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### *I. Introduction*

In New York, there were a few developments in oil and gas law during the period of August 1, 2022, to July 31, 2023. The New York courts were quiet, but there were a couple of statutory legislation and administrative regulations brought forth that were aimed at limiting the presence of oil and gas in the state. Based on these actions, New York is likely to further its push in decreasing reliance on fossil fuels such as oil and gas as it transitions towards renewable energy sources by way of enacting legislation that requires efficient capability on renewable energy.

### *II. Statutory Law*

#### *A. New York State Lawmakers Aim to Prohibit Fossil Fuel Building Systems in Newly Constructed Buildings*

On May 2, 2023, New York State lawmakers passed Senate Bill 4006 and Assembly Bill 3006, New York State's 2023-24 Budget Bills, approving a/the \$229 billion state budget that effectively prohibits natural gas hookups and other fossil fuels in most new constructed buildings. Supporting the state's energy goals pursuant to the Climate Leadership and Community Act, the state continues its push to decrease use of fossil fuels in the private sector. However, this law does not act retroactively, and previously built buildings existing prior to the law's effective date are not covered. Additionally, certain buildings will be excepted from these restrictions, such as some commercial buildings, medical facilities, and critical infrastructure buildings, including emergency management facilities and water treatment and pumping facilities. Therefore, focus on this law will be aimed towards residential buildings primarily, but as this trend continues, the state aims to transition most, if not all, buildings to be less reliant on fossil fuels as soon as possible.<sup>1</sup> This newly passed law is similar

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1. S.B. 4006, 246th Gen. Assemb., Legis. Sess. (NY 2023); A.B. 3006, 246th Gen.

to current Assembly Bill 4985 and New York City Local Law 154, as passed in 2021, requires that by 2026 most new buildings in New York will have the full capability to rely completely on electric heat and appliances instead of fossil fuels.<sup>2</sup>

*B. New York Attempts Again to Further Establish the Climate Change Adaptation Cost Recovery Program and the Climate Change Adaptation Fund*

On January 18, 2023, state Senator Elizabeth Krueger for the 28th District introduced Senate Bill 2129, amending article 76, which proposes to establish the “climate change adaptation cost recovery program and the climate change adaptation fund.” As noted in the Act, in 2022, the costs of climate change recovery were paid by the taxpayers. In an effort to hold the “responsible parties” who significantly contribute to climate change, including entities engaged in extracting fossil fuel or refining crude oil within the State, this bill seeks to create a fund to pay for remediating the environmental damages to lands and waters caused the build-up of greenhouse gases. Therefore, through this bill, entities that have contributed significantly to the buildup of greenhouse gases will brace a share of the costs needed for infrastructure investments to adapt to climate change. This bill is similar to the previous “Climate Change Superfund Act” proposed last legislative session. This includes leaving specific methods for determining liability and proportion of fault unspecified and allowing the state Department of Environmental Conservation to adopt the “best available science” by notifying the liable entities of their total amount owed to the state. The money collected would be placed in the new Climate Change Adaptation Fund, which will be used for funding green infrastructure projects and combatting the negative impacts of climate change.<sup>3</sup> A similar bill, A.B. 3351, was also introduced to the New York Assembly on July 6, 2022, by Assembly Member Jeffrey Dinowitz of the 81st District.<sup>4</sup>

*C. New York State Attempts to Establish an All-Electric Building Plan for the State*

On February 27, 2023, Assembly Member Samuel Pirozzolo for the 63rd District of New York, introduced Assembly Bill 4985, seeking to add

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Assemb., Legis. Sess. (NY 2023).

2. New York City, NY, Local Law 154 (2021).

3. S.B. 2129, 246th Gen. Assemb., Legis. Sess. (NY 2023).

4. A.B. 3351, 246th Gen. Assemb., Legis. Sess. (NY 2023).

Section 201-b, which proposes the State to mandate “all-electric building plans,” which would mandate that the construction of new buildings owned by the state possess the capacity to use electric heat by way of solar, wind or other zero-carbon electricity. Citing to the Climate Leadership and Community Protection Act, the purpose of this bill is to decrease greenhouse gas emissions and air pollution by reducing the gasses released from fossil fuels. According to the bill, if passed, all newly constructed buildings established after the effective date will require removal of all non-renewable energy infrastructure, effectively eliminating the use of fossil fuels such as oil, gas, and coal.<sup>5</sup> In essence, this would continue the state’s efforts to phase out the use of oil and gas in the state. Although it does immediately address the use of oil and gas in the state, this bill is one of many that have been filed during this year to transition towards other sources of energy and rely less on non-renewable resources such as oil and gas. Last action for this bill was taken May 9, 2023, whereby it has been held for consideration in governmental operation. Currently, no other state has passed a law with a similar effect as Assembly Bill 4985 proposes to have. However, it may only be a matter of time before something more permanent is put in place by the legislature.

*D. New York Shows Strong Intentions to Reduce Electricity Bills and Redirect Fossil Fuel Investment into Renewable Energy Sources*

In April of 2022, Senate Member Senator Elizabeth Krueger for the 28th District introduced Senate Bill 2016, known as “NY Home Energy Affordable Transition Act,” which proposes to give the Public Service Commission the authority and direction to align gas utilities with the Climate Leadership and Community Protection Act’s mandates for greenhouse gas reductions released into the air by fossil fuels.<sup>6</sup> In regards to oil and gas, this bill mandates a 6 percent of income price cap on electricity bills for low and middle class incomes and redirects costs of the oil and gas industry into renewable energies. As of June 6, 2023, this bill has passed Senate and has been referred to the Assembly, as it appears it may inevitably pass.

*E. New York Attempts to Enact Greenhouse Emissions Accountability Act*

On January 9, 2023, state Senator Brad Holyman-Sigal, for the 47th District, introduced Senate Bill 897, to be known as the “Climate Corporate

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5. A.B. 3351, 246th Gen. Assemb., Legis. Sess. (NY 2023).

6. A.B. 2016, 246th Gen. Assemb., Legis. Sess. (NY 2023).

Accountability Act,” which proposes to require businesses based in the state to annually disclose to the public all direct greenhouse gas emissions that are released by these businesses. This bill is not aimed directly at the businesses solely in the oil and gas industry; however, the annual reports will impact any business that is based in the state that have total revenues exceeding one billion dollars. And as stated in the bill, a reporting entity will be mandated to have their disclosure independently verified by an approved third-party auditor or by the emissions registry to ensure compliance with the bill’s annual disclosure mandates. These disclosures will include both direct and indirect greenhouse gas emissions, including fuel combustion activities and emissions from the electricity purchased and used by a reporting entity.<sup>7</sup> A similar bill, Assembly Bill 4123, was also introduced to the New York Assembly on February 9, 2023, by Assembly Member Deborah J. Glick of the 66th District.<sup>8</sup>

### *III. Conclusion*

Overall, there have been quite a few changes in oil and gas law in New York over the past year. As apparent above, New York is continuing its attempts by shifting away from oil and gas utilization in the state, as the state made various attempts to encourage the adoption of laws in favor of phasing out fossil fuels such as oil and gas and to further reliance on renewable energy sources. Following the state’s actions, it will be interesting to see how they progress throughout the next year.

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7. S.B. 897, 246th Gen. Assemb., Legis. Sess. (NY 2023).

8. A.B. 4123, 246th Gen. Assemb., Legis. Sess. (NY 2023). The citations are not in a consistent format.