If an agency or authority shall fail to file or substantially complete, as determined by the state comptroller, the financial statement required by this section, the state comptroller shall provide notice to the agency or authority. The notice shall state the following:

(i) that the failure to file a financial statement as required is a violation of this section, or in the case of an insufficient financial statement, the manner in which the financial statement submitted is deficient;

(ii) that the agency or authority has thirty days to comply with this section or provide an adequate written explanation to the comptroller of the agency's or authority's reasons for the inability to comply; and

(iii) that the agency's or authority's failure to provide either the required financial statement or an adequate explanation will result in the notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's noncompliance with this section. Where such agency or authority has failed to file the required statement, the comptroller shall additionally notify the agency or authority that continued failure to file the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(iv) If an agency or authority after thirty days has failed to file the required statement or the explanation in the manner required by subparagraph (i) of this paragraph, or provides an insufficient explanation, the comptroller shall notify the chief executive officer of the municipality for whose benefit the agency or authority was created and the agency of the agency's or authority's noncompliance with this section. Such notice from the state comptroller shall further delineate in what respect the agency or authority has failed to comply with this section. If the agency or authority has failed to file the required statement, the notice shall additionally state that continued failure to file the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(v) If, thirty days after notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's or authority's noncompliance, the agency or authority fails to file the required statement, the comptroller shall notify the chief executive officer of the municipality for whose benefit that agency or authority was created and the agency or authority that if such report is not provided within sixty days, that the agency or authority will no longer be authorized to provide exemptions from state taxes.

(vi) If, sixty days after the notification required by subparagraph (v) of this paragraph, the comptroller has not received the required statement, the agency or authority shall not offer financial assistance which provides exemptions from state taxes until such financial statement is filed and the comptroller shall so notify the agency or authority and the chief executive officer of the municipality for whose benefit the agency was created. Provided, however, that nothing contained in this paragraph shall be deemed to modify the terms of any existing agreements.

(f) Within thirty days after completion, a copy of an audited financial statement which contains transactions of or bonds or notes of civic facilities as defined in paragraph (b) of subdivision thirteen of section eight hundred fifty-four of this article, shall be transmitted by the agency to the commissioner of health, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate health committee and the chair of the assembly health committee.

2. On or before September first of each year, the commissioner of the department of economic development shall prepare and submit to the governor, speaker of the assembly, majority leader of the senate, and the state comptroller, a report setting forth a summary of the significant trends in operations and financing by agencies and authorities; departures from acceptable practices by agencies and authorities; a compilation by type of the bonds and notes outstanding; a compilation of all outstanding straight-lease transactions; an estimate of the total number of jobs created and retained by agency or authority projects; and any other information which in the opinion of the commissioner bears upon the discharge of the statutory functions of agencies and authorities.

3. On or before April first, nineteen hundred ninety-six, the commissioner shall submit to the director of the division of the budget, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the chairman of the senate local government committee, the chairman of the senate committee on commerce, economic development and small business, the chairman of the assembly committee on commerce, industry and economic development, the chairman of the assembly local governments committee and the chairman of the assembly real property taxation committee an evaluation of the activities of industrial development agencies and authorities in the state prepared by an entity independent of the department. Such evaluation shall identify

the effect of agencies and authorities on: (a) job creation and retention in the state, including the types of jobs created and retained; (b) the value of tax exemptions provided by such agencies and authorities; (c) the value of payments received in lieu of taxes received by municipalities and school districts as a result of projects sponsored by such entities; (d) a summary of the types of projects that received financial assistance; (e) a summary of the types of financial assistance provided by the agencies and authorities; (f) a summary of criteria for evaluation of projects used by agencies and authorities; (g) a summary of tax exemption policies of agencies and authorities; and (h) such other factors as may be relevant to an assessment of the performance of such agencies and authorities in creating and retaining job opportunities for residents of the state. Such evaluation shall also assess the process by which agencies and authorities grant exemptions from state taxes and make recommendations for the most efficient and effective procedures for the use of such exemptions. Such evaluation shall further include any recommendations for changes in laws governing the operations of industrial development agencies and authorities which would enhance the creation and retention of jobs in the state.

History

Add, L 1989, ch 692, § 4, eff Jan 1, 1990; amd, L 1993, ch 356, §§ 10–12, eff Oct 19, 1993 (see 1993 note below); L 1993, ch 357, §§ 1, 2, eff Oct 19, 1993; L 2003, ch 62, § 28 (Part A3), eff May 15, 2003.

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NY CLS Gen Mun § 859-a

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 859-a. Additional prerequisites to the provisions of financial assistance

Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the agency must comply with the following prerequisites:

1. The agency must adopt a resolution describing the project and the financial assistance that the agency is contemplating with respect to such project. Such assistance shall be consistent with the uniform tax exemption policy adopted by the agency pursuant to subdivision four of section eight hundred seventy-four of this chapter, unless the agency has followed the procedures for deviation from such policy specified in paragraph (b) of such subdivision.
2. The agency must hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the agency. Said public hearing shall be held in a city, town or village where the project proposes to locate. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project.
3. The agency must give at least ten days published notice of said public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of each affected tax jurisdiction within which the project is located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator or manager of the project and generally describe the financial assistance contemplated by the agency with respect to the project.
4. Each agency shall develop a standard application form, which shall be used by the agency to accept requests for financial assistance from all individuals, firms, companies, developers or other entities or organizations. The standard application form shall be submitted by or on behalf of the applicant, and subscribed and affirmed under the penalties of perjury by the applicant, or on behalf of the applicant by the chief executive officer or such other individual that is duly authorized to bind the applicant, as true, accurate and complete to the best of his or her knowledge. The standard application form shall include the following, and may include such other supplemental information as determined to be necessary and appropriate by the agency, including supporting documents and information provided by or on behalf of the applicant:
 - (a) the name and address of the project applicant;
 - (b) a description of the proposed project for which financial assistance is requested, including the type of project, proposed location and purpose of the project;
 - (c) the amount and type of financial assistance being requested, including the estimated value of each type of tax exemption sought to be claimed by reason of agency involvement in the project;
 - (d) a statement that there is a likelihood that the project would not be undertaken but for the financial assistance provided by the agency or, if the project could be undertaken without financial assistance provided by the agency, a statement indicating why the project should be undertaken by the agency;

(e)an estimate of capital costs of the project, including all costs of real property and equipment acquisition and building construction or reconstruction, financed from private sector sources, an estimate of the percentage of project costs financed from public sector sources, and an estimate of both the amount to be invested by the applicant and the amount to be borrowed to finance the project.

(f)the projected number of full time equivalent jobs that would be retained and that would be created if the request for financial assistance is granted, the projected timeframe for the creation of new jobs, the estimated salary and fringe benefit averages or ranges for categories of the jobs that would be retained or created if the request for financial assistance is granted, and an estimate of the number of residents of the economic development region as established pursuant to section two hundred thirty of the economic development law or the labor market area as defined by the agency, in which the project is located that would fill such jobs. The labor market area defined by the agency for this purpose may include no more than six contiguous counties in the state, including the county in which the project is to be located;

(g)a statement to the effect that the provisions of subdivision one of section eight hundred sixty-two of this chapter will not be violated if financial assistance is provided for the proposed project;

(h)a statement that the owner, occupant or operator receiving financial assistance is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations; and

(i)a statement acknowledging that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of agency involvement in the project.

5.Each agency shall develop, and adopt by resolution, uniform criteria for the evaluation and selection for each category of projects for which financial assistance will be provided. At a minimum, the criteria shall require that, for each project, the following must occur prior to the approval of the provision of financial assistance:

(a)an assessment by the agency of all material information included in connection with the application for financial assistance, as necessary to afford a reasonable basis for the decision by the agency to provide financial assistance for the project;

(b)a written cost-benefit analysis by the agency that identifies the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; the amount of private sector investment generated or likely to be generated by the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts; and any other public benefits that might occur as a result of the project;

(c)a statement by the applicant that the project, as of the date of the application, is in substantial compliance with all provisions of this article including, but not limited to, the provisions of this section and subdivision one of section eight hundred sixty-two of this chapter; and

(d)if the project involves the removal or abandonment of a facility or plant within the state, notification by the agency to the chief executive officer or officers of the municipality or municipalities in which the facility or plant was located.

6.Each agency shall develop a uniform agency project agreement that sets forth terms and conditions under which financial assistance shall be provided. The uniform agency project agreement shall be used by the agency and no financial assistance shall be provided in the absence of the execution of such an agreement. The uniform agency project agreement shall, at a minimum:

(a)describe the project and the financial assistance, including the amount and type, to be provided, and the agency purpose to be achieved;

(b)require each project owner, occupant or operator receiving financial benefits to provide annually a certified statement and documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the financial assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created.

(c)indicate the dates when PILOT payments are to be made and provide an estimate of the amounts for each affected tax jurisdiction of any payments in lieu of taxes that are included as part of the transaction, or formula or formulas by which those amounts may be calculated. In lieu of providing such information, a copy of an executed payment in lieu of tax agreement that contains the same information may be attached to the uniform agency project agreement;

(e)provide for the suspension or discontinuance of financial assistance, or for the modification of any payment in lieu of tax agreement to require increased payments, in accordance with policies developed by the agency pursuant to section eight hundred seventy-four of this title;

(f)provide for the return of all or a part of the financial assistance provided for the project, including all or part of the amount of any tax exemptions, which shall be redistributed to the appropriate affected tax jurisdiction, as provided for in policies developed by the agency pursuant to section eight hundred seventy-four of this title, unless agreed to otherwise by any local taxing jurisdiction or jurisdictions; and

(g)provide that the owner, occupant or operator receiving financial assistance shall certify, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

History

Add, L 1993, ch 356, § 13, eff Oct 19, 1993 (see 1993 note below); amd, L 1997, ch 444, § 3, eff Oct 19, 1997, expired and deemed repealed Jan 31, 2008 (see 1997 note below); L 2015, ch 563, § 1, eff June 15, 2016.

NY CLS Gen Mun § 859-b

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 859-b. Special procedure for the provision of financial assistance to continuing care retirement communities

1. Any applicant for financing of a continuing care retirement community shall present a completed application for a certificate of authority and documentation establishing the continuing care retirement community council's approval of that application, pursuant to article forty-six of the public health law.
2. If requested by the agency, the applicant shall present an analysis dealing with any of the issues identified in paragraph (a) of subdivision four of section eight hundred seventy-four of this article.
3. Applicants shall present the financial feasibility study, including a financial forecast and market study, and the analysis of economic costs and benefits required by article forty-six of the public health law.
4. Any information presented by the applicant pursuant to subdivisions one, two and three of this section shall be made available at the time required for published notice of the public hearing required by section eight hundred fifty-nine-a of this article. The agency shall make such information available during regular office hours in at least two locations, at least one of which shall be in the city, town or village within which the proposed project is located. Such notice shall include a statement indicating the location and times of availability of the information required by this section.
5. The industrial development agency may require the applicant to provide any additional information which it requires in order to meet the purposes of this article.

History

Add, L 1994, ch 66, § 11, eff April 18, 1994 (see 1994 note below); amd, L 1997, ch 659, § 73, eff Sept 24, 1997.

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NY CLS Gen Mun § 860

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 860. Moneys of the agency

The agency shall have power to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 861

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 861. Notification of budget

Each agency shall mail or deliver to the chief executive officer and the governing body of the municipality for whose benefit the agency was established and make available for public inspection and comment its proposed budget for the forthcoming fiscal year, no later than twenty business days before adoption. At such time, the agency shall file its proposed budget with the clerk of the municipality for whose benefit the agency was established. Such proposed budget shall contain detailed estimates in writing of the amount of revenues to be received and expenditures to be made during the forth coming fiscal year. Following its consideration of the comments received, the agency may revise its budget accordingly and shall file the revised budget with the clerk of the municipality.

History

Add, L 1993, ch 356, § 14, eff Oct 19, 1993 (see 1993 note below).

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NY CLS Gen Mun § 862

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 862. Restrictions on funds of the agency

(1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

(2)

(a) Except as provided in paragraph (b) of this subdivision, no financial assistance of the agency shall be provided in respect of any project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost. For the purposes of this article, "retail sales" shall mean: (i) sales by a registered vendor under article twenty-eight of the tax law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the tax law; or (ii) sales of a service to such customers. Except, however, that tourism destination projects shall not be prohibited by this subdivision. For the purpose of this paragraph, "tourism destination" shall mean a location or facility which is likely to attract a significant number of visitors from outside the economic development region as established by section two hundred thirty of the economic development law, in which the project is located.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, financial assistance may, however, be provided to a project where facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services constitute more than one-third of the total project cost, where: (i) the predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the city, town, or village within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services; or (ii) the project is located in a highly distressed area.

(c) With respect to projects authorized pursuant to paragraph (b) of this subdivision, no project shall be approved unless the agency shall find after the public hearing required by section eight hundred fifty-nine-a of this title that undertaking the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state. Where the agency makes such a finding, prior to providing financial assistance to the project by the agency, the chief executive officer of the municipality for whose benefit the agency was created shall confirm the proposed action of the agency.

History

NY CLS Gen Mun § 862

Add, L 1969, ch 1030, § 1, eff May 26, 1969; amd, L 1993, ch 356, § 15, eff Oct 19, 1993 and expired Feb 1, 2008 (see 1993 note below); L 1993, ch 357, § 3, eff Oct 19, 1993; L 1997, ch 444, § 4, eff Aug 20, 1997; L 2013, ch 59, § 1 (Part J), eff March 28, 2013 (see 2013 note below).

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NY CLS Gen Mun § 862-a

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)*

§ 862-a. Additional restrictions on funds of the agency in connection with continuing care retirement communities

No resolution authorizing the issuance of bonds, notes or other obligations of the agency, or for providing financial assistance in any respect, for any continuing care retirement community project shall be adopted unless and until the project has received a certificate of authorization pursuant to section forty-six hundred four-a of the public health law, and unless the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state.

History

Add, L 1994, ch 66, § 12, eff April 18, 1994 (see 1994 note below); amd, L 1997, ch 659, § 74, eff Sept 24, 1997.

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NY CLS Gen Mun § 864

Current through 2018 Chapters 1-274

***New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)***

§ 864. Bonds of the agency

(1)The agency shall have the power and is hereby authorized from time to time to issue negotiable bonds for any of its corporate purposes without limitation as to amount. The agency shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or redemption of the bonds to be refunded. Except as may otherwise be expressly provided by the agency, the bonds of every issue shall be special obligations of the agency payable solely from revenues derived from the leasing, sale or other disposition of a project, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the bonds shall be, and are hereby made, negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

(2)The bonds shall be authorized by resolution of the agency and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, either within or without the state, and be subject to such terms of redemption as such resolution or resolutions may provide. The bonds may be sold at public or private sale at such price or prices as the agency shall determine.

(3)Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to:

- (a)pledging all or any part of the revenues derived from the leasing, sale or other disposition of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;
- (b)the rentals, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;
- (c)the setting aside of reserves or sinking funds, and the regulation and disposition thereof;
- (d)limitations on the right of the agency to restrict and regulate the use of a project;
- (e)limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;
- (f)the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g)the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h)vesting in a trustee or trustees such property, rights, powers and duties in trust as the agency may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders and limiting or abrogating the right of the bondholders to appoint a trustee or limiting the rights, duties and powers of trustee;

(i)any other matters, of like or different character, which in any way affect the security or protection of the bonds.

History

Add. L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 866

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 866. Notes of the agency

The agency shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates for any purpose or purposes for which bonds may be issued, whenever the agency shall determine that payment thereof can be made in full from any moneys or revenues which the agency expects to receive from any source. The agency may secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The agency shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the agency shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the agency to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the agency.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 868

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)*

§ 868. Agreements of the municipality and state

The municipality is authorized to, and the state does hereby, pledge to and agree with the holders of the bonds or notes that neither the municipality nor the state, respectively, will limit or alter the rights, hereby vested in the agency to acquire, construct, reconstruct, improve, maintain, equip and furnish the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes nor in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 870

Current through 2018 Chapters 1-274

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§ 870. State and municipality not liable on bonds or notes

The bonds or notes and other obligations of the authority shall not be a debt of the state or of the municipality, and neither the state nor the municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the agency.

History

Add, L 1969, ch 1030, § eff May 26, 1969.

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NY CLS Gen Mun § 872

Current through 2018 Chapters 1-274

***New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)***

§ 872. Bonds and notes as legal investment

The bonds and notes are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or notes or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds or notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 874

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 874. Tax exemptions

(1) It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose, and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. Provided, however, if the agency is located within a transportation district referenced in paragraph (a) of subdivision two of section two hundred fifty-three of the tax law, it shall not be exempt from the additional tax on each mortgage of real property situated within the state imposed by such paragraph.

(2) Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the agency, shall be exempt from taxation, except for transfer and estate taxes.

(3) Payments in lieu of taxes received by the agency shall be remitted to each affected tax jurisdiction within thirty days of receipt.

(4)

(a) The agency shall establish a uniform tax exemption policy, with input from affected tax jurisdictions, which shall be applicable to the provision of financial assistance pursuant to section eight hundred fifty-nine-a of this chapter and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; percentage of exemption; types of projects for which exemptions can be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, agencies shall in adopting such policy consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; whether affected tax jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts.

(b) The agency shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this subdivision. The agency shall set forth in writing the reasons for deviation from such policy, and shall further notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.

(5) Payments in lieu of taxes which are delinquent under the agreement or which an agency fails to remit pursuant to subdivision three of this section, shall be subject to a late payment penalty of five percent of the amount due which shall be paid by the project occupant (where taxes are delinquent because of the occupant's failure to make the required payment) or the agency (because of the agency's failure to remit pursuant to subdivision three of this section) to the affected tax jurisdiction at the time the payment in lieu of taxes is paid. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall accrue to and be paid to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent per month until the payment is made.

(6) An affected tax jurisdiction which has not received a payment in lieu of taxes due to it under an agreement may commence legal action in any court of competent jurisdiction directly against any person, firm, corporation, organization or agency which is obligated to make payments in lieu of taxes under an agreement and has failed to do so. In such an action, the affected tax jurisdiction shall be entitled to recover the amount due, the late payment penalty, interest, expenses, costs and disbursements together with the reasonable attorneys' fees necessary to prosecute such action. Nothing herein shall be construed as providing an affected tax jurisdiction with the right to sue and recover from an agency which has not received payments in lieu of taxes from a project occupant.

(7) Any refinancing of a project shall be subject to the provisions of section eight hundred fifty-nine-a of this chapter, except where such refinancing was previously approved pursuant to such section.

(8) Agents of an agency and project operators shall annually file a statement with the state department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators, under the authority granted pursuant to this section. The penalty for failure to file such statement shall be the removal of authority to act as an agent of an agency or a project operator.

(9)

(a) Within thirty days of the date that the agency designates a project operator or other person to act as agent of the agency for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the agency, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services intended to be exempted from such taxes as a result of such appointment as agent, indicating the agency's rough estimate of the value of the property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

(b) Within thirty days of the date that the agency's designation described in paragraph (a) of this subdivision has been amended, terminated, been revoked, or become invalid or ineffective for any reason, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the agency in the original designation and setting forth the taxpayer identification number and other identifying information of each such agent, the date as of which the original designation was amended, terminated, revoked, or became invalid or ineffective and the reason therefor, together with a copy of the original designation.

(10) Each agency shall develop policies for the suspension or discontinuance of financial assistance, or for the modification of any payment in lieu of tax agreement to require increased payments under circumstances as specified in the policy, which may include but shall not be limited to events of material violation of the terms and conditions of a project agreement.

(11) Each agency shall develop policies for the return of all or a part of the financial assistance provided for the project, including all or part of the amount of any tax exemptions, as specified in the policy, which may include

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but shall not be limited to material shortfalls in job creation and retention projections or material violations of the terms and conditions of project agreements. All such returned amounts of tax exemptions shall be redistributed to the appropriate affected tax jurisdiction, unless agreed to otherwise by any local taxing jurisdiction.

(12)Each agency shall at least annually assess the progress of each project for which bonds or notes remain outstanding or straight-lease transactions have not terminated, or which continue to receive financial assistance or are otherwise active, toward achieving the investment, job retention or creation, or other objectives of the project indicated in the project application. Such assessments shall be provided to board members.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969; amd, L 1992, ch 772, § 1, eff Aug 7, 1992; L 1993, ch 356, §§ 16, 17, eff Oct 19, 1993; L 1993, ch 357, § 4, eff Oct 19, 1993; L 1997, ch 444, § 1, eff Oct 19, 1997; L 2010, ch 57, § 1 (Part S, Subpart C), eff Aug 11, 2010, deemed eff on and after Jan 31, 2008; L 2013, ch 59, § 8 (Part J), eff March 28, 2013; L 2015, ch 563, § 2, eff June 15, 2016; L 2016, ch 394, § 1, eff July 1, 2017.

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NY CLS Gen Mun § 875

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 875. Special provisions applicable to state sales and compensating use taxes and certain types of facilities

1. For purposes of this section: "state sales and use taxes" means sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight. "IDA" means an industrial development agency established by this article or an industrial development authority created by the public authorities law. "Commissioner" means the commissioner of taxation and finance.

2. An IDA shall keep records of the amount of state and local sales and use tax exemption benefits provided to each project and each agent or project operator and shall make such records available to the commissioner upon request. Such IDA shall also, within thirty days of providing financial assistance to a project that includes any amount of state sales and use tax exemption benefits, report to the commissioner the amount of such benefits for such project, the project to which they are being provided, together with such other information and such specificity and detail as the commissioner may prescribe. This report may be made in conjunction with the statement required by subdivision nine of section eight hundred seventy-four of this title or it may be made as a separate report, at the discretion of the commissioner. An IDA that fails to make such records available to the commissioner or to file such reports shall be prohibited from providing state sales and use tax exemption benefits for any project unless and until such IDA comes into compliance with all such requirements.

3.

(a) An IDA shall include within its resolutions and project documents establishing any project or appointing an agent or project operator for any project the terms and conditions in this subdivision, and every agent, project operator or other person or entity that shall enjoy state sales and use tax exemption benefits provided by an IDA shall agree to such terms as a condition precedent to receiving or benefiting from such state sales and use exemptions benefits.

(b) The IDA shall recover, recapture, receive, or otherwise obtain from an agent, project operator or other person or entity state sales and use exemptions benefits taken or purported to be taken by any such person to which the person is not entitled or which are in excess of the amounts authorized or which are for property or services not authorized or taken in cases where such agent or project operator, or other person or entity failed to comply with a material term or condition to use property or services in the manner required by the person's agreement with the IDA. Such agent or project operator, or other person or entity shall cooperate with the IDA in its efforts to recover, recapture, receive, or otherwise obtain such state sales and use exemptions benefits and shall promptly pay over any such amounts to the IDA that it requests. The failure to pay over such amounts to the IDA shall be grounds for the commissioner to assess and determine state sales and use taxes due from the person under article twenty-eight of the tax law, together with any relevant penalties and interest due on such amounts.

(c) If an IDA recovers, recaptures, receives, or otherwise obtains, any amount of state sales and use tax exemption benefits from an agent, project operator or other person or entity, the IDA shall, within thirty days of coming into possession of such amount, remit it to the commissioner, together with such

information and report that the commissioner deems necessary to administer payment over of such amount. An IDA shall join the commissioner as a party in any action or proceeding that the IDA commences to recover, recapture, obtain, or otherwise seek the return of, state sales and use tax exemption benefits from an agent, project operator or other person or entity.

(d)An IDA shall prepare an annual compliance report detailing its terms and conditions described in paragraph (a) of this subdivision and its activities and efforts to recover, recapture, receive, or otherwise obtain state sales and use exemptions benefits described in paragraph (b) of this subdivision, together with such other information as the commissioner and the commissioner of economic development may require. The report required by this subdivision shall be filed with the commissioner, the director of the division of the budget, the commissioner of economic development, the state comptroller, the governing body of the municipality for whose benefit the agency was created, and may be included with the annual financial statement required by paragraph (b) of subdivision one of section eight hundred fifty-nine of this title. Such report required by this subdivision shall be filed regardless of whether the IDA is required to file such financial statement described by such paragraph (b) of subdivision one of section eight hundred fifty-nine. The failure to file or substantially complete the report required by this subdivision shall be deemed to be the failure to file or substantially complete the statement required by such paragraph (b) of subdivision one of such section eight hundred fifty-nine, and the consequences shall be the same as provided in paragraph (e) of subdivision one of such section eight hundred fifty-nine.

(e)This subdivision shall apply to any amounts of state sales and use tax exemption benefits that an IDA recovers, recaptures, receives, or otherwise obtains, regardless of whether the IDA or the agent, project operator or other person or entity characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The provisions of this subdivision shall also apply to any interest or penalty that the IDA imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that an IDA recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be state sales and use taxes and the IDA shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of the state.

4.The commissioner shall deposit and dispose of any amount of any payments or moneys received from or paid over by an IDA or from or by any person or entity, or received pursuant to an action or proceeding commenced by an IDA, together with any interest or penalties thereon, pursuant to subdivision three of this section, as state sales and use taxes in accord with the provisions of article twenty-eight of the tax law. The amount of any such payments or moneys, together with any interest or penalties thereon, shall be attributed to the taxes imposed by sections eleven hundred five and eleven hundred ten, on the one hand, and section eleven hundred nine of the tax law, on the other hand, or to any like taxes or fees imposed by such article, based on the proportion that the rates of such taxes or fees bear to each other, unless there is evidence to show that only one or the other of such taxes or fees was imposed or received or paid over.

5.The statement that an IDA is required by subdivision nine of section eight hundred seventy-four of this article to file with the commissioner shall not be considered an exemption or other certificate or document under article twenty-eight or twenty-nine of the tax law. The IDA shall not represent to any agent, project operator, or other person or entity that a copy of such statement may serve as a sales or use tax exemption certificate or document. No agent or project operator may tender a copy of such statement to any person required to collect sales or use taxes as the basis to make any purchase exempt from tax. No such person required to collect sales or use taxes may accept such a statement in lieu of collecting any tax required to be collected. The civil and criminal penalties for misuse of a copy of such statement as an exemption certificate or document or for failure to pay or collect tax shall be as provided in the tax law. In addition, the use by an IDA or agent, project operator, or other person or entity of such statement, or the IDA's recommendation of the use or tendering of such statement, as such an exemption certificate or document shall be deemed to be, under articles twenty-eight and thirty-seven of the tax law, the issuance of a false or fraudulent exemption certificate or document with intent to evade tax.

6. The commissioner is hereby authorized to audit the records, actions, and proceedings of an IDA and of its agents and project operators to ensure that the IDA and its agents and project operators comply with all the requirements of this section. Any information the commissioner finds in the course of such audit may be used by the commissioner to assess and determine state and local taxes of the IDA's agent or project operator.

7. In addition to any other reporting or filing requirements an IDA has under this article or other law, an IDA shall also report and make available on the internet, without charge, copies of its resolutions and agreements appointing an agent or project operator or otherwise related to any project it establishes. It shall also provide, without charge, copies of all such reports and information to a person who asks for it in writing or in person. The IDA may, at the request of its agent or project operator delete from any such copies posted on the internet or provided to a person described in the prior sentence portions of its records that are specifically exempted from disclosure under article six of the public officers law.

8. In consultation with the commissioner of economic development, the commissioner of taxation and finance is hereby authorized to adopt rules and regulations and to issue publications and other guidance implementing the provisions of this section and of the other sections of this article relating to any state or local tax or fee, or exemption or exclusion therefrom, that the commissioner administers and that may be affected by any provision of this article, and any such rules and regulations of the commissioner shall have the same force and effect with respect to such taxes and fees, or amounts measured in respect of them, as if they had been adopted by the commissioner pursuant to the authority of the tax law.

9. To the extent that a provision of this section conflicts with a provision of any other section of this article, the provisions of this section shall control.

History

Add, L 2013, ch 59, § 2 (Part J), eff March 28, 2013 (see 2013 note below).

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NY CLS Gen Mun § 876

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 876. Tax contract by the state

The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the agency pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the agency issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 878

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 878. Remedies of bondholders and noteholders

(1) In the event that the agency shall default in the payment of principal or of interest on any issue of the bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the agency shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes, then outstanding shall, in his or its own name:

(a) by suit, action or special proceeding enforce all rights of the bondholders or noteholders, including the right to require the agency to collect revenues adequate to carry out any agreement as to, or pledge of, such revenues, and to require the agency to carry out any other agreements with the holders of such bonds or notes and to perform its duties under this title;

(b) bring suit upon such bonds or notes;

(c) by action or special proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or special proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(e) declare all such bonds or notes due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

(3) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county in which the project or projects are located.

(4) Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the agency.

(5) Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of a project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders or noteholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the agency has covenanted to construct, and with any construction which the agency is under obligation to do and to operate,

maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders or noteholders relating thereto and perform the public duties and carry out the agreements and obligations of the agency under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

(6) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 880

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 — 888)

§ 880. Actions against the agency

(1) In an action against the agency founded upon tort, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which the action is founded were presented to a member of the agency and to its secretary or to its chief executive officer, and that the agency has neglected or refused to make an adjustment or payment thereof for thirty days after the presentment.

(2) In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the agency or an officer, appointee or employee thereof, and the provisions of section fifty-e of this chapter shall govern the giving of such notice. No action shall be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969; amd, L 2012, ch 500, § 7, eff June 15, 2013 (see 2012 note below).

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NY CLS Gen Mun § 882

Current through 2018 Chapters 1-274

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Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)*

§ 882. Termination of the agency

Whenever all of the bonds or notes issued by the agency shall have been redeemed or cancelled, and all straight-lease transactions have been terminated, the agency shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the agency shall thereupon vest in and be possessed by the municipality.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969; amd, L 2012, ch 373, § 191, eff Oct 15, 2012, deemed eff on and after Jan 1, 2002.

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NY CLS Gen Mun § 883

Current through 2018 Chapters 1-274

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§ 883. Conflicts of interest

All members, officers, and employees of an agency or industrial development authority established by this chapter or created by the public authorities law shall be subject to the provisions of article eighteen of this chapter.

History

Add, L 1993, ch 356, § 18, eff Oct 19, 1993 (see 1993 note below); amd, L 2013, ch 59, § 7 (Part J), eff March 28, 2013 (see 2013 note below).

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NY CLS Gen Mun § 884

Current through 2018 Chapters 1-274

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Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)*

§ 884. Public bidding

The provisions of any law relating to the requirement of public bidding with respect to the construction of public facilities or projects shall not be applicable to the acquisition, construction, reconstruction, improvement, maintenance, equipping and furnishing of projects authorized by this act.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 886

Current through 2018 Chapters 1-274

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Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)*

§ 886. Title not affected if in part unconstitutional or ineffective

If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969.

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NY CLS Gen Mun § 888

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 1 Agencies, Organization and Powers (§§ 850 —
888)*

§ 888. Inconsistent provisions in other acts superseded

Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local laws of the municipality, the provisions of this title shall be controlling except in cases of inconsistency with the Indian law.

History

Add, L 1969, ch 1030, § 1, eff May 26, 1969; amd, L 1972, ch 190, eff May 2, 1972.

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NY CLS Gen Mun, Art. 18-A, Title 3 Note

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 3 [Repealed] (§ 950)*

Title 3 [Repealed]

History

Add, L 1980, ch 259, § 2, eff June 17, 1980; repealed, L 2003, ch 452, § 1, eff Aug 31, 2003.

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NY CLS Gen Mun § 950

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 3 [Repealed] (§ 950)*

§ 950. [Repealed]

History

Add, L 1980, ch 259, § 2, eff June 17, 1980; repealed, L 2003, ch 452, § 1, eff Aug 31, 2003.

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NY CLS Gen Mun § 905

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 2 Municipal Industrial Development Agencies (§§ 890 — 928)

§ 905. Town of Hempstead industrial development agency

1. For the benefit of the town of Hempstead, county of Nassau, and the inhabitants thereof, an industrial development agency, to be known as the TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies and provide that the exercise of the powers by such agency with respect to the acquisition of real property whether by purchase, condemnation or otherwise, shall be limited to the corporate limits of the town of Hempstead, and such agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. It shall be organized in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. Its members shall be appointed by the governing body of the town of Hempstead, county of Nassau. The agency, its members, officers and employees, and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.

2. Prior to the approval of any application for a payment in lieu of taxes (hereinafter referred to in this section as "PILOT") agreement by the agency for a project located in the village of Freeport or the village of Hempstead, the chief executive officer of the affected village shall be consulted. The agency shall also consult with the village governing body prior to any PILOT agreement being approved by the agency for a project located in the village of Freeport or the village of Hempstead. In addition, the agency shall obtain an impact analysis to determine the impact on the village of the project and the planned PILOT agreement. The applicant for such PILOT agreement shall bear the costs related to the required impact analysis. The agency and the village governing body shall jointly select a qualified entity to conduct the impact analysis. The membership of the agency, when reviewing applications and approving PILOT agreements for projects located in the village of Freeport or the village of Hempstead, shall include at least one member of such village's governing body and at least three at large members drawn from a cross section of the village community.

3. The agency shall review any PILOT agreement for a project located in the village of Freeport or the village of Hempstead after the third year of entering into such PILOT agreement, and every third year thereafter, and adjust the PILOT agreement accordingly based on changes to the assessed value and tax rate of all other real properties located in such villages. The agency shall provide a written report to the village of Freeport and the village of Hempstead documenting any and all variances or changes to the projected revenues of such villages from any such PILOT agreement.

4. A PILOT agreement for a project located in the village of Freeport or the village of Hempstead shall not be renewed or renegotiated until a full audit has been completed of the accounts of the party obligated to make payments in lieu of taxes pursuant to the PILOT agreement with the agency. The agency and the village governing body shall jointly choose a qualified entity to conduct such audit. The party that is obligated to make payments in lieu of taxes pursuant to the PILOT agreement with the agency shall bear the costs of preparing such audit. The village of Freeport or the village of Hempstead may request from the office of the state comptroller an audit or review of the audit prior to the renewal or renegotiation of a PILOT agreement for a project located in the village of Freeport or the village of Hempstead.

History

Add, L 1971, ch 529, § 1, eff June 17, 1971; amd, L 2014, ch 493, § 1, eff Dec 17, 2014.

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NY CLS Gen Mun § 919

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 2 Municipal Industrial Development Agencies (§§
890 — 928)*

§ 919. Glen Cove industrial development agency

For the benefit of the city of Glen Cove and the inhabitants thereof, an industrial development agency, to be known as the GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies and provided that the exercise of the powers by such agency with respect to the acquisition of real property whether by purchase, condemnation or otherwise, shall be limited to the corporate limits of the city of Glen Cove, and such agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. It shall be organized in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. Its members shall be appointed by the mayor of the city of Glen Cove. The agency, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.

History

Add, L 1974, ch 374, § 1, eff May 17, 1974.

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NY CLS Gen Mun § 922

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A Industrial Development (Titles 1 — 3) > Title 2 Municipal Industrial Development Agencies (§§ 890 — 928)

§ 922. Nassau county industrial development agency

1. For the benefit of the county of Nassau and the inhabitants thereof, an industrial development agency, to be known as the Nassau county industrial development agency, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies and provided that the exercise of the powers by such agency with respect to the acquisition of real property whether by purchase, condemnation or otherwise, shall be limited to the corporate limits of the county of Nassau, and such agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. It shall be organized in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. Its members shall be appointed by the county executive subject to confirmation by the board of supervisors of Nassau county, and all of the agency's accounts, contracts, books and records shall be subject to audit by the county comptroller pursuant to section five hundred seventy-seven of the county law. The agency, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.

2. Prior to the approval of any application for a payment in lieu of taxes (hereinafter referred to in this section as "PILOT") agreement by the agency for a project located in the village of Freeport or the village of Hempstead, the chief executive officer of the affected village shall be consulted. The agency shall also consult with the village governing body prior to any PILOT agreement being approved by the agency for a project located in the village of Freeport or the village of Hempstead. In addition, the agency shall obtain an impact analysis to determine the impact on the village of the project and the planned PILOT agreement. The applicant for such PILOT agreement shall bear the costs related to the required impact analysis. The agency and the village governing body shall jointly select a qualified entity to conduct the impact analysis. The membership of the agency, when reviewing applications and approving PILOT agreements for projects located in the village of Freeport or the village of Hempstead, shall include at least one member of such village's governing body and at least three at large members drawn from a cross section of the village community.

3. The agency shall review any PILOT agreement for a project located in the village of Freeport or the village of Hempstead after the third year of entering into such PILOT agreement, and every third year thereafter, and adjust the PILOT agreement accordingly based on changes to the assessed value and tax rate of all other real properties located in such villages.

4. A PILOT agreement for a project located in the village of Freeport or the village of Hempstead shall not be renewed or renegotiated until a full audit has been completed of the accounts of the party obligated to make payments in lieu of taxes pursuant to the PILOT agreement with the agency. The agency and the village governing body shall jointly choose a qualified entity to conduct such audit. The party that is obligated to make payments in lieu of taxes pursuant to the PILOT agreement with the agency shall bear the costs of preparing such audit. The village of Freeport or the village of Hempstead may request from the office of the state

¹ There are two sections 922.

comptroller an audit or review of the audit prior to the renewal or renegotiation of a PILOT agreement for a project located in the village of Freeport or the village of Hempstead.

History

Add, L 1975, ch 674, § 1, eff Aug 6, 1975; amd, L 1988, ch 474, § 2, eff Aug 1, 1988; L 2014, ch 493, § 2, eff Dec 17, 2014.

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NY CLS Gen Mun, Art. 18-A, Title 2 Note

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > General Municipal Law (Arts. 1 — 20) > Article 18-A
Industrial Development (Titles 1 — 3) > Title 2 Municipal Industrial Development Agencies (§§
890 — 928)*

Title 2 Municipal Industrial Development Agencies

History

Add, L 1969, ch 916, § 1, eff May 22, 1969.

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NY CLS RPTL § 412-a

Current through 2018 Chapters 1-274

New York Consolidated Laws Service > Real Property Tax Law (Arts. 1 — 20) > Article 4 Exemptions (Titles 1 — 6) > Title 1 Public Property (§§ 400 — 418)

§ 412-a. Industrial development agencies

1. Real property owned by or under the jurisdiction, supervision or control of industrial development agencies enumerated in the general municipal law shall be entitled to such exemption as may be provided therein.
2. Application for such exemption must be made by the agency on a form prescribed by the commissioner and shall be filed in the office of the assessor on or before the appropriate taxable status date for the year in which the exemption is first claimed. At such time, copies of such application shall be mailed or delivered to the chief elected official of each school district, city, county, town and village within which the project is located. Such application shall include an extract of the terms of any agreement relating to the project. No application shall be required in subsequent years unless the terms of the agreement are modified or changed.

History

Add, L 1969, ch 1030, § 2; amd, L 1988, ch 228, § 1, eff Jan 1, 1989; L 1991, ch 372, § 1, eff July 15, 1991 (see 1991 note below); L 1993, ch 356, § 37, eff Oct 19, 1993 (see 1993 note below); L 2010, ch 56, § 1 (Part W), eff June 22, 2010.

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NY CLS RPTL § 485-b

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > Real Property Tax Law (Arts. 1 — 20) > Article 4
Exemptions (Titles 1 — 6) > Title 2 Private Property (§§ 420 — 489)*

§ 485-b. Business investment exemption

1. Real property constructed, altered, installed or improved subsequent to the first day of July, nineteen hundred seventy-six for the purpose of commercial, business or industrial activity shall be exempt from taxation and special ad valorem levies, except for special ad valorem levies for fire district, fire protection district and fire alarm district purposes, to the extent hereinafter provided.

2.

(a)

(i) Such real property shall be exempt for a period of one year to the extent of fifty per centum of the increase in assessed value thereof attributable to such construction, alteration, installation or improvement and for an additional period of nine years provided, however, that the extent of such exemption shall be decreased by five per centum each year during such additional period of nine years and such exemption shall be computed with respect to the "exemption base." The exemption base shall be the increase in assessed value as determined in the initial year of such ten year period following the filing of an original application, except as provided in subparagraph (ii) of this paragraph.

(ii) In any year in which a change in level of assessment of fifteen percent or more is certified for a final assessment roll pursuant to the rules of the commissioner, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the assessor receives the certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the assessor does not have custody of the roll when such certification is received, the assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the assessor on the roll. The assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by title three of article five of this chapter for the correction of clerical errors.

(iii) The following table shall illustrate the computation of the tax exemption:

Year of exemption	Percentage of exemption
1	50
2	45
3	40
4	35
5	30
6	25

NY CLS RPTL § 485-b

7	20
8	15
9	10
10	5

(b) No such exemption shall be granted unless

(1) such construction, alteration, installation or improvement was commenced subsequent to the first day of January, nineteen hundred seventy-six or such later date as may be specified by local law or resolution;

(2) the cost of such construction, alteration, installation or improvement exceeds the sum of ten thousand dollars or such greater amount as may be specified by local law or resolution; and

(3) such construction, alteration, installation or improvement is completed as may be evidenced by a certificate of occupancy or other appropriate documentation as provided by the owner.

(c) For purposes of this section the terms construction, alteration, installation and improvement shall not include ordinary maintenance and repairs.

(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 ten year exemption granted pursuant to this section less the number of years the property would have been previously exempt from real property taxes.

3. Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the commissioner. Such application shall be filed with the assessor of the city, town, village, or county having the power to assess property for taxation on or before the appropriate taxable status date of such city, town, village or county and within one year from the date of completion of such construction, alteration, installation or improvement.

4. If the assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies, except for special ad valorem levies for fire district, fire protection district and fire alarm district purposes, as herein provided commencing with the assessment roll prepared after the taxable status date referred to in subdivision three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

5. The provisions of this section shall apply to real property used primarily for the buying, selling, storing or developing goods or services, the manufacture or assembly of goods or the processing of raw materials. This section shall not apply to property used primarily for the furnishing of dwelling space or accommodations to either residents or transients other than hotels or motels.

6. In the event that real property granted an exemption pursuant to this section ceases to be used primarily for eligible purposes, the exemption granted pursuant to this section shall cease.

7. A county, city, town or village may, by local law, and a school district, except a city school district to which article fifty-two of the education law applies, may, by resolution, reduce the per centum of exemption otherwise allowed pursuant to this section; provided, however, that a project in course of construction and exemptions existing prior in time to passage of any such local law or resolution shall not be subject to any such reduction so effected. Any county, city, town, village or school district that has reduced the per centum of exemption pursuant to this subdivision may thereafter, by local law or resolution as the case may be, increase the per centum of exemption up to any per centum not exceeding the maximum allowed by subdivision two or twelve of this section, whichever is applicable, provided, however, that any such local law or resolution shall apply only to

construction, alterations, installations, or improvements commenced subsequent to the effective date of such local law or resolution. A copy of all such local laws or resolutions shall be filed with the commissioner and the assessor of each assessing unit which comprises the county, city, town or school district or, in the case of a village, the village assessor, or the applicable town or county assessor of a village which has adopted a local law provided in subdivision three of section fourteen hundred two of this chapter.

8. A county, city, town or village may, by local law, and a school district, except a city school district to which article fifty-two of the education law applies may, by resolution, establish a date for the commencement of effectiveness of exemptions offered pursuant to this section and may provide that the provisions of this section shall apply only to construction, alteration, installation or improvements having a greater value than that specified by subdivision two of this section, provided, however, that such amount shall not exceed fifty thousand dollars.

9.

(a) A county, city, outside the city of New York, town or village may, by local law, and a school district which levies school taxes may, by resolution, establish a board to be known as the industrial and commercial incentive board. The membership and composition of such board shall be set forth in the local law or resolution.

(b) The industrial and commercial incentive board shall present a plan to the appointing local legislative body concerning the various types of business real property which should be granted eligibility for an exemption pursuant to subdivision one of this section. Such plan shall make recommendations concerning the applicability of the exemption to specific sectors and subsectors, as defined in the North American Industry Classification System published by the United States Government. Such plan shall also make a recommendation as to whether the exemption be computed as provided in subdivision two or twelve of this section. In addition, such plan shall identify specific geographic areas within which such exemptions should be offered. In developing the plan required by this paragraph, the board shall consider the planning objectives of each municipality within which such exemptions may be offered, the necessity of the exemption to the attraction or retention of such business and the economic benefit to the area of providing exemptions to various types of businesses.

(c) In addition, the board may make recommendations to the appointing local legislative body with respect to actions it deems desirable to improve the economic climate therein.

(d) Notwithstanding the provisions of paragraph (a) of this subdivision, where a county establishes an industrial and commercial incentive board, the members of such board shall be appointed as follows: three representatives of the county: the appointment of one shall be reserved to the county executive of the county who shall serve as chair, and one each for the majority and the minority parties of the county legislative body; one representative for each city located within the county upon the recommendation of the mayor; one representative for each of the towns located within the county upon the recommendation of the supervisor; one representative to collectively represent all of the villages located within the county upon the recommendation of the mayors of the villages in the county; and one representative to collectively represent all of the school districts located within the county upon recommendation of the county school boards association. The members of such board shall serve at the pleasure of the governing body which they represent. The members shall serve without salary, but the county legislative body may entitle each such member to reimbursement for his or her actual and necessary expenses incurred in the performance of his or her duties.

10. Where a county, city, town, village or school district has established an industrial and commercial incentive board, pursuant to subdivision nine of this section, such county, city, town or village may, by local law, and a school district, except a city school district to which article fifty-two of the education law applies, may, by resolution, restrict real property eligible to receive the exemption to real property constructed, altered, installed or improved for those purposes identified in the plan presented by the board. Such law or resolution shall identify the specific sectors and subsectors, as defined in the North American Industry Classification System published by the United States Government to which the exemption shall be applicable. Such law or resolution

shall also restrict the availability of such exemption to the specific geographic areas identified in the plan presented by the board.

11. Where a county, by law, restricts exemptions pursuant to the recommendations of an industrial and commercial incentive board, established pursuant to subdivision nine of this section, such restricted exemptions shall be applicable to taxes and special ad valorem levies of each city, town, village and school district located within the area within which the restricted exemptions are offered by the county, unless such city, town or village shall, by law, or such school district, shall, by resolution, determine that such restricted exemptions shall not be applicable to its tax and ad valorem levies. Upon adoption of such law, the county shall notify each affected city, town, village and school district of its actions and inform them of their options regarding such restricted exemptions.

12. Notwithstanding subdivision two of this section, where a county, city, town, village or school district adopts restricted exemptions pursuant to subdivision ten of this section, the law or resolution may provide that such exemptions shall be computed pursuant to the following accelerated strategic exemption schedule:

Year of exemption	Percentage of exemption
1	50
2	50
3	50
4	40
5	30
6	20
7	10
8	10
9	10
10	5

Provided however, that such law or resolution shall:

- (i) contain findings that the adoption of this accelerated strategic exemption schedule is necessary to encourage targeted economic development, create or retain permanent private sector jobs, and that the value of the exemptions to be provided is justified by the need to provide employment opportunities and broaden the tax base; and
- (ii) limit the applicability of such schedule to projects where the cost of such construction, alteration, installation or improvement exceeds the sum of fifty thousand dollars; and
- (iii) provide that such exemptions are restricted by geographic areas and/or groups and major divisions as is provided by subdivision ten of this section.

13. The provisions of this section shall not apply in a city of one million or more persons.

History

Add, L 1976, ch 278, § 1, eff June 8, 1976; amd, L 1977, ch 397, § 1, L 1985; L 1985, ch 512, § 1, eff July 24, 1985 (see 1985 note below); L 1988, ch 228, § 5, eff Jan 1, 1989; L 1992, ch 316, § 6, eff Nov 1, 1992; L 1993, ch 440, § 10, eff July 26, 1993; L 1994, ch 305, §§ 1–3, eff Jan 1, 1995; L 1995, ch 625, § 2, eff Aug 8, 1995 (see 1995 note below); L 1997, ch 332, § 1, eff Aug 5, 1997 (see 1997 note below); L 1998, ch 488, § 4, eff July 29, 1998; L 2000, ch 144, § 3, eff July 11, 2000; L 2010, ch 56, § 1 (Part W), eff June 22, 2010.

NY CLS RPTL § 520

Current through 2018 Chapters 1-274

***New York Consolidated Laws Service > Real Property Tax Law (Arts. 1 — 20) > Article 5
Assessment Procedure (Titles 1 — 5) > Title 1 General Provisions (§§ 500 — 520)***

§ 520. Assessment and taxation of exempt property upon transfer of title

1. Whenever any person, association or corporation not otherwise entitled to an exemption from taxation acquires title to real property which is exempt, in whole or in part, from taxation, such property shall be immediately subject to taxation and shall be taxed pro rata for the unexpired portion of any fiscal year during which said transfer of title occurred, and shall be liable in full for taxes in any fiscal year commencing subsequent to the date of transfer, as provided in this section.
2. If within the fiscal year during which a transfer of title occurs or within the next succeeding fiscal year, an assessor is made aware of the fact that title to real property receiving a total or partial exemption from taxation has been transferred to a person, corporation or association not otherwise entitled to an exemption from taxation, he or she shall forthwith assess such property at its value as of the date of transfer, shall, where appropriate for purposes of article eighteen or nineteen of this chapter, reclassify the property, and shall notify the new owner of the assessment and of the right of that owner to a review of the assessment and reclassification, if appropriate, as provided by title three of article five of this chapter.
3. For purposes of any fiscal year or years during which title to such property is transferred, such property shall be deemed to have been omitted and the assessed value thereof shall be entered on the assessment roll to be used for the next tax levy by or for each municipal corporation in which such property is located in the same manner as provided by title three of article five of this chapter with respect to a parcel omitted from the assessment roll of the previous year. A pro rata tax shall be extended against the property for the unexpired portion of each fiscal year. Such real property shall be taxed at the tax rate or tax rates for the fiscal year during which the transfer occurred. The amount of tax or taxes levied pursuant to this subdivision shall be deducted from the aggregate amount of taxes to be levied for the fiscal year immediately succeeding the fiscal year during which the transfer occurred.
4. For purposes of any fiscal year commencing on or after the date on which title to such property is transferred, if the assessor receives notice of such transfer prior to the levy of taxes for said fiscal year, the assessed value of such property shall be entered on the assessment roll to be used for the levy of taxes for said fiscal year in the same manner as provided by title three of article five of this chapter with respect to a parcel of property omitted from the assessment roll. If the assessor fails to receive notice of such transfer until after the levy of taxes for said fiscal year or for any reason fails to add such property to the assessment roll as provided by this subdivision, the property shall be deemed to have been omitted and shall be assessed as provided in subdivision three of this section and shall be liable in full for the taxes levied for said fiscal year.
5. [Eff as stated in 1997 Editor's note below] The provisions of this section shall not apply when the transferred property is receiving only the school tax relief (STAR) exemption authorized by section four hundred twenty-five of this chapter, and no other exemption. If the property is receiving the STAR exemption and one or more other exemptions, the provisions of this section shall apply only to the extent that the property is receiving such other exemption or exemptions.

History

NY CLS RPTL § 520

Add, L 1978, ch 635, § 3, eff Jan 1, 1979; amd, L 1988, ch 228, § 6, eff Jan 1, 1989; L 1997, ch 389, § 3 (Part B), effective as stated in 1997 note below; L 2016, ch 60, § 4 (Part A), eff April 13, 2016; L 2016, ch 73, § 6 (Part A), eff June 23, 2016.

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NY CLS RPTL § 553

Current through 2018 Chapters 1-274

*New York Consolidated Laws Service > Real Property Tax Law (Arts. 1 — 20) > Article 5
Assessment Procedure (Titles 1 — 5) > Title 3 Correction of Assessment Rolls and Tax Rolls (§§
550 — 559)*

§ 553. Correction of final assessment rolls

1. An assessor shall execute and transmit a petition to the board of assessment review, as prescribed by subdivision two of this section, for correction of any of the following errors:

(a) a clerical error on the assessment roll for the current or preceding year which has resulted in an assessed valuation, or a special assessment or other charge based on units of service provided by a special district which is less than that actually appearing upon the property record card, field book or other final work product of the assessor;

(b) a clerical error on the assessment roll of the current year which has resulted in an assessed valuation, or a special assessment or other charge based on units of service provided by a special district which is more than that actually appearing upon the property record card, field book or other final work product of the assessor, or upon the final verified statement of the board of assessment review;

(c) an omission from the assessment roll for the preceding year of the assessed valuation of taxable real property;

(d) an omission from the assessment roll for the current year of the assessed valuation of taxable real property;

(e) an unlawful entry appearing on the current assessment roll;

(f) an error in essential fact appearing on the current assessment roll;

(f-1) an incorrect entry of a partial exemption on the immediately preceding year's assessment roll for a parcel which was not eligible for such exemption, provided that there has not been a transfer of title subsequent to the filing of such roll and provided further that the exemption has not been renounced pursuant to section four hundred ninety-six of this chapter;

(g) an entry of assessed valuation of state land subject to taxation on an assessment roll for the current or preceding year which is less than the assessment thereof approved by the commissioner;

(h) an entry of assessed valuation of a special franchise on an assessment roll for the current or preceding year which is less than the final assessment thereof as determined by the commissioner pursuant to subdivision one of section six hundred six of this chapter, or the full value of that special franchise as determined by the commissioner pursuant to subdivision two of section six hundred six of this chapter adjusted by the final state equalization rate established by the commissioner for the assessment roll upon which that value appears.

2.

(a) A petition for correction of an error listed in paragraphs (a), (c), (d), (f), (f-1), (g) and (h) of subdivision one of this section shall be transmitted at least ten days prior to the date designated pursuant to subdivision three of this section for the review of assessments made pursuant to this section. A petition for the correction of an error listed in paragraphs (b) and (e) of subdivision one of this

section shall be transmitted at least five days prior to the date designated pursuant to subdivision three of this section for the review of assessments. The petition for correction of an error listed in subdivision one of this section shall be on a form and contain such information as prescribed by the commissioner and shall include any available proof that such error occurred. For an error described in paragraph (f) of subdivision one of this section, the petition shall include: (i) a copy of the property record card, field book, or other final work product upon which the incorrect assessment was based; and (ii) a copy of any existing municipal record which substantiates the occurrence of the error.

(b) The assessor shall, at least ten days prior to the date designated for the review of assessments made pursuant to paragraphs (a), (c), (d), (f), (f-1), (g) and (h) of subdivision one of this section, notify by certified mail, return receipt requested, any owner of real property assessed pursuant to this section. Such notice shall include a copy of the petition of the assessor and a statement of the time and place of the meeting of the appropriate board of assessment review.

3.

(a) The chairman of the board of assessment review shall, on the date specified for meetings of boards of review by section five hundred six of this chapter or by other applicable law, designate the dates on which the board of assessment review shall convene to review assessments made pursuant to this section. The dates to be designated shall be at least fifteen days subsequent to the filing of the final assessment roll and not more than ninety days but not later than twenty days prior to the date on which the tax levying body issues the warrant for the collection of taxes. The chairman of the board of assessment review shall immediately notify the appropriate assessor, tax levying body and county director of real property tax services of the designated dates.

(b) The appropriate board of assessment review, if it has received one or more petitions transmitted in accordance with the provisions of subdivision two of this section or section five hundred fifty-four or five hundred fifty-six of this title, shall, on the date designated by the chairman pursuant to paragraph (a) of this subdivision, convene to review such petitions, and on such review the board shall have all of the powers and duties imposed by law on boards of review by section five hundred twelve of this chapter and by any other law. If no petitions have been transmitted within five days of the designated date, the chairman of the board of assessment review may cancel the meeting upon notice to the members of such board, the appropriate assessor or board of assessors, the tax levying body and the county director of real property tax services.

(c) The members of the board of assessment review or a majority of them shall prepare and verify a statement showing the changes in assessments made pursuant to this section. Such verified statement shall be delivered to the appropriate tax levying body within five days of the meeting of the board of assessment review and a copy of that statement shall be delivered to the assessor and shall be filed with the final assessment roll and retained in the office of the city or town clerk.

4.

(a) Upon receipt of the verified statement of changes made by the board of assessment review, the appropriate tax levying body, prior to the extension of taxes and annexation of the warrant, shall:

(1) as to a clerical error described in paragraph (a) of subdivision one of this section, enter on the assessment roll of the current year an assessment of the real property, as determined by the board of assessment review, equal to the difference between the valuation appearing on the property record card, field book or other final work product of the assessor and the amount at which, by such clerical error, the property was placed upon the final assessment roll of the preceding or current year, and levy a tax thereon by applying the tax rate of the appropriate municipal corporation for the year in which the mistake occurred;

(2) as to a clerical error described in paragraph (b) of subdivision one of this section or an error in essential fact as defined in paragraph (a), (b) or (c) of subdivision three of section five hundred fifty of this title, reduce the assessment of such real property on the assessment roll of the current year

to the valuation, as determined by the board of assessment review, for the current year and levy the tax on such reduced amount;

(3) as to an omitted assessment as described in paragraph (c) of subdivision one of this section, place the same on the roll of the current year at the valuation, as determined by the board of assessment review, for the preceding year, and tax the same at the rate of tax for the preceding year;

(4) as to an omitted assessment as described in paragraph (d) of subdivision one of this section or an error in essential fact as defined in paragraph (d) of subdivision three of section five hundred fifty of this title, place the same thereon at the valuation, as determined by the board of assessment review, for the current year and tax the same at the rate of tax for the current year;

(5) as to an unlawful entry as described in paragraph (e) of subdivision one of this section, cancel such unlawful entry, and, if appropriate, enter such assessed value in the wholly exempt portion of the assessment roll;

(6) as to an entry of a canceled partial exemption as described in paragraph (f-1) of subdivision one of this section and as determined by the board of assessment review, enter on the assessment roll of the current year the increase in the taxable assessment for the preceding year that results from such cancellation, and levy a tax thereon by applying the tax rate of the appropriate municipal corporation for the year in which the exemption was wrongly received;

(7) as to an entry of assessed valuation as described in paragraphs (g) and (h) of subdivision one of this section, enter on the assessment roll of the current year an assessment of the real property, equal to the difference between the assessment approved or determined by the commissioner, as the case may be, and the amount at which the property was placed upon the final assessment roll of the preceding or current year, and levy a tax thereon by applying the tax rate of the appropriate municipal corporation or special district for the appropriate year.

(b) Upon a correction to a final assessment roll made pursuant to paragraph (a) of this subdivision, the appropriate tax levying body shall immediately mail notice of the correction to the owner of the real property affected by such correction.

(c) An assessment of real property made pursuant to this section shall be subject to review as provided in article seven of this chapter. Such a proceeding shall be commenced within thirty days of the date of the mailing of the notice as provided by paragraph (b) of this subdivision.

5. The amount of any tax levied at the tax rate for the preceding year pursuant to subparagraphs one, three, six and seven of paragraph (a) of subdivision four of this section shall be deducted from the aggregate amount of taxes to be levied for the current year.

History

Add, L 1974, ch 177, § 4, eff Sept 1, 1974, with substance transferred from former §§ 554, 556, 1316 and 1412; amd, L 1975, ch 124, § 6; L 1978, ch 390, § 4, eff June 19, 1978; L 1981, ch 773, § 8, eff Jan 1, 1982, and applicable to assessment rolls prepared on the basis of taxable status dates occurring on or after such date; L 1986, ch 317, §§ 2–6, eff Jan 1, 1987; L 1988, ch 160, §§ 9, 10, eff Jan 1, 1989; L 2002, ch 616, §§ 1–3, eff Jan 1, 2003; L 2003, ch 355, §§ 2, 3, eff Aug 19, 2003; L 2005, ch 743, § 2, eff Oct 18, 2005 (see 2005 note below), L, 2010, ch 56, § 1 (Part W), eff June 22, 2010 (see 2010 note below); L 2011, ch 58, § 5 (Part N), eff March 31, 2011.

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