Governor Kathy Hochul's FY 2023-24 Executive Budget Proposal Summary

On Wednesday, February 1, 2023, Governor Kathy Hochul presented her FY 2023-24 Executive Budget proposal totaling $227 billion, a 2.4 percent increase in spending over last year. Governor Hochul reaffirmed her commitment to building 800,000 new homes (units) over the next decade as part of her "New York Housing Compact." Governor Hochul also provided more detail on her climate action proposals to transition the state from fossil fuels. A summary of relevant topics within the Executive Budget proposal can be found below.

HOUSING

<u>Part F of the Education, Labor and Family Assistance (ELFA) bill</u>

New Homes Targets and Fast Track Approval; Allow for ADUs.

- Localities in the MTA region (including NYC) would have a 3% growth target over 3 years.
- Upstate localities would have a 1% growth target over 3 years.
- A new state Housing Approval Board would be created with the power to override localities that deny certain housing development.
- Local governments would be required to provide for, through local law, the creation of accessory dwelling units (ADUs).
    - Authorizing the creation of at least one ADU per lot.
    - Such ADU could not be rented for less than 30 days.
    - Denial of a permit for an ADU by a local government would provide a private cause of action.
    - Part O of the ELFA bill exempts from taxation 100 percent of the increase in assessed value (up to $200k) resulting from the addition of an ADU for a period of 5 years; with an additional tiered exemption for another 5 years.
- Expedite the environmental review processes for certain new housing development, including lot splits and smart growth rezonings, and allow NYC to increase density for residential development.

<u>Part G of the ELFA bill</u>

Encourage new housing near MTA transit.

- Localities would be required to rezone areas within a half mile of all rail stations run by the MTA to allow for certain levels of housing density.
    - Tier 1 zone (15 miles from NYC border) minimum average density is 50 residential dwellings per acre.
    - Tier 2 zone (15-30 miles from NYC border) minimum average density is 30 residential dwellings per acre.
    - Tier 3 zone (31-49 miles from NYC border) minimum average density is 20 residential dwellings per acre.
    - Tier 4 zone (50 miles from NYC border) minimum average density is 15 residential dwellings per acre.
- A new property tax exemption would be created that localities could opt in to incentivize mixed-income housing development.

Part J of the ELFA bill
Expand eligibility for commercial buildings to convert spaces to residential housing.

Part K of the ELFA bill
Authorize NYC, through local law, to legalize basement apartments.
- The state would authorize NYC to provide all amnesty for existing basement units that meet health and safety standards.
- Tenants evicted or removed from such units in order to bring into compliance would have a right to first refusal to return upon first lawful occupancy. Unlawful denial would result in a cause of action for compensatory damages.
- Removes $60,000 rehabilitation loan cap currently established for NYC owner-occupants of 1-4 unit homes for those who utilize the loan for basement apartment rehab.

Part M of the ELFA bill
Creates real property tax abatement incentives for affordable multi-dwellings
- Creates a real property tax abatement for capital improvements to affordable rental and owner-occupied buildings in NYC or any city which the multiple-dwelling law is applicable.
- Such overall abatement shall not exceed 70% of total improvement costs, nor be effective for more than 20 years.
- The abatement would be available for alteration and improvement projects completed between June 29, 2022 and June 30, 2026 on eligible buildings.
- At least 50 percent of the units shall be designated affordable.
- Owners must waive the collection of any MCI rent increases.
- For homeownership developments to be eligible for the abatement, the average assessed valuation must not exceed $45,000 per unit.
- Units would be subject to a 15-year restriction period where they would need to remain affordable.

Part N of the ELFA bill
Establish a new local-option tax incentive for affordable multi-family housing.
- Authorizes localities, by local law, to choose to wholly exempt from taxation newly constructed rental multiple dwellings while under construction for up to three years if projects meet certain affordable criteria and constructed on vacant land. Such property would be exempt for an additional period of 25 years, decreasing the exemption by 4 percent each year.

Part P of the ELFA bill
Create a NYC Affordable Housing from Commercial Conversions Tax Incentive.
- Provides 100 percent exemption from real property taxation during the construction period of the conversion of a non-residential building to an eligible multiple dwelling.
- 50 percent exemption for the first 15 years within Manhattan; gradual decrease in exemption percentage until expiration on the 19th year.
- 35 percent exemption for the first 15 years outside Manhattan; gradual decrease in exemption percentage until expiration on the 19th year.

Part R of the ELFA bill
Extends project completion deadline for vested projects utilizing 421-a tax abatement from 2026 to 2030.

Part T of the Health and Mental Hygiene (HMH) bill
Address childhood lead poisoning in high-risk areas outside of NYC
- Directs the Department of Health to create a registry of residential dwellings with 2 units or more built before 1980 outside of NYC that are located within communities of concern as identified by the Department of Health.
- Such residential dwellings must be assessed on a 3-year cycle to identify lead hazards that pose risk to children. Homes that fail inspection would be required to remediate lead hazards to maintain their certificate of occupancy.

CLIMATE ACTION

Part WW of the Transportation, Econ Development and Environmental Conservation (TED) bill
Making New York Buildings More Sustainable (Climate Action Council Recommendations)
This bill would direct the NYS Code Council to amend the Uniform Code to:
- Prohibit the installation of fossil fuel equipment and building systems in the construction of new one-family and multi-family residential buildings no more than three stories in height, beginning December 31, 2025. The same prohibition would apply to new multi-family residential buildings more than three stories in height and new commercial buildings starting on December 31, 2028.
- Prohibit the installation of fossil fuel space and water heating equipment and related building systems when retrofitting existing residential and multi-family buildings no more than three stories in height beginning on January 1, 2030, and all multi-family and commercial buildings starting January 1, 2035.
- Exempt from the ban, fossil fuel equipment and building systems installed and used for emergency back-up power, in a manufactured home, or in a building or part of a building that is used as a manufacturing facility, commercial food establishment, laboratory, laundromat, hospital, other medical facility, critical infrastructure such as backup power for wastewater treatment facilities, or crematorium.

The bill would also require building owners to submit benchmarking data annually beginning May 1, 2025, to the New York State Energy Research and Development Authority (NYSERDA).
- Building benchmarking would be required for buildings that exceed 25,000 gross square feet; two or more buildings on the same tax lot that together exceed 50,000 gross square feet; two or more buildings held in the same condominium form of ownership that are governed by the same board of managers that together exceed 50,000 gross square feet; and state buildings that are more than 10,000 gross square feet.
- The bill would establish criteria for fines and compliance penalties resulting from the failure to meet benchmarking requirements and/or the failure to post energy grades.

Part AAA of the TED bill
Cap-and Invest Program: Climate Action Credit

This bill would create a cap-and-invest program that would cap the total annual amount of greenhouse gas emissions allowed in NY State and sell allowances for those emissions to generate revenue for a Climate Action Fund. The Climate Action Fund would fund consumer and small business rebates to offset the increased cost of goods & services associated with the implementation of the cap & invest program.