

## LOBBY DAY 2023 – NYSBA TALKING POINTS - as of 4/23/23

### ALL-ELECTRIFICATION - S.4008 A.3008 Part WW (Budget)

amend the Energy Law to require the energy code to ban fossil fuels for new construction as follows:

#### Governor

- residential 3 stories or less 12/31/25
- multi-family over 3 stories & commercial 12/31/28

#### Assembly

- building less than 7 stories 12/31/25
- building more than 7 stories 12/31/28

#### Senate

- building less than 7 stories 12/31/24
- building more than 7 stories 12/31/28

The state fire prevention and building code council provides exemptions for back-up power and other delineated building uses.

A recent decision in California Restaurant Association vs. City of Berkley by the US Court of Appeals for the Ninth Circuit held that a **locality or a state cannot ban a natural gas hook up as it is preempted by federal law**, the Energy Policy and Conservation Act. This decision should hold any legislation in abeyance until there is clarity as to an appeal.

In the likely event legislation on a fossil fuel ban moves forward, NYSBA supports a **thoughtful, practical, and measured transition** to decarbonizing new construction and retrofitting the existing building stock.

NYSBA supports the following:

- The **Assembly** language in part WW which provides that the Department of Public Service in conjunction with the Independent System Operator determines whether the **electric power grid infrastructure is sufficient to support new electric load** in a particular region, area, or project to assist municipalities in siting new buildings.
- Builders who have an approved site plan by the municipal planning board and have committed funding to the local utility for infrastructure should be **grandfathered** to complete the project. California provides protection to builders that have expended substantial funds in good faith planning and design.
- The CLCPA scoping plan contemplates new building code changes to a building's envelope. **Any such code changes should be adopted prior to implementation of the prohibition on fossil fuels**, otherwise the new homeowner with a heat pump will be obligated to a future retrofit.
- Rebates for heat pumps and code changes to the building envelope should be specifically quantified and available to potential homebuyers in advance of heat pumps and other code requirements, otherwise the residential home market will collapse without a **definitive rebate program**.
- The exemption for emergency backup power should not be limited to a generator but should also extend to hybrid or dual fuel systems where the heat pump is the primary system.

**As of April 21, these items were reported to be out of budget discussions. This means they could still be addressed during session, outside of the budget talks.**

#### **GOOD CAUSE EVICTION – S.305 (Salazar) A.4454 (Hunter)**

- “Good cause eviction” is not an accurate description of what this legislation does.
- The subject bill prohibits an owner from not renewing a lease. **Once a property is leased to a tenant it is a lease for the tenant’s life.** A tenant may only lose their lease if they choose to leave or for non-payment of rent or violation of a substantial lease obligation like destruction of the premises.
- Only one-to-four-unit rentals which are owner occupied are exempt.
- The good cause eviction bill effectively **caps the rent at 3% or 1.5 times the CPI.** Any rent increase above that amount is presumed unreasonable and the owner would have to overcome that presumption in court.
- Last month, the **Federal Reserve Bank of New York updated a report showing the direct causation of reduced maintenance and housing code violations with buildings that are financially constrained** (i.e., rent-stabilized and controlled).
- This matters because Good Cause Eviction is a form of rent control.
- If a property owner needs to raise rents beyond that to cover the costs of maintenance, repairs, rising taxes, insurance, etc., they would have to **justify the increases in Court**, which is costly and puts the burden on the owner.
- This **does nothing to address the housing supply shortage** and would, in fact, make finding an apartment more difficult and more expensive for new renters.

#### **HOUSING COMPACT (LAND USE REFORM)**

- Any **future discussion of the creation of new housing should include CRBRA and NYSBA** as our members are the primary providers of new residential housing in New York State.
- NYSBA supports **thoughtful changes** to both environmental review time limits and targeted changes to zoning in cooperation with local governments to enable increased density which respects the character of local communities.
- There is unanimity at all levels that increased residential housing is necessary especially for workforce housing, starter housing and affordable housing.
- NYSBA is anxious to reverse the housing deficit in New York and would **appreciate an opportunity to participate in a meaningful discussion** to solve the problem and not exacerbate it.