S T A T E O F N E W Y O R K

2471

2013-2014 Regular Sessions

I N S E N A T E

January 17, 2013

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

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:

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

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

ARTICLE 18-D
GREEN ECONOMIC DEVELOPMENT ZONES

SECTION 974. SHORT TITLE.
974-A. LEGISLATIVE FINDINGS AND DECLARATION.
974-B. DEFINITIONS.
974-C. RESPONSIBILITIES OF THE COMMISSIONER.

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

S 974-A. LEGISLATIVE FINDINGS AND DECLARATION. IT IS HEREBY FOUND AND DECLARED THAT THERE EXISTS WITHIN THE STATE THE NEED TO STIMULATE EMPLOYMENT AND MORE EFFICIENT TRANSPORTATION BY UTILIZING THE EMERGING GREEN TECHNOLOGY THAT WILL REDUCE THE OUTPUT OF CARBON IN THE ATMOSPHERE OF THE STATE, IMPROVE THE STATE'S ENVIRONMENTAL QUALITY OF LIFE AND GENERAL HEALTH OF THE RESIDENTS. THIS NEED REQUIRES THE STATE GOVERNMENT TO TARGET AREAS FOR EXTRAORDINARY ECONOMIC DEVELOPMENT PROGRAMS IN ORDER TO STIMULATE PRIVATE INVESTMENT, PRIVATE BUSINESS DEVELOPMENT AND JOB CREATION. IT IS THE PUBLIC POLICY OF THE STATE TO OFFER SPECIAL INCENTIVES AND ASSISTANCE THAT WILL PROMOTE THE DEVELOPMENT OF NEW GREEN BUSINESSES AND THE EXPANSION OF EXISTING BUSINESSES WITHIN PRE-DESIGNATED AREAS AND TO DO SO WITHOUT ENCOURAGING THE RELOCATION OF BUSINESS

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

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INVESTMENT FROM OTHER AREAS OF THE STATE. IT IS FURTHER FOUND AND DECLARED THAT IT IS THE PUBLIC POLICY OF THE STATE TO ACHIEVE THESE GOALS THROUGH THE MUTUAL COOPERATION OF ALL LEVELS OF STATE AND LOCAL GOVERNMENT AND THE BUSINESS COMMUNITY.

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

(A) "APPLICANT" SHALL MEAN THE COUNTY, CITY, TOWN OR VILLAGE SUBMITTING AN APPLICATION IN THE MANNER AUTHORIZED BY LOCAL LAW FOR DESIGNATION OF AN AREA AS A GREEN ECONOMIC DEVELOPMENT ZONE.

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

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

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

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

(C) "ENERGY EFFICIENCY TECHNOLOGIES" SHALL MEAN TECHNOLOGIES THAT REDUCE THE CONSUMPTION OF ELECTRICITY INCLUDING BUT NOT LIMITED TO: (I) REPLACEMENT OF INEFFICIENT LIGHTING FIXTURES; (II) APPLIANCES AND EQUIPMENT THAT MEET ENERGY EFFICIENCY PERFORMANCE STANDARDS AS IDENTIFIED IN ARTICLE SIXTEEN OF THE ENERGY LAW; AND (III) OTHER SUCH MEASURES THAT WILL REDUCE THE DEMAND FOR AND/OR CONSUMPTION OF ELECTRICITY AS DETERMINED BY THE NEW YORK STATE ENERGY AND RESEARCH DEVELOPMENT AUTHORITY;

(D) "RENEWABLE ENERGY DEVELOPMENT" SHALL MEAN THE PURCHASE AND INSTALLATION OF TECHNOLOGIES DESIGNED TO CONVERT RENEWABLE ENERGY INTO ELECTRICITY OR OTHER END USES, WHERE RENEWABLE ENERGY SHALL MEAN RENEWABLE ENERGY RESOURCES AS DEFINED IN SUBDIVISION TWELVE OF SECTION 1-103 OF THE ENERGY LAW;

(E) "GREEN SERVICE AND REPAIR" SHALL MEAN ANY COMPANY THAT DEALS PRIMARILY WITH THE PROVISION OF SERVICES TO OTHER COMPANIES OR INDIVIDUALS IN A SUSTAINABLE OR ENERGY EFFICIENT MANNER. GREEN SERVICE AND REPAIR COMPANIES INCLUDE, BUT ARE NOT LIMITED TO, THOSE OFFERING SUCH SERVICES AS GREEN ROOFING, LEED CERTIFICATION AND INSPECTION SERVICES, THE GREEN BUILDING INITIATIVE'S GREEN GLOBES SYSTEM, USE AND SALE OF LOW VOC PAINTS, LOW ENERGY RADIANT FLOORING, WHITE, COATED, OR GREEN ROOF INSTALLATION, RECOVERY AND RECYCLING PROCESSING, REPLACEMENT OF INEFFICIENT TECHNOLOGIES, CLEAN-FUEL VEHICLE SALES AND REPAIR, COGENERATION TECHNOLOGY INSTALLATION AND REPAIR, AND GREEN LEGAL AND FINANCIAL SERVICES;

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

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

(D) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF ECONOMIC DEVELOPMENT.

(E) "GREEN ZONE" SHALL MEAN THE AREA OF STATEN ISLAND DEFINED BY THE FOLLOWING AREA BASED ON THE NEW YORK CITY DEPARTMENT OF CITY PLANNING ZONING MAPS: BEGINNING AT THE INTERSECTION OF THE NORTH SIDE OF THE FOOT OF THE GOETHALS BRIDGES AND THE US PIERHEAD AND BULKHEAD LINE; THENCE RUNNING EASTERLY 3,214.78 FEET ALONG AND PARALLEL TO NORTH SIDE OF THE GOETHALS BRIDGE EXTENSION TO THE CENTERLINE OF WESTERN AVENUE; THENCE RUNNING NORTH 93.71 FEET TO THE CENTER LINE OF GOETHALS ROAD NORTH; THENCE RUNNING EAST 5,909.12 FEET ALONG AND PARALLEL TO THE SOUTH SIDE OF GOETHALS ROAD NORTH TO CENTERLINE OF SOUTH AVENUE; THENCE RUNNING SOUTH 433.81 FEET ALONG AND PARALLEL THE WEST SIDE OF SOUTH AVENUE TO THE CENTERLINE OF FAHEY AVENUE; THENCE RUNNING EAST 424.89 FEET ALONG AND PARALLEL TO THE SOUTH SIDE OF FAHEY AVENUE TO THE CENTERLINE OF FELTON STREET; THENCE RUNNING SOUTH 1,314.02 FEET ALONG AND PARALLEL THE WEST SIDE OF FELTON STREET TO THE CENTERLINE OF LAMBERTS LANE; THENCE RUNNING SOUTH 790.62 ALONG THE FELTON STREET LINE TO THE INTERSECTION OF GRAHAM AVENUE AND LANDER AVENUE; THENCE RUNNING SOUTH 3,413.10 FEET ALONG AND PARALLEL TO THE WEST SIDE OF GRAHAM AVENUE TO THE CENTERLINE OF VICTORY BOULEVARD; THENCE RUNNING SOUTHEAST 3,114.21 ALONG THE WEST

SIDE OF VICTORY BOULEVARD TO THE CENTERLINE OF TRAVIS AVENUE; THENCE RUNNING EAST 5,030.20 FEET ALONG AND PARALLEL THE SOUTH SIDE OF TRAVIS AVENUE TO THE CENTERLINE OF RICHMOND AVENUE; THENCE RUNNING SOUTH 12,265.02 ALONG AND PARALLEL TO THE WEST SIDE OF RICHMOND AVENUE TO THE CENTERLINE OF ARTHUR KILL ROAD; THENCE RUNNING WEST 23,752.19 FEET ALONG AND PARALLEL THE NORTH SIDE OF ARTHUR KILL ROAD TO THE CENTERLINE OF ELLIS ROAD; THENCE RUNNING NORTH 3,571 FEET ALONG THE LINE OF ELLIS ROAD TO THE POINT OF THE US PIERHEAD AND BULKHEAD LINE; THENCE RUNNING NORTH 47,725.83 FEET ALONG AND PARALLEL TO THE EAST SIDE OF THE US PIERHEAD AND BULKHEAD LINE TO THE POINT AND PLACE OF THE BEGINNING.

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

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

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

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

S 3. Section 210 of the tax law is amended by adding a new subdivision 46 to read as follows:

46. GREEN ZONE TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS CHAPTER. SUCH CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, SHALL BE ALLOWED FOR 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.

(B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, 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 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxv) to read as follows:

(XXXV) GREEN ZONE TAX REDUCTION CREDIT UNDER SUBSECTION (VV)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-SIX OF SECTION TWO HUNDRED TEN

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

(VV) 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 FOURTEEN, 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 FOURTEEN, 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 FOURTEEN, 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.