

What Housing Developers Need to Know About SEQRA Reform in New York

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In this article, the authors discuss reforms to New York’s State Environmental Quality Review Act that will have practical implications for housing developers in New York State, including greater regulatory certainty and investment potential for qualifying projects.

New York Governor Kathy Hochul recently signed the FY2026–2027 State Budget, which includes “Let Them Build” reforms to the State Environmental Quality Review Act (SEQRA).¹ New York’s housing crisis has been exacerbated by development delays that can substantially add time and cost to the entitlement process as compared to other states. These most recent SEQRA amendments, as codified in state law, are a major policy win for the real estate sector and will have practical implications for housing developers in New York State including greater regulatory certainty and investment potential for qualifying projects.

EXEMPTIONS

SEQRA now exempts, without the need for further administrative rulemaking, various housing projects across the State of New York at specified thresholds of density. Outside of New York City, housing developers and local governments can now cite to State law-level SEQRA exemptions where:

- (1) the project does not exceed 300 dwell-

ing units in urbanized areas, as defined by the United States Census Bureau or 100 dwelling units in non-urbanized areas (20 dwelling units in municipalities without zoning laws);

- (2) the project is connected to an existing community or public water and sewage system at the commencement of habitation;
- (3) the project is located at a previously disturbed site;
- (4) the project contains no more than 20% commercial, retail, community facility, or other non-industrial non-residential uses by gross floor area; and
- (5) the project does not include solely the construction of single-family residences on parcels of 1 or more acres.

New SEQRA exemptions were also codified into State law for construction on previously developed portions of public parks, certain water and wastewater infrastructure projects, and

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retrofitting of existing structures to incorporate green infrastructure.

One of the key considerations to invoking the new SEQRA exemptions for any new qualifying project requires application of the term “previously disturbed” to the land and project in question. That specific term was codified and defined to mean land that:

- (1) has been substantially altered by an occupied, formerly occupied, or demolished building, or by another improvement or use at least 2 years prior to the application being filed;
- (2) if located outside of an urban area as defined by the United States Census Bureau, abuts, adjoins, or is opposite from another parcel that is or has been occupied or formerly occupied by a building, or demolished building, or another improvement or use at least 2 years prior to the application being filed (if the abutting parcel is not occupied by an industrial or agricultural use);
- (3) is not located in a 100-year flood zone as determined by FEMA or a special flood hazard area (unless the relevant municipality has adopted a law requiring new construction to be elevated above the base flood elevation as defined by FEMA);
- (4) is not currently being used for agricultural purposes and has not been used for such purposes within the last 2 years (or 3 of the last 5 years) before the application was filed; and
- (5) is not located in a designated coastal erosion hazard area.

ELIGIBILITY

To be eligible for a statutory “qualified exemption,” the responsible agency has the obligation to determine exemption from SEQRA pursuant to the above criteria and conditions within 120 days. Projects that are qualified as SEQRA-exempt will only be subject to those local zoning and other local and state permitting requirements typical for housing development.

The Governor’s legislative package also adopted SEQRA procedural reforms that now establish timelines for any action which is subject to SEQRA’s requirements and the potential need for more substantive environmental review. These include:

- (1) a 1-year limit on a responsible agency deciding if an environmental impact statement (EIS) is required for actions that are subject to SEQRA;
- (2) a 2-year timeline for completion of any EIS, running from the date it was determined an EIS is required (with limited extensions permitted); and
- (3) confirmation that the time to bring an Article 78 SEQRA challenge begins “when the agency determination to approve or disapprove the action becomes final and binding upon the petitioner or the person whom the petitioner represents in law or in fact.”

While there is no specific enforcement mechanism identified in the legislation, development projects will certainly benefit from more timely SEQRA determinations of significance within 1 year of application filing, and completion of an EIS in less than 2 years from

the date of a positive declaration issued by a lead agency.

Urban core and suburban areas of New York where multi-family zoning is already in place just received a reverse infusion of SEQRA capital. While there are limitations inherent in any legislative change, including the lack of an administrative default remedy, the Governor's Let Them Build Agenda sets the stage to enable faster permit reviews for qualifying residential projects, cutting red tape, and spurring investment in housing starts throughout New York State.

CONCLUSION

The Let Them Build Agenda is a refreshing

and welcomed advancement by the State. Particularly for SEQRA, a statute that was intended to thoughtfully require disclosure and assessment of environmental impacts and not be weaponized against projects, particularly those meeting the most basic needs of the public like diverse housing. As the first major legislative streamlining of SEQRA since its adoption in 1975, only time will tell if these SEQRA reforms produce a "field of dreams" for developers and housing advocates across New York State. Stay tuned.

NOTES:

¹See New York Senate Bill S9008C Part R (2025–2026 Session).