



NAIOP

COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
UPSTATE NEW YORK CHAPTER

2026

NYS LEGISLATIVE AGENDA

ELECTRIFICATION MANDATES



Electrification mandates in the All-Electric Building Act will hinder economic development, particularly in the effort in converting vacant office space into housing as well as constructing new commercial buildings.



Electrification mandates should clearly differentiate between commercial and residential building types over a one-size-fits-all approach for emission reductions. For instance, retrofitting buildings, especially older structures and in some instances historic buildings can be extremely cost-prohibitive. Weatherizing these buildings should be the state's priority in emissions reductions efforts. Improving energy efficiency among commercial buildings will cut utility costs, create jobs, and contribute to the state's emissions reduction goals.



New York's draft state energy plan does not take into consideration the significant costs of building new commercial development without the necessary electric infrastructure for these developments to tap into. Forcing commercial real estate developers to pay for the electric infrastructure to "plug" into the electric grid is simply not feasible. Even then, the costs to build out the infrastructure will be passed on to tenants.



Electrification mandates also should be aligned with energy efficiency standards and policies, including adoption of hybrid heating. Combining electric heat pumps with natural gas back-up offers reliable heating in the extremely cold winter conditions in upstate New York.



Implementing policies such as All-Electric Buildings Act in the statutory timeline before the requisite electric infrastructure is built will result in significantly less new commercial development. This will have a domino impact in urban areas across upstate by reducing investment in new developments that would in turn create jobs and revenues for local governments.

ENERGY CHOICE ACT (H.R. 3699)



Sponsored by United States Representative Nick Langworthy, the Energy Choice Act would prohibit state and local governments from banning specific energy sources (such as natural gas and propane) for new or existing building connections.



To date more than 200 local governments having passed resolutions in support of the Energy Choice Act and there are 124 co-sponsors of the bill in the House of Representatives.

AN ENHANCED TAX CREDIT FOR AN UPSTATE REVIVAL



The commercial real estate sector, especially in urban centers upstate, is at a crossroads. The effects of COVID continue to have a profound impact as fewer people are coming to work daily meaning less commerce for surrounding businesses such as restaurants and mom and pop retail establishments.



At the same time, there is an affordable housing crisis not only across the United States, but in New York State. This crisis is especially harmful for low- and middle-income individuals and families that face difficulty in securing safe and adequate housing without spending a disproportionate share of their income.



Governor Hochul and the State Legislature have acknowledged this crisis resulting in a housing compact where the goal is to create 800,000 new homes over the next ten years. Many of our upstate urban centers have numerous large commercial buildings that are 50 percent occupied in the best case, but more importantly, only 20 to 30 percent physically occupied.

AN ENHANCED TAX CREDIT FOR AN UPSTATE REVIVAL



Renovating older commercial properties is often cost-prohibitive due to the need for extensive repairs, environmental remediation (especially asbestos or lead in older buildings), or updates to meet modern codes and accessibility standards. Additionally, financing redevelopment projects in economically distressed areas is difficult due to lower expected returns on investment and perceived risk by lenders and investors.



Upstate New York cities need a program to encourage private sector reuse of formerly vibrant commercial properties like a tax abatement program that has been wildly successful in recent years in New York City.



NAIOP Upstate proposes legislation that would create a tax credit of 20% for much-needed office to residential conversions in upstate cities with a population of 50,000+ residents. The benefit of the credit will help offset required state investment in economic development projects, using future potential revenues to fund immediate investments rather than allocating current cash on hand.



The credit should be applicable to all historically commercial buildings that are more than twenty-five thousand (25,000) square feet and (fifty) 50 percent physically vacant. The use of the building must have historically been of a commercial variety; the program is not accessible to structures that have previously been converted to a majority residential use.



The legislation should require a minimum investment of \$2.5 million and follow the historic tax credit legislation in quantifying what a qualified rehabilitation expense is. It should also cap the credit at \$25 million in expenditures (\$5 million credit) to provide safeguards to the State.



A tax credit will encourage private sector investment to create market rate housing that will help address New York's historic housing shortage and the state's goal of building 800,000 new residences over the next decade.

WETLANDS REGULATIONS



New freshwater wetlands regulations will drastically increase the number of regulated wetlands in the state and place an undue burden on property owners and commercial real estate developers. The new regulations expand wetlands and their adjacent areas from 3.5 million acres to 5.1 million acres and will imperil efforts for future economic development and the state's housing crisis.



The burden is now squarely on property owners who must ask DEC for a wetlands jurisdictional determination for every parcel in the state. The new regulations are especially detrimental to economic development in urban centers across upstate as wetlands of any size in urban areas to have "unusual importance," no matter the area's environmental characteristics. NAIOP urges New York State to reconsider the promulgation of these new regulations.

OPPORTUNITY ZONES



New York State does not support the federal Opportunity Zone program, because of what the state feels is the future lost tax revenue because of the exclusion of the gain on existing qualified investments after a minimum ten-year holding period.



Created by the Tax Cuts and Jobs Act of 2017 to encourage long-term private investment in economically distressed communities across the U.S., those who reinvest capital gains into certified Opportunity Funds for projects in these areas can receive significant tax benefits (primarily deferral, reduction or elimination of capital gains taxes on the initial investment and its future appreciation).



The tax incentive allows private investors to contribute in a meaningful way towards the revitalization of economically distressed areas.

OPPORTUNITY ZONES



Also, for new Opportunity Zone investments made on or after January 1, 2027, there will be fewer census tracts eligible for Opportunity Zone designation, so that investment is being made in areas that are most in need of new investment, including rural areas.



There will also be new reporting requirements which will hold the sponsors and stakeholders of projects accountable by investing in projects that create affordable housing and new jobs while weeding "bad actors" who are not utilizing the Opportunity Zone incentives for the right reasons.



New York State should embrace Opportunity Zones to generate new development within the state that could be funded through private sector investment.

SCAFFOLD LAW



NAIOP is pleased to join the Build More New York coalition along with various other business groups and organizations to advocate among other things for repeal of the state's antiquated Scaffold Law.



New York is the only state in the nation that holds employers financially liable, with few exceptions, when a worker is injured from a fall regardless of whether the worker is suspected to be at fault. Repealing the Scaffold Law will reduce taxpayer costs and result in more investments in construction projects and the creation of new jobs.

PREVAILING WAGE



The current system used to certify prevailing wage rates in New York State is opaque, outdated, and in need of significant reform. As a result, New York State taxpayers are being substantially overcharged for public works projects, with prevailing wage rates in some instances reaching nearly twice the true market wage.



Under current law, prevailing wages are established annually based on collective bargaining agreements for specific trades within defined geographic jurisdictions. These rates may be negotiated when 30 percent or more of the workers in a given trade are represented. However, no state agency verifies whether prevailing wage determinations accurately reflect actual market conditions.



Historically, the New York State Department of Labor conducted wage surveys to confirm whether trade unions met the statutory 30 percent representation threshold and to determine accurate wage rates. That practice has since been abandoned. Today, neither the Department of Labor nor the Office of the State Comptroller independently verifies the accuracy of prevailing wage rates—an especially troubling reality given that these rates are paid entirely by taxpayers.



According to multiple data sources, including the U.S. Bureau of Labor Statistics, the building trades no longer represent more than 30 percent of the construction workforce statewide. While certain trades or regions may still exceed the threshold, this is often due to the consolidation of unions into large, multi-region “mega-locals,” rather than true local market dominance. As such, collective bargaining agreements should not automatically serve as the sole determinant of prevailing wage rates.



Simply put, there is no transparency in how prevailing wage rates are currently set. Numerous studies have found that prevailing wage mandates inflate construction costs by 25 to 30 percent, depending on the region. This cost burden ultimately falls on taxpayers and reduces the number of public projects that can be delivered. At a minimum, the Department of Labor or the State Comptroller should be required to validate that a particular trade in a particular region genuinely represents at least 30 percent of the local workforce before permitting that rate to be deemed “prevailing.”



If the state cannot substantiate that threshold, it should instead rely on Bureau of Labor Statistics wage data, which reflects both union and non-union compensation and provides a more accurate picture of actual market conditions. Reforming the prevailing wage determination process is essential to restoring transparency, accountability, and fiscal responsibility in New York’s public construction system.

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