

New Law Imposes New Requirements on New York City Property Owners

Yesterday, New York City Council voted to approve a bill that will have a major impact on property owners throughout the city, including owners of condominiums and cooperatives. Prop 1253-C, better known as the Energy Retrofit Bill, will require covered buildings to curb their emissions significantly, implement numerous green measures, and account to the city annually on their efforts. While these requirements will not take effect until 2024, property owners such as condos and coops will need to start planning for the changes immediately.

The goal of the Energy Retrofit Bill is to reduce greenhouse gas emissions from large buildings by 40 percent by 2030 and 80 percent by 2050. The limits are phased in starting in 2024.

The requirements do not apply to every existing building, and there are exceptions. Covered buildings are: (i) one building that exceeds 25,000 gross square feet, (ii) two or more buildings on the same tax lot that together exceed 50,000 gross square feet, or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 50,000 gross square feet. There are several exceptions, but the one most applicable to condos and coops is the exception for “a rent regulated accommodation.” The bill defines “a rent regulated accommodation” fairly broadly and allows an entire building to be exempt if it has at least one regulated dwelling unit.

In some cases deductions from total greenhouse emissions may be allowed for greenhouse gas offsets or renewable energy credits, or the use of clean distributed energy resources.

By May 1, 2025, and by May 1 of every year thereafter, the owner of a covered building must file a report, certified by a registered design professional, identifying the building’s emissions for the year prior and declaring whether the building is compliant.

If non-compliant, and the building emissions exceed the allowable limits, the penalty will be equal to the difference between the building emissions limit and the reported building emissions for such year multiplied by \$268. The penalty can be mitigated by several factors such as the property owner’s good faith effort to comply.

Owners of existing buildings may request modifications to their emission limit for several reasons, including impossibility of necessary capital improvements due to the building being a landmark, the physical condition of the building, access constraints, and financial hardship due to financing necessary for capital improvements. To qualify for any of these modifications, the property owner must establish numerous efforts to otherwise comply that are outlined in detail in the new law.

In addition to maintaining emissions levels at the appropriate limits, covered buildings must also ensure that they employ the following energy conservation measures:

1. Adjusting temperature set points for heat and hot water to reflect appropriate space occupancy;
2. Repair all heating system leaks;
3. Maintain the heating system, including but not limited to ensuring that system component parts are clean and in good operating condition;
4. Install individual temperature controls or insulated radiator enclosures with temperature controls on all radiators;
5. Insulate all pipes for heating and/or hot water;
6. Insulate the steam system condensate tank or water tank;
7. Install indoor and outdoor heating system sensors and boiler controls to allow for proper set-



Leni Morrison Cummins

**Chair,
Condominiums
& Cooperatives**

lcummins@cozen.com
Phone: (212) 883-4954
Fax: (212) 509-9492

Related Practice Areas

- Condominiums & Cooperatives
- Real Estate

points;

8. Replace or repair all steam traps such that all are in working order;
9. Install or upgrade steam system master venting at the ends of mains, large horizontal pipes, and tops of risers, vertical pipes branching off a main;
10. Upgrade lighting to comply with standards for new systems;
11. Weatherize and air seal windows and ductwork, with a focus on whole-building insulation;
12. Install timers on exhaust fans; and
13. Install radiant barriers behind all radiators.

Penalties for breaching the forgoing are discretionary.

In the eyes of New York City, boards of condos and coops are considered the owners of their respective buildings. Boards of covered buildings are therefore responsible for compliance with the new law. Boards need to take action immediately to (1) obtain opinions from engineers regarding what measures will need to be taken to come into compliance, (2) get quotes for the cost of same, and (3) begin to budget for those costs. Even though this work need not be completed for the next five years, it is important for boards to at least determine what systems and work will need to be done so that if those systems otherwise require work during the next five years, the board will ensure that it does so in such a way as to lower emissions and meet the requirements. Further, as the deadline draws closer, the demand for contractors to perform the necessary retrofits will likely increase, driving prices up. Therefore, it is best not to wait until 2024 to begin this process. Alternatively, boards should work with their engineers and lawyers to determine whether their buildings may be able to avail itself of a modified emissions limit.
