

5491--C

2011-2012 Regular Sessions

I N S E N A T E

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AN ACT to amend the general municipal law and the tax law, in relation to enacting the New York state green economic development zones act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "New York
2 state green economic development zones act".

3 S 2. The general municipal law is amended by adding a new article 18-D
4 to read as follows:

5 ARTICLE 18-D

6 GREEN ECONOMIC DEVELOPMENT ZONES

7 SECTION 974. SHORT TITLE.

8 974-A. LEGISLATIVE FINDINGS AND DECLARATION.

9 974-B. DEFINITIONS.

10 974-C. RESPONSIBILITIES OF THE COMMISSIONER.

11 S 974. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
12 THE "NEW YORK STATE GREEN ECONOMIC DEVELOPMENT ZONES ACT".

13 S 974-A. LEGISLATIVE FINDINGS AND DECLARATION. IT IS HEREBY FOUND
14 AND DECLARED THAT THERE EXISTS WITHIN THE STATE THE NEED TO STIMULATE
15 EMPLOYMENT AND MORE EFFICIENT TRANSPORTATION BY UTILIZING THE EMERGING
16 GREEN TECHNOLOGY THAT WILL REDUCE THE OUTPUT OF CARBON IN THE ATMOSPHERE
17 OF THE STATE, IMPROVE THE STATE'S ENVIRONMENTAL QUALITY OF LIFE AND
18 GENERAL HEALTH OF THE RESIDENTS. THIS NEED REQUIRES THE STATE GOVERNMENT

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 TO TARGET AREAS FOR EXTRAORDINARY ECONOMIC DEVELOPMENT PROGRAMS IN ORDER
2 TO STIMULATE PRIVATE INVESTMENT, PRIVATE BUSINESS DEVELOPMENT AND JOB
3 CREATION. IT IS THE PUBLIC POLICY OF THE STATE TO OFFER SPECIAL INCEN-
4 TIVES AND ASSISTANCE THAT WILL PROMOTE THE DEVELOPMENT OF NEW GREEN
5 BUSINESSES AND THE EXPANSION OF EXISTING BUSINESSES WITHIN PRE-DESIGNAT-
6 ED AREAS AND TO DO SO WITHOUT ENCOURAGING THE RELOCATION OF BUSINESS
7 INVESTMENT FROM OTHER AREAS OF THE STATE. IT IS FURTHER FOUND AND
8 DECLARED THAT IT IS THE PUBLIC POLICY OF THE STATE TO ACHIEVE THESE
9 GOALS THROUGH THE MUTUAL COOPERATION OF ALL LEVELS OF STATE AND LOCAL
10 GOVERNMENT AND THE BUSINESS COMMUNITY.

11 S 974-B. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS
12 SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE
13 ANOTHER OR DIFFERENT MEANING OR INTENT:

14 (A) "APPLICANT" SHALL MEAN THE COUNTY, CITY, TOWN OR VILLAGE SUBMIT-
15 TING AN APPLICATION IN THE MANNER AUTHORIZED BY LOCAL LAW FOR DESIG-
16 NATION OF AN AREA AS A GREEN ECONOMIC DEVELOPMENT ZONE.

17 (B) "ENTERPRISE" SHALL MEAN A BUSINESS ENTERPRISE THAT IS AUTHORIZED
18 TO DO BUSINESS IN THIS STATE AND IS INDEPENDENTLY OWNED AND OPERATED AND
19 FOUND TO COMPLY WITH GREEN ECONOMIC DEVELOPMENT ZONE CRITERIA.

20 (C) "GREEN BUSINESS" SHALL MEAN A BUSINESS THAT PRIMARILY OPERATES IN
21 ONE OR MORE OF FOUR AREAS: PRODUCTION, SERVICE AND REPAIR, RESEARCH AND
22 DEVELOPMENT AND THE APPLICATION AND INSTALLATION OF GREEN PRODUCTS AND
23 SERVICES. A GREEN PRODUCTION COMPANY IS A COMPANY DEALING PRIMARILY WITH
24 THE MANUFACTURING AND DISTRIBUTION OF ENERGY EFFICIENCY TECHNOLOGIES AND
25 GREENHOUSE GAS EMISSION REDUCTION TECHNOLOGIES. GREEN PRODUCTION COMPA-
26 NIES INCLUDE, BUT ARE NOT LIMITED TO, BIO FUEL DEVELOPMENT, SOLAR PANEL
27 PRODUCTION OR ASSEMBLY, WIND TURBINE PRODUCTION OR ASSEMBLY, CARBON
28 CAPTURE AND STORAGE MECHANISM, CLEAN FUEL VEHICLES, RENEWABLE ENERGY
29 DEVELOPMENT, OR ENERGY EFFICIENCY TECHNOLOGIES. GREEN PRODUCTION SHALL
30 ALSO INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING: (1) GREEN
31 HOUSE EMISSION REDUCTION TECHNOLOGIES; (2) THE ASSEMBLY OF ESSENTIAL
32 COMPONENTS FOR A CLEAN-FUELED VEHICLE; OR (3) ENERGY EFFICIENCY TECHNOL-
33 OGIES; WHERE

34 (A) "GREENHOUSE GAS EMISSION REDUCTION TECHNOLOGIES" SHALL MEAN AND
35 INCLUDE, BUT NOT BE LIMITED TO: (I) COGENERATION TECHNOLOGIES, WHICH
36 SHALL MEAN ANY ONE OF THE SEVERAL TECHNOLOGIES WHEREIN WASTE HEAT FROM
37 ON-SITE ELECTRICAL GENERATION PROCESSES IS RECOVERED TO PROVIDE STEAM OR
38 HOT WATER TO MEET ON-SITE NEEDS, SUCH AS HEATING AND/OR AIR CONDITIONING
39 AND WHICH ATTAINS OVERALL SYSTEM EFFICIENCY AS ESTABLISHED BY THE
40 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, CONSIDERING BOTH THERMAL AND
41 ELECTRICAL PROCESSES TOGETHER; (II) FURNACE AND BOILER REPLACEMENTS AND
42 RETROFITS, PROVIDED THAT THE NEW OR RETROFITTED FURNACES AND BOILERS
43 SHALL NOT AT ANY TIME OPERATE ON DIESEL FUEL WITH SULFUR CONTENT GREATER
44 THAN 0.05 PERCENT BY WEIGHT; (III) THE PRODUCTION OF CLEAN-FUELED VEHI-
45 CLES OR THE CONVERSION OF EXISTING VEHICLES TO CLEAN-FUELED VEHICLES;
46 AND (IV) OTHER MEASURES THAT WILL REDUCE THE DEMAND FOR AND/OR THE
47 CONSUMPTION OF ENERGY INCLUDING FUELS, AS DETERMINED BY THE DEPARTMENT
48 OF ENVIRONMENTAL CONSERVATION WITH THE NEW YORK STATE ENERGY RESEARCH
49 AND DEVELOPMENT AUTHORITY;

50 (B) "CLEAN-FUELED VEHICLE" SHALL MEAN ANY MOTOR VEHICLE AS DEFINED IN
51 SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, THAT
52 USES ELECTRICITY, INCLUDING ELECTRICITY EITHER STORED OR GENERATED
53 ON-BOARD, AS ITS PRIMARY MOTIVE FORCE, OR THAT IS FUELED BY NATURAL GAS,
54 PROPANE, HYDROGEN OR ANY OTHER NON-CARBON PRODUCING FUEL;

55 (C) "ENERGY EFFICIENCY TECHNOLOGIES" SHALL MEAN TECHNOLOGIES THAT
56 REDUCE THE CONSUMPTION OF ELECTRICITY INCLUDING BUT NOT LIMITED TO: (I)

1 REPLACEMENT OF INEFFICIENT LIGHTING FIXTURES; (II) APPLIANCES AND EQUIP-
2 MENT THAT MEET ENERGY EFFICIENCY PERFORMANCE STANDARDS AS IDENTIFIED IN
3 ARTICLE SIXTEEN OF THE ENERGY LAW; AND (III) OTHER SUCH MEASURES THAT
4 WILL REDUCE THE DEMAND FOR AND/OR CONSUMPTION OF ELECTRICITY AS DETER-
5 MINED BY THE NEW YORK STATE ENERGY AND RESEARCH DEVELOPMENT AUTHORITY;

6 (D) "RENEWABLE ENERGY DEVELOPMENT" SHALL MEAN THE PURCHASE AND INSTAL-
7 LATION OF TECHNOLOGIES DESIGNED TO CONVERT RENEWABLE ENERGY INTO ELEC-
8 TRICITY OR OTHER END USES, WHERE RENEWABLE ENERGY INCLUDES SOLAR, WIND,
9 TIDAL, FUEL CELL, GEOTHERMAL AND HYDROGEN, BUT DOES NOT INCLUDE
10 COMBUSTION OR PYROLYSIS OF SOLID WASTE AS DEFINED IN SECTION 27-0701 OF
11 THE ENVIRONMENTAL CONSERVATION LAW OR ELECTRICITY GENERATED FROM NUCLEAR
12 POWER PLANTS;

13 (E) "GREEN SERVICE AND REPAIR" SHALL MEAN ANY COMPANY THAT DEALS
14 PRIMARILY WITH THE PROVISION OF SERVICES TO OTHER COMPANIES OR INDIVID-
15 UALS IN A SUSTAINABLE OR ENERGY EFFICIENT MANNER. GREEN SERVICE AND
16 REPAIR COMPANIES INCLUDE, BUT ARE NOT LIMITED TO, THOSE OFFERING SUCH
17 SERVICES AS GREEN ROOFING, LEED CERTIFICATION AND INSPECTION SERVICES,
18 USE AND SALE OF LOW VOC PAINTS, LOW ENERGY RADIANT FLOORING, WHITE,
19 COATED, OR GREEN ROOF INSTALLATION, RECOVERY AND RECYCLING PROCESSING,
20 REPLACEMENT OF INEFFICIENT TECHNOLOGIES, CLEAN-FUEL VEHICLE SALES AND
21 REPAIR, COGENERATION TECHNOLOGY INSTALLATION AND REPAIR, AND GREEN LEGAL
22 AND FINANCIAL SERVICES;

23 (F) "GREEN RESEARCH AND DEVELOPMENT" SHALL MEAN ANY ENTITY THAT WORKS
24 PRIMARILY TO DISCOVER NEW KNOWLEDGE ABOUT GREEN PRODUCTS, PROCESSES, AND
25 SERVICES, AND THEN APPLIES THAT KNOWLEDGE TO CREATE NEW AND IMPROVED
26 GREEN PRODUCTS, PROCESSES, AND SERVICES THAT FILL MARKET NEEDS. GREEN
27 RESEARCH AND DEVELOPMENT PROJECTS INCLUDE, BUT ARE NOT LIMITED TO,
28 STUDIES INVOLVING IMPROVEMENTS TO RENEWABLE ENERGY TECHNOLOGY, SUSTAINA-
29 BLE FARMING OR LANDSCAPING PROCESSES, WATER CONSERVATION TECHNOLOGIES,
30 ENERGY EFFICIENCY TECHNOLOGY IMPROVEMENTS, ALTERNATIVE FUEL DEVELOPMENT,
31 COST-BENEFIT ANALYSES OF SUSTAINABLE PRACTICES, ENERGY RETURN ON INVEST-
32 MENT, GREEN EDUCATION OUTREACH, AND URBAN SUSTAINABILITY PRACTICES; AND

33 (G) "GREEN APPLICATION AND INSTALLATION" IS THE ACT OF A PROPERTY
34 OWNER OR TENANT INSTALLING OR USING A TYPE OF GREEN TECHNOLOGY THAT
35 RESULTS IN GREENHOUSE GAS EMISSION REDUCTION OR ANY OTHER ENERGY EFFI-
36 CIENCY TECHNOLOGIES AND SHALL ALSO INCLUDE CERTAIN WORK PERFORMED BY
37 NON-MANUFACTURING AND SERVICE COMPANIES AS DEFINED BY THIS SECTION.
38 GREEN APPLICATION AND INSTALLATION INCLUDES, BUT IS NOT LIMITED TO,
39 SOLAR PANEL INSTALLATION, COGENERATION TECHNOLOGY RETROFITTING, GREEN
40 ROOF INSTALLATION, LOW FLOW WATER FIXTURE INSTALLATION, CLEAN-FUEL VEHI-
41 CLE UTILIZATION, GREENHOUSE GAS EMISSIONS REDUCTION TECHNOLOGY UTILIZA-
42 TION, ENERGY EFFICIENCY TECHNOLOGY UTILIZATION, AND LEED CERTIFICATION.

43 (D) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF ECONOMIC DEVELOP-
44 MENT.

45 (E) "GREEN ZONE" SHALL MEAN THE AREA OF STATEN ISLAND DEFINED BY THE
46 FOLLOWING AREA BASED ON THE NEW YORK CITY DEPARTMENT OF CITY PLANNING
47 ZONING MAPS: BEGINNING AT THE INTERSECTION OF THE NORTH SIDE OF THE FOOT
48 OF THE GOETHALS BRIDGES AND THE US PIERHEAD AND BULKHEAD LINE; THENCE
49 RUNNING EASTERLY 3,214.78 FEET ALONG AND PARALLEL TO NORTH SIDE OF THE
50 GOETHALS BRIDGE EXTENSION TO THE CENTERLINE OF WESTERN AVENUE; THENCE
51 RUNNING NORTH 93.71 FEET TO THE CENTER LINE OF GOETHALS ROAD NORTH;
52 THENCE RUNNING EAST 5,909.12 FEET ALONG AND PARALLEL TO THE SOUTH SIDE
53 OF GOETHALS ROAD NORTH TO CENTERLINE OF SOUTH AVENUE; THENCE RUNNING
54 SOUTH 433.81 FEET ALONG AND PARALLEL THE WEST SIDE OF SOUTH AVENUE TO
55 THE CENTERLINE OF FAHEY AVENUE; THENCE RUNNING EAST 424.89 FEET ALONG
56 AND PARALLEL TO THE SOUTH SIDE OF FAHEY AVENUE TO THE CENTERLINE OF

1 FELTON STREET; THENCE RUNNING SOUTH 1,314.02 FEET ALONG AND PARALLEL THE
 2 WEST SIDE OF FELTON STREET TO THE CENTERLINE OF LAMBERTS LANE; THENCE
 3 RUNNING SOUTH 790.62 ALONG THE FELTON STREET LINE TO THE INTERSECTION OF
 4 GRAHAM AVENUE AND LANDER AVENUE; THENCE RUNNING SOUTH 3,413.10 FEET
 5 ALONG AND PARALLEL TO THE WEST SIDE OF GRAHAM AVENUE TO THE CENTERLINE
 6 OF VICTORY BOULEVARD; THENCE RUNNING SOUTHEAST 3,114.21 ALONG THE WEST
 7 SIDE OF VICTORY BOULEVARD TO THE CENTERLINE OF TRAVIS AVENUE; THENCE
 8 RUNNING EAST 5,030.20 FEET ALONG AND PARALLEL THE SOUTH SIDE OF TRAVIS
 9 AVENUE TO THE CENTERLINE OF RICHMOND AVENUE; THENCE RUNNING SOUTH
 10 12,265.02 ALONG AND PARALLEL TO THE WEST SIDE OF RICHMOND AVENUE TO THE
 11 CENTERLINE OF ARTHUR KILL ROAD; THENCE RUNNING WEST 14,266.19 FEET ALONG
 12 AND PARALLEL THE NORTH SIDE OF ARTHUR KILL ROAD TO THE CENTERLINE OF
 13 ROSSVILLE AVENUE; THENCE RUNNING NORTH 650 FEET ALONG THE LINE OF ROSS-
 14 VILLE AVENUE TO THE POINT OF THE US PIERHEAD AND BULKHEAD LINE; THENCE
 15 RUNNING NORTH 34,553.83 FEET ALONG AND PARALLEL TO THE EAST SIDE OF THE
 16 US PIERHEAD AND BULKHEAD LINE TO THE POINT AND PLACE OF THE BEGINNING.

17 S 974-C. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL:

18 (A) PROMULGATE REGULATIONS, IN CONSULTATION WITH THE COMMISSIONER OF
 19 LABOR, FOR PROGRAM EVALUATION AND COORDINATE IMPLEMENTATION OF AN EVALU-
 20 ATION SYSTEM, WHICH IS CAPABLE OF COMPILING AND ANALYZING ACCURATE AND
 21 CONSISTENT INFORMATION NECESSARY FOR AN ASSESSMENT OF WHETHER STATUTORY
 22 OBJECTIVES AND CRITERIA ARE BEING MET;

23 (B) DESIGNATE BUSINESSES AS MEETING THE CRITERIA OF A GREEN BUSINESS;
 24 AND

25 (C) REVIEW PERFORMANCE OBJECTIVES AND PROGRESS IN MEETING OBJECTIVES.

26 S 3. Section 210 of the tax law is amended by adding a new subdivision
 27 45 to read as follows:

28 45. GREEN ZONE TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A
 29 TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS CHAP-
 30 TER. SUCH CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, SHALL BE
 31 ALLOWED FOR A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE, OR A SOLE
 32 PROPRIETOR OF A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE OR A MEMBER
 33 OF A PARTNERSHIP WHICH IS A QUALIFIED GREEN BUSINESS WITHIN A GREEN
 34 ZONE.

35 (B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS
 36 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, SHALL BE
 37 COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND
 38 INVESTMENT CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE GREEN
 39 ZONE, AS SUCH TERM IS DEFINED IN SECTION NINE HUNDRED SEVENTY-FOUR-B OF
 40 THE GENERAL MUNICIPAL LAW. THIS CREDIT MAY ONLY BE TAKEN BY THE TAXPAYER
 41 IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

42 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 43 of the tax law is amended by adding a new clause (xxxiv) to read as
 44 follows:

45 (XXXIV) GREEN ECONOMIC DEVELOPMENT ZONE	AMOUNT OF CREDIT UNDER
46 CREDIT UNDER SUBSECTION	SUBDIVISION FORTY-FIVE OF
47 (UU)	SECTION TWO HUNDRED TEN

48 S 5. Section 606 of the tax law is amended by adding a new subsection
 49 (uu) to read as follows:

50 (UU) GREEN ZONE TAX REDUCTION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED
 51 A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX
 52 IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER IS A QUALIFIED GREEN BUSI-
 53 NESS WITHIN A GREEN ZONE, OR A SOLE PROPRIETOR OF A QUALIFIED GREEN
 54 BUSINESS WITHIN A GREEN ZONE OR A MEMBER OF A PARTNERSHIP WHICH IS A
 55 QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE.

(2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, SHALL BE COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND INVESTMENT CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE GREEN ZONE, AS SUCH TERM IS DEFINED IN SECTION NINE HUNDRED SEVENTY-FOUR-B OF THE GENERAL MUNICIPAL LAW. THIS CREDIT MAY ONLY BE TAKEN BY THE TAXPAYER IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

S 6. Section 1456 of the tax law is amended by adding a new subsection (z) to read as follows:

(Z) GREEN ZONE TAX REDUCTION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER IS A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE, OR A SOLE PROPRIETOR OF A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE OR A MEMBER OF A PARTNERSHIP WHICH IS A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE.

(2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, SHALL BE COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND INVESTMENT CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE GREEN ZONE, AS SUCH TERM IS DEFINED IN SECTION NINE HUNDRED SEVENTY-FOUR-B OF THE GENERAL MUNICIPAL LAW. THIS CREDIT MAY ONLY BE TAKEN BY THE TAXPAYER IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

S 7. Section 1511 of the tax law is amended by adding a new subdivision (cc) to read as follows:

(CC) GREEN ZONE TAX REDUCTION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER IS A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE, OR A SOLE PROPRIETOR OF A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE OR A MEMBER OF A PARTNERSHIP WHICH IS A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE.

(2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, SHALL BE COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND INVESTMENT CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE GREEN ZONE, AS SUCH TERM IS DEFINED IN SECTION NINE HUNDRED SEVENTY-FOUR-B OF THE GENERAL MUNICIPAL LAW. THIS CREDIT MAY ONLY BE TAKEN BY THE TAXPAYER IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

S 8. This act shall take effect immediately.