

Proposed Int. No. 1632-A

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

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:

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

3 **§ 28-309.12 Energy efficiency scores, energy asset scores and energy efficiency grades.** Energy
4 efficiency scores and grades and energy asset scores for buildings shall be assigned and disclosed
5 in accordance with this section.

6
7 **§ 28-309.12.1 Definitions.** As used in section 28-309.12, the following terms shall have the
8 following meanings:

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

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

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

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21 **ENERGY EFFICIENCY GRADE.** The term “energy efficiency grade” means, for a
22 covered building, a grade based on the most recent energy efficiency score issued for such
23 building as follows:

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25 1. If such most recent score is equal to or greater than the ninetieth percentile of energy
26 efficiency scores issued for covered buildings in the city in the year that such most
27 recent score was issued, the energy efficiency grade shall be A;

2. If such most recent score is equal to or greater than the fiftieth percentile but less than the ninetieth percentile of energy efficiency scores issued for covered buildings in the city in such year, the energy efficiency grade shall be B;
3. If such most recent score is equal to or greater than the twentieth percentile but less than the fiftieth percentile of energy efficiency scores issued for covered buildings in the city in such year, the energy efficiency grade shall be C;
4. If such most recent score is less than the twentieth percentile of energy efficiency scores issued for covered buildings in the city in such year, the energy efficiency grade shall be D;
5. If the owner of such building has not complied with section 28-309.12.2, the energy efficiency grade shall be F; and
6. If such building is ineligible for an energy efficiency score and the owner of such building has complied with the requirements of the exception to section 28-309.12.2, the energy efficiency grade shall be N.

ENERGY EFFICIENCY SCORE. The term “energy efficiency score” means, for a building, (i) the Energy Star rating for such building or (ii) 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.

ENERGY STAR RATING. The rating that a building earns using the United States Environmental Protection Agency ENERGY STAR portfolio manager to compare building energy performance to similar buildings in similar climates and that is issued in a manner established by the administering agency.

§ 28-309.12.2 Energy efficiency score and energy efficiency grade required. In 2020 and every third year thereafter, by no later than May 1, 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, certified by a registered design professional or in another manner determined by the administering agency, and an energy efficiency grade based on such rating and shall submit such score and grade 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

1 feasible for a type of covered building to obtain an energy efficiency score under this
2 section, the owner of a covered building of such type need not comply with this section for
3 such building, provided that when required to obtain an energy efficiency score under this
4 section, such owner submits proof that such building is of such type to the administering
5 agency, in a manner and form established by the administering agency.

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7 **§ 28-309.12.2.1 Ineligible buildings.** The office of long-term planning and sustainability,
8 in conjunction with the administering agency, may determine that it is not feasible for one
9 or more types of covered buildings to obtain an energy efficiency score pursuant to this
10 section. If such a determination is made, the administering agency shall identify such types
11 of buildings publicly on its website.

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13 **§ 28-309.12.2.2 Display of energy efficiency score and energy efficiency grade.** Within
14 30 days after the owner of a covered building obtains an energy efficiency grade, such
15 owner shall post such grade and the energy efficiency score upon which such grade was
16 based in a conspicuous location near each entrance to such building, in a form and manner
17 established by the department.

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19 **§ 28-309.12.2.3 Energy efficiency score and energy efficiency grade disclosure**
20 **required at time of sale or lease.** On and after July 1, 2020, an owner of a covered
21 building or the owner of space within a covered building who owns such space or holds
22 such space as a shareholder of a cooperative corporation under a proprietary lease within
23 such building and who offers the sale or lease of such space, or if such space is held by a
24 shareholder of a cooperative corporation under a proprietary lease, the sale of shares of
25 such corporation relating to such space, shall, before accepting a purchase or rental offer
26 for such space or shares, provide the energy efficiency grade for such building based on
27 the most recent energy efficiency score obtained for such building and such score to the
28 prospective purchaser or lessee in a form and manner established by the department.

29
30 **Exceptions:**

- 31
32 1. This section 28-309.12.2.3 shall not apply to (i) a building offered for sale or
33 lease in its entirety or (ii) a transfer of real property described in section 463 of
34 the real property law.
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36 2. An owner of space within a covered building who owns such space as a
37 condominium or holds such space as a shareholder of a cooperative corporation
38 under a proprietary lease may, in lieu of providing to the prospective purchaser
39 or lessee thereof the energy efficiency grade for such building based on the most
40 recent energy efficiency score obtained for such building, provide such

1 purchaser or lessee the current energy efficiency grade and energy efficiency
2 score posted for such building pursuant to section 28-309.12.2.2. If (i) no
3 energy efficiency grade and energy efficiency score has been posted for such
4 building pursuant to such section and (ii) the owner of such space has submitted
5 to the owner of such building a written request for the energy efficiency grade
6 for such building based on the most recent energy efficiency score obtained for
7 such building or for such score, and the owner of such building has not provided
8 such grade or score to the owner of such space, then the owner of such space
9 need not comply with this section 28-309.12.2.3 for such space until the earlier
10 of, the date on which an energy efficiency grade and energy efficiency score is
11 posted for such building pursuant to section 28-309.12.2.2 or the date on which
12 the owner of such building provides the owner of such space with the energy
13 efficiency grade for such building based on the most recent energy efficiency
14 score obtained for such building or such score.

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16 **§ 28-309.12.2.4 Publication of energy efficiency grades and energy efficiency scores.**

17 For each building for which an energy efficiency grade or energy efficiency score is
18 generated pursuant to this section, the administering agency shall make information
19 generated in connection with such grade and score publicly available online by no later
20 than May 1 of the year following such generation.

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22 **§ 28-309.12.3 Energy asset score.** By no later than July 1, 2018, the administering agency
23 shall develop or adopt, and update as needed thereafter, a publicly available web-based tool
24 for evaluating the energy efficiency of a building's envelope and mechanical and electrical
25 systems that (i) normalizes for operational and occupancy variables, (ii) does not require users
26 to collect energy consumption data and (iii) can be used to obtain an energy asset score for
27 such building.

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29 **§ 28-309.12.3.1 Energy asset score disclosure at time of sale or lease.** On and after July
30 1, 2020, an owner of a building who offers such building for sale or lease, in its entirety,
31 shall before accepting a purchase or rental offer for such building or space:

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

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2 **Exception:** This section 28-309.12.3.1 shall not apply to a transfer of real property
3 described in section 463 of the real property law.
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5 **§ 28-309.12.3.2 Publication of energy asset score information.** For each building for
6 which an energy asset score is generated through the energy asset scoring tool, the
7 administering agency shall make information generated by such tool for such building
8 publicly available online by no later than May 1 of the year following such generation.
9 Such information shall include, but need not be limited to, (i) the energy asset score for
10 such building, (ii) the estimated annual energy use and (iii) the estimate energy asset score
11 with improvements, if such tool provides such information.
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13 **§ 28-309.12.4 Audits.** The department or administering agency shall, from time to time, audit
14 information submitted for buildings in connection with energy efficiency grades, energy
15 efficiency scores and energy asset scores. Such audits shall occur at least annually and shall
16 involve at least a statistically significant amount of buildings, as determined by the department
17 or the administering agency.
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19 **§ 28-309.12.5 Penalties.** A person who violates a provision of this section with respect to a
20 building or space within such building shall be subject to a civil penalty as follows:
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- 22 1. A person who violates a provision of this section with respect to a building or space
23 within such building shall be subject to a civil penalty equal to (i) \$5,000 plus (ii) one
24 dollar for each square foot of gross floor area in such building or space.
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- 26 2. Civil penalties under this section may be recovered by the administering agency in an
27 action in any court of appropriate jurisdiction or in a proceeding before the
28 environmental control board. Such board shall have the power to impose civil penalties
29 provided for in this section.
30
- 31 3. The civil penalties set forth in this section shall be indexed to inflation in a manner to
32 be determined by rules of the administering agency.
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34 § 2. This local law takes effect immediately.