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New York City and Los Angeles Require New Building Standards to Address Climate Change

New York City and Los Angeles have announced unprecedented plans to address climate change with an emphasis on greenhouse gas emissions from large buildings. New York City enacted a legislation package requiring certain buildings to bring their emissions under a new cap, with the goal of achieving a 40 percent overall emission reduction by 2030. L.A. unveiled a sweeping sustainability plan on Monday calling for a Green New Deal with dramatic changes to its car culture, built environment, and air quality of America's second-largest city. These efforts are the leading edge of state and major city initiatives to reduce carbon emissions from buildings. [See prior King & Spalding client alert.](#)

NATIONWIDE DECARBONIZATION INITIATIVES

Buildings are among the largest contributors of greenhouse gas emissions because they use an abundance of energy for heating, cooling, and lighting. In the absence of federal actions to address climate change, states and municipalities are implementing laws and policies aimed at decarbonization – the process of removing energy sources that emit carbon pollution. These multifaceted initiatives will pose sweeping implications for real estate developers, operators, and investors.

NEW YORK CITY'S CLIMATE INITIATIVE

New York City's new building law is part of a wider package of requirements known as the Climate Mobilization Act. The law set emissions caps for about 50,000 of New York City's largest buildings. Buildings that do not meet the caps could face steep fines. Some of bills in the package adjust zoning rules to promote clean energy. In addition, new buildings will have to cover their roofs with plants, solar panels, or small wind turbines. Building owners can offset a percentage of their upgrades by purchasing renewable energy credits.

The law created a new city agency, the Office of Building Energy and Emissions Performance. The agency will oversee compliance with the building mandates. It will also consider appeals from building owners and have authority to give variances for tenants that have high energy needs. In addition, the agency will administer loan programs to help owners pay for efficiency upgrades.



Buildings Exempt from the Law

The law exempts many types of buildings from the caps. These exempt buildings include houses of worship, apartment houses with rent-regulated units, and other types of affordable housing. The law requires exempt buildings to implement several energy-saving measures, such as insulating pipes. These measures, however, fall short of the costly steps required to meet the caps.

Challenges for the Real Estate Industry

The exemption of some buildings from the cap requirements may create winners and losers among real estate stakeholders. Exempting too many buildings places the burden for reducing New York City's greenhouse gas output on the remaining buildings and undercuts the emissions goal. In addition, some businesses have higher energy consumption rates (e.g. media, technology, or life sciences companies). The law may effectively discourage landlords from leasing space to energy-intensive businesses, for fear of paying fines when the energy use of their buildings exceeds the caps. Compliance with the Climate Mobilization Act is projected to cost owners across the city \$4 billion. The law may also hinder growth in energy-hungry sectors such as technology, media, and finance.

L.A.'S GREEN NEW DEAL

Perhaps surprisingly, L.A. asserts its largest source of greenhouse gas emissions isn't cars but residential and commercial buildings. Dubbed L.A.'s "Green New Deal," the recently announced sustainability plan sets ambitious goals for the city's buildings. By 2030, all new buildings in the city are required to be emissions-free. By 2050, every existing building will have to be retrofitted to meet the same goal. The city is also pioneering new construction methods, as the first large city to require all-electric construction equipment on city buildings.

New York's Climate Mobilization Act and L.A.'s Green New Deal mark the first time that major cities have addressed climate change head-on by setting specific targets for buildings and providing a path forward for compliance. The initiatives represent another wave in the growing, nationwide emphasis on zero-emissions buildings. Accordingly, reducing the carbon footprint of buildings is fast becoming a critical business issue for real estate developers, operators, and investors. Real estate stakeholders should closely track the laws and its implementation.

King & Spalding has significant experience across the country in administrative and environmental matters. In 2019, *Law 360* named our Environmental, Health and Safety Group as Practice Group of the Year for the fourth time. If you have questions about how the new climate change initiatives may affect you or your business, please contact any of our lawyers noted in the contact section on the first page.

ABOUT KING & SPALDING

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