



Legislation Text

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Int. No. 1632

By Council Members Garodnick, Johnson, Constantinides, Cohen, Rosenthal, Menchaca and Gentile

A Local Law to amend the administrative code of the city of New York, in relation to requiring that property owners disclose information about a building's energy efficiency when selling or leasing such building or space within such building

Be it enacted by the Council as follows:

Section 1. Article 309 of chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-309.12 to read as follows:

§ 28-309.12 Energy efficiency scores and grades. Energy efficiency scores and grades and energy asset scores for buildings shall be assigned and disclosed in accordance with this section.

§ 28-309.12.1 Definitions. As used in section 28-309.12, the following terms shall have the following meanings:

ADMINISTERING AGENCY. The term “administering agency” means (i) the department or (ii) one or more offices or agencies designated by executive order of the mayor to administer this section.

COVERED BUILDING. The term “covered building” shall have the same definition as set forth in section 28-309.2.

ENERGY ASSET SCORE. The term “energy asset score” means, for a building, a score that evaluates the energy efficiency of such building’s envelope and mechanical and electrical systems and that is generated by using the energy asset scoring tool.

ENERGY ASSET SCORING TOOL. The term “energy asset scoring tool” means the tool developed or adopted pursuant to section 28-309.12.3.

ENERGY EFFICIENCY GRADE. The term “energy efficiency grade” means a grade, based on an energy efficiency score, that is assigned in accordance with section 28-309.12.4.

ENERGY EFFICIENCY SCORE. The term “energy efficiency score” means, for a covered building, a score that assesses the energy and water use of such building relative to similar buildings and that can be assigned through the benchmarking tool or other methods as determined by the department.

QUALIFIED ENERGY SOURCE. The term “qualified energy source” means a source of energy that is:

1. A qualified energy resource as such term is defined in section 45 of title 26 of the United States code as in effect on January 1, 2017;
2. A source that is determined to be renewable by the commissioner or the head of another agency or office designated by the mayor; or
3. A source that is determined by the commissioner or the head of another agency or office designated by the mayor to have a positive environmental impact or substantially lower negative environmental impact than sources of energy other than those identified pursuant to paragraph 1 or 2 of this definition.

SOURCE ENERGY USE INTENSITY. The term “source energy use intensity” means, for a building, the amount obtained by dividing (i) the total energy used by such building in a year, other than energy generated from qualified energy sources, including losses that take place during generation, transmission and distribution of such energy, expressed in thousand British thermal units per year (kBtu/yr) and weather-normalized in a manner that is established by the administering agency and consistent with the United States environmental protection agency portfolio manager, by (ii) the building’s gross floor area.

§ 28-309.12.2 Energy efficiency score required. By no later than May 1 of 2018 and each year thereafter, the owner of a covered building shall use the benchmarking tool or other methods as determined by the administering agency to obtain an energy efficiency score and shall submit such score to the administering agency in a form and manner established by the administering agency.

Exception: If the office of long-term planning and sustainability, in conjunction with the administering agency, determines, in accordance with section 28-309.12.2.1, that it is not feasible for a type of covered building to obtain an energy efficiency score under this section, the owner of a covered building of such type need not comply with this section for such building, provided that on or before May 1 of the first year that commences after the effective date of such local law, such owner submits proof that such building is of such type to the administering agency, in a manner and form established by the administering agency.

§ 28-309.12.2.1 Ineligible buildings. The office of long-term planning and sustainability, in conjunction with the administering agency, may determine that it is not feasible for one or more types of

covered buildings to obtain an energy efficiency score pursuant to this section. If such a determination is made, the administering agency shall identify such types of buildings publicly on its website.

§ 28-309.12.3 Energy asset score. By no later than July 1, 2018, the administering agency shall develop or adopt, and update as needed thereafter, a publicly available web-based tool for evaluating the energy efficiency of a building's envelope and mechanical and electrical systems that (i) normalizes for operational and occupancy variables, (ii) does not require users to collect energy consumption data and (iii) can be used to obtain an energy asset score for such building.

§ 28-309.12.3.1 Energy asset score disclosure at time of sale or lease. On and after July 1, 2018, an owner of a building who offers such building for sale or lease, in its entirety, shall before accepting a purchase or rental offer for such building or space:

1. Obtain an energy asset score for such building through the energy asset scoring tool unless such a score has been obtained for such building within the one-year period preceding such offer;
2. Report such score to the administering agency, in a form and manner determined by the administering agency; and
3. Provide the prospective purchaser or lessee with such score.

Exception: This section 28-309.12.3.2 shall not apply to a transfer of real property described in section 463 of the real property law.

§ 28-309.12.4 Energy efficiency grade. By no later than July 1 in 2018 and by July 1 in each year thereafter, the administering agency shall make publicly available online a tool that an owner of a covered building or space within a covered building can use to determine the energy efficiency grade for such building based on the energy efficiency score for such building. Such grade shall be assigned as follows:

1. For a covered building whose most recent energy efficiency score is equal to or greater than the eightieth percentile of all energy efficiency scores received for similar buildings for such year, or that has a source energy use intensity of 42 kBtu/yr per square foot of gross floor area or less, the energy efficiency grade shall be A;
2. For a covered building whose most recent energy efficiency score is equal to or greater than the sixtieth percentile but less than the eightieth percentile of all energy efficiency scores received for similar buildings for such year, the energy efficiency grade shall be B;
3. For a covered building whose most recent energy efficiency score is equal to or greater than the fortieth percentile but less than the sixtieth percentile of all energy efficiency scores received for similar buildings for such year, the energy efficiency grade shall be C;

4. For a covered building whose most recent energy efficiency score is equal to or greater than the twentieth percentile but less than the fortieth percentile of all energy efficiency scores received for similar buildings for such year, the energy efficiency grade shall be D;
5. For a covered building whose most recent energy efficiency score is less than the twentieth percentile of all energy efficiency scores received for similar buildings for such year, the energy efficiency grade shall be F; and
6. For a building that is ineligible for such a score and for which the owner thereof has complied with the requirements of the exception to section 28-309.12.2, the energy efficiency grade shall be N.

§ 28-309.12.4.1 Energy efficiency grade display. Within 30 days after the owner of a covered building obtains an energy efficiency grade, such owner shall post such grade in a conspicuous location near each entrance to such building, in a form and manner determined by the administering agency.

§ 28-309.12.4.2 Energy efficiency grade disclosure required at time of sale or lease. On and after July 1, 2018, an owner of a covered building or the owner of space within a covered building who owns such space or holds such space as a shareholder of a cooperative corporation under a proprietary lease within such building and who offers the sale or lease of such space, or if such space is held by a shareholder of a cooperative corporation under a proprietary lease, the sale of shares of such corporation relating to such space, shall, before accepting a purchase or rental offer for such space or shares, provide the energy efficiency grade for such building based on the most recent energy efficiency score obtained for such building to the prospective lessee.

Exceptions:

1. This section 28-309.12.4.3 shall not apply to (i) a building offered for lease in its entirety or (ii) a transfer of real property described in section 463 of the real property law.
2. An owner of space within a covered building who owns such space as a condominium or holds such space as a shareholder of a cooperative corporation under a proprietary lease may, in lieu of providing to the prospective purchaser or lessee thereof the energy efficiency grade for such building based on the most recent energy efficiency score obtained for such building, provide such purchaser or lessee the current energy efficiency grade posted for such building pursuant to section 28-309.12.4.1. If (i) no energy efficiency grade has been posted for such building pursuant to section 28-309.12.4.1 and (ii) the owner of such space has submitted to the owner of such building a written request for the energy efficiency grade for such building based on the most recent energy efficiency score obtained for such building or for the most recent energy efficiency score for such building, and the owner of such

building has not provided such grade or score to the owner of such space, then the owner of such space need not comply with this section 28-309.12.4.3 for such space until the earlier of, the date on which an energy efficiency grade is posted for such building pursuant to section 28-309.12.4.1 or the date on which the owner of such building provides the owner of such space with the energy efficiency grade for such building based on the most recent energy efficiency score obtained for such building or the most recent energy efficiency score for such building.

§ 28-309.12.5 Penalties. A person who violates a provision of this section with respect to a building or space within such building shall be subject to a civil penalty as follows:

1. A person who violates a provision of this section with respect to a building or space within such building shall be subject to a civil penalty equal to (i) \$5,000 plus (ii) one dollar for each square foot of gross floor area in such building or space.
2. Civil penalties under this section may be recovered by the administering agency in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose civil penalties provided for in this section.
3. The civil penalties set forth in this section shall be indexed to inflation in a manner to be determined by rules of the administering agency.

§ 2. This local law takes effect immediately.

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