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Affordable Housing Alert

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New York SEQRA reform aims to fast-track affordable housing approvals

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Proposed SEQRA exemptions could accelerate affordable housing construction, but developers must watch how zoning, wetlands, and environmental justice laws may affect eligibility.



What's the impact?

- Proposed SEQRA exemptions could significantly shorten approval timelines for qualifying affordable housing, but project scope, zoning, and site conditions may impact eligibility.
- Mixed-use developments may still face full SEQRA review, as non-residential components could trigger broader environmental analysis despite residential eligibility.

Governor Hochul's 2026 State of the State included a bold initiative to streamline approvals for affordable housing. Under the proposal, housing projects that meet certain criteria will be exempt from review under the State Environmental Quality Review Act (SEQRA), removing a lengthy and costly process that can significantly delay—or even derail—affordable housing projects.

Eligibility criteria for affordable housing projects under the proposed SEQRA exemption

Additional details on eligible project types are still forthcoming, but, at a minimum, eligible projects will have to comply with local zoning requirements and be located outside of flood risk areas. In New York City, projects will be subject to building size caps set by the State, based on neighborhood density to be determined by the City, to qualify for the exemption. Outside New York City, qualified housing projects must be on previously disturbed land, connected to existing water and sewer infrastructure, and meet additional unit caps. Housing projects will also still need to comply with state regulatory and permitting requirements, including those governing water use, air quality, environmental justice, and protection of natural resources, in addition to all local land use and zoning requirements.

Key considerations for affordable housing projects

Despite the encouraging news, affordable housing developers should closely monitor how the proposal is finalized and implemented to determine whether their projects will benefit from the reform. For example, if revisions are limited to “multifamily dwellings” or similar residential uses, mixed-use affordable housing projects may still be subject to SEQRA. Known as “segmentation,” municipalities may not divide a single action into separate stages or components when undertaking a review. Accordingly, even if a residential component of a mixed-use project would otherwise require no further review under SEQRA, nonresidential elements—such as community centers or ground-floor retail—could make the overall project an Unlisted or Type I action. It also remains unclear whether “compliant with local zoning” will be limited to projects permitted as of right, or whether projects that require additional approvals, such as special use permits, will qualify.

Related regulatory questions

It will also be important to see how the proposed changes are reconciled with recent developments that affect SEQRA. The Environmental Justice Siting Law, for instance, now requires an agency to consider whether an action may cause or increase a disproportionate pollution burden on a disadvantaged community during its SEQRA review. Depending on how the revisions are drafted, they could either allow affordable housing projects in disadvantaged communities to forgo this review or, conversely, make projects in those communities ineligible for the exemption even if they would otherwise qualify. Likewise, the revised freshwater wetlands regulations broaden jurisdiction to cover wetlands located in or adjacent to urban areas, regardless of size. As a result, previously unmapped “urban wetlands” could impact whether a site qualifies for the SEQRA exemption.

Streamlining Environmental Impact Statements through GEISs

Governor Hochul also announced in the 2026 State of the State that she is directing the Department of Environmental Conservation to prepare new Generic Environmental Impact Statements (GEISs) for selected categories of housing projects and renewable energy. While this proposal is intended to expedite review for common project types and inform early-stage site selection and design, it is unclear how such GEISs will be integrated across, and effectively utilized by, the wide array of involved agencies that “undertake, fund, or approve” affordable housing, which can include local land use boards, entitlement communities administering CDBG and HOME funds, industrial development agencies approving project benefits, local development corporations issuing tax-exempt bonds, and local legislative bodies approving tax exemptions under the Private Housing Finance Law.

Timeline and implementation path for SEQRA reforms

The timeline of SEQRA reform will be dictated by whether amendments are proposed to the SEQRA statute itself, which would require legislative action, or as an expansion of the list of Type II actions under the SEQRA regulations. Further details on the timeline and implementation may be addressed in the Governor’s budget proposal, which is expected next week. The proposed changes, whether in statute or regulation, should also be evaluated in conjunction with New York City’s City Environmental Quality Review (CEQR) process to ensure consistency.

While the ultimate impact will depend on how the revisions are drafted and implemented, the proposal signals a statewide effort to reduce procedural hurdles to affordable housing development. If carefully designed and implemented to address SEQRA’s nuances and quirks, this initiative could streamline approvals for affordable housing projects that were previously delayed or obstructed by procedural challenges and opposition.

Nixon Peabody’s [Affordable Housing Team](#) is ready to provide guidance on how New York’s SEQRA updates may impact your project timeline or approvals. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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