

2739--A

2013-2014 Regular Sessions

I N   S E N A T E

January 23, 2013

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Introduced by Sens. RANZENHOFER, LANZA, LARKIN, LATIMER, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a credit against income tax for the rehabilitation of distressed residential properties

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

1     Section 1. Subsections (yy) and (zz) of section 606 of the tax law, as  
2     relettered by section 5 of part H of chapter 1 of the laws of 2003, are  
3     relettered subsections (yyy) and (zzz) and a new subsection (xx) is  
4     added to read as follows:  
5     (XX) CREDIT FOR REHABILITATION OF DISTRESSED RESIDENTIAL PROPERTIES.  
6     (1) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
7     FOURTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED,  
8     AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY  
9     PERCENT OF THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE TAXPAY-  
10    ER WITH RESPECT TO A QUALIFIED DISTRESSED RESIDENTIAL PROPERTY.  
11    PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND  
12    DOLLARS.  
13    (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED  
14    IN THE TAXABLE YEAR IN WHICH THE PROPERTY IS DEEMED A CERTIFIED REHABIL-  
15    ITATION.  
16    (3) IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR  
17    ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE  
18    EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE

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

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1 APPLIED AGAINST THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS, BUT SHALL NOT  
2 EXCEED TWENTY-FIVE THOUSAND DOLLARS.

3 (4) (A) THE TERM "QUALIFIED REHABILITATION EXPENDITURE" MEANS, FOR  
4 PURPOSES OF THIS SUBSECTION, ANY AMOUNT PROPERLY CHARGEABLE TO A CAPITAL  
5 ACCOUNT:

6 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED  
7 DISTRESSED RESIDENTIAL PROPERTY, AND

8 (II) FOR PROPERTY FOR WHICH DEPRECIATION WOULD BE ALLOWABLE UNDER  
9 SECTION 168 OF THE INTERNAL REVENUE CODE.

10 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING  
11 OR INTEREST THEREIN, (II) ANY EXPENDITURE ATTRIBUTABLE TO THE ENLARGE-  
12 MENT OF AN EXISTING BUILDING, OR (III) ANY EXPENDITURE MADE PRIOR TO  
13 JANUARY FIRST, TWO THOUSAND FOURTEEN OR AFTER DECEMBER THIRTY-FIRST, TWO  
14 THOUSAND NINETEEN.

15 (5) THE TERM "CERTIFIED REHABILITATION" MEANS, FOR PURPOSES OF  
16 DISTRESSED RESIDENTIAL PROPERTY IN THIS SUBSECTION, ANY REHABILITATION  
17 OF A CERTIFIED DISTRESSED RESIDENTIAL PROPERTY WHICH HAS BEEN APPROVED  
18 AND CERTIFIED BY A LOCAL GOVERNMENT AS BEING COMPLETED, WITH A CERTIF-  
19 ICATE OF OCCUPANCY ISSUED, AND THAT THE COSTS ARE CONSISTENT WITH THE  
20 WORK COMPLETED. SUCH CERTIFICATION SHALL BE ACCEPTABLE AS PROOF THAT THE  
21 EXPENDITURES RELATED TO SUCH REHABILITATION QUALIFY AS QUALIFIED REHA-  
22 BILITATION EXPENDITURES FOR PURPOSES OF THE CREDIT ALLOWED UNDER PARA-  
23 GRAPH ONE OF THIS SUBSECTION.

24 (6) (A) THE TERM "QUALIFIED RESIDENTIAL PROPERTY" MEANS, FOR PURPOSES  
25 OF THIS SUBSECTION, A DISTRESSED RESIDENTIAL PROPERTY LOCATED WITHIN NEW  
26 YORK STATE:

27 (I) WHICH HAS BEEN SUBSTANTIALLY REHABILITATED,

28 (II) WHICH WAS CONSTRUCTED PRIOR TO JANUARY FIRST, NINETEEN HUNDRED  
29 SIXTY-TWO,

30 (III) WHICH IS OWNED BY THE TAXPAYER, AND

31 (IV) WHICH IS LOCATED WITHIN A DISTRESSED RESIDENTIAL OR MIXED-USE  
32 AREA, AS IDENTIFIED BY EACH LOCALITY THROUGH LOCAL LAW, THAT IS DEEMED  
33 AN AREA IN NEED OF COMMUNITY RENEWAL DUE TO DILAPIDATION AND VACANCIES.

34 (B) IF THE DISTRESSED RESIDENTIAL PROPERTY IS RENTAL PROPERTY, SUCH  
35 PROPERTY SHALL HAVE BEEN VACANT FOR AT LEAST SIX MONTHS WHILE ACTIVELY  
36 MARKETING FOR LEASE.

37 (C) A BUILDING SHALL BE TREATED AS HAVING BEEN "SUBSTANTIALLY REHABIL-  
38 ITATED" IF THE QUALIFIED REHABILITATION EXPENDITURES IN RELATION TO SUCH  
39 BUILDING TOTAL TEN THOUSAND DOLLARS OR MORE.

40 (7) (A) IF THE TAXPAYER DISPOSES OF SUCH TAXPAYER'S INTEREST IN THE  
41 QUALIFIED DISTRESSED RESIDENTIAL PROPERTY, OR SUCH PROPERTY CEASES TO BE  
42 USED AS A RESIDENTIAL PROPERTY OF THE TAXPAYER WITHIN FIVE YEARS OF  
43 RECEIVING THE CREDIT UNDER THIS SUBSECTION, THE TAXPAYER'S TAX IMPOSED  
44 BY THIS ARTICLE FOR THE TAXABLE YEAR IN WHICH SUCH DISPOSITION OR CESSA-  
45 TION OCCURS SHALL BE INCREASED BY THE RECAPTURE PORTION OF THE CREDIT  
46 ALLOWED UNDER THIS SUBSECTION FOR ALL PRIOR TAXABLE YEARS WITH RESPECT  
47 TO SUCH REHABILITATION.

48 (B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE RECAPTURE  
49 PORTION SHALL BE THE PRODUCT OF THE AMOUNT OF CREDIT CLAIMED BY THE  
50 TAXPAYER MULTIPLIED BY A RATIO, THE NUMERATOR OF WHICH IS EQUAL TO SIXTY  
51 LESS THE NUMBER OF MONTHS THE BUILDING IS OWNED OR USED AS RESIDENTIAL  
52 PROPERTY BY THE TAXPAYER AND THE DENOMINATOR OF WHICH IS SIXTY.

53 S. 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
54 of the tax law is amended by adding a new clause (xxvii) to read as  
55 follows:

1 (XXXVII) CREDIT FOR REHABILITATION AMOUNT OF CREDIT  
2 OF DISTRESSED RESIDENTIAL UNDER SUBDIVISION FORTY-EIGHT  
3 PROPERTIES UNDER SUBSECTION (XX) OF SECTION TWO HUNDRED TEN

4 S 3. Section 210 of the tax law is amended by adding a new subdivision  
5 48 to read as follows:

6 48. CREDIT FOR REHABILITATION OF DISTRESSED RESIDENTIAL PROPERTIES.  
7 (1) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
8 FOURTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED,  
9 AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY  
10 PERCENT OF THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE TAXPAY-  
11 ER WITH RESPECT TO A QUALIFIED DISTRESSED RESIDENTIAL PROPERTY.  
12 PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND  
13 DOLLARS.

14 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE ALLOWED  
15 IN THE TAXABLE YEAR IN WHICH THE PROPERTY IS DEEMED A CERTIFIED REHABIL-  
16 ITATION.

17 (3) IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR  
18 ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE  
19 EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE  
20 APPLIED AGAINST THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS, BUT SHALL NOT  
21 EXCEED TWENTY-FIVE THOUSAND DOLLARS.

22 (4) (A) THE TERM "QUALIFIED REHABILITATION EXPENDITURE" MEANS, FOR  
23 PURPOSES OF THIS SUBDIVISION, ANY AMOUNT PROPERLY CHARGEABLE TO A CAPI-  
24 TAL ACCOUNT:

25 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED  
26 RESIDENTIAL PROPERTY, AND

27 (II) FOR PROPERTY FOR WHICH DEPRECIATION WOULD BE ALLOWABLE UNDER  
28 SECTION 168 OF THE INTERNAL REVENUE CODE.

29 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING  
30 OR INTEREST THEREIN, (II) ANY EXPENDITURE ATTRIBUTABLE TO THE ENLARGE-  
31 MENT OF AN EXISTING BUILDING, OR (III) ANY EXPENDITURE MADE PRIOR TO  
32 JANUARY FIRST, TWO THOUSAND FOURTEEN OR AFTER DECEMBER THIRTY-FIRST, TWO  
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35 SUBDIVISION, ANY REHABILITATION OF A CERTIFIED DISTRESSED RESIDENTIAL  
36 PROPERTY WHICH HAS BEEN APPROVED AND CERTIFIED BY A LOCAL GOVERNMENT AS  
37 BEING COMPLETED, WITH A CERTIFICATE OF OCCUPANCY ISSUED, AND THAT THE  
38 COSTS ARE CONSISTENT WITH THE WORK COMPLETED. SUCH CERTIFICATION SHALL  
39 BE ACCEPTABLE AS PROOF THAT THE EXPENDITURES RELATED TO SUCH REHABILI-  
40 TATION QUALIFY AS QUALIFIED REHABILITATION EXPENDITURES FOR PURPOSES OF  
41 THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBDIVISION.

42 (6) (A) THE TERM "QUALIFIED RESIDENTIAL PROPERTY" MEANS, FOR PURPOSES  
43 OF THIS SUBDIVISION, A DISTRESSED RESIDENTIAL PROPERTY LOCATED WITHIN  
44 NEW YORK STATE:

45 (I) WHICH HAS BEEN SUBSTANTIALLY REHABILITATED,

46 (II) WHICH WAS CONSTRUCTED PRIOR TO JANUARY FIRST, NINETEEN HUNDRED  
47 SIXTY-TWO,

48 (III) WHICH IS OWNED BY THE TAXPAYER, AND

49 (IV) WHICH IS LOCATED WITHIN A DISTRESSED RESIDENTIAL OR MIXED-USE  
50 AREA, AS IDENTIFIED BY EACH LOCALITY THROUGH LOCAL LAW, THAT IS DEEMED  
51 AN AREA IN NEED OF COMMUNITY RENEWAL DUE TO DILAPIDATION AND VACANCIES.

52 (B) IF THE DISTRESSED RESIDENTIAL PROPERTY IS RENTAL PROPERTY, SUCH  
53 PROPERTY SHALL HAVE BEEN VACANT FOR AT LEAST SIX MONTHS WHILE ACTIVELY  
54 MARKETING FOR LEASE.

1 (C) A BUILDING SHALL BE TREATED AS HAVING BEEN "SUBSTANTIALLY REHABIL-  
2 ITATED" IF THE QUALIFIED REHABILITATION EXPENDITURES IN RELATION TO SUCH  
3 BUILDING TOTAL TEN THOUSAND DOLLARS OR MORE.

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5 QUALIFIED DISTRESSED RESIDENTIAL PROPERTY, OR SUCH PROPERTY CEASES TO BE  
6 USED AS A RESIDENTIAL PROPERTY OF THE TAXPAYER WITHIN FIVE YEARS OF  
7 RECEIVING THE CREDIT UNDER THIS SUBDIVISION, THE TAXPAYER'S TAX IMPOSED  
8 BY THIS ARTICLE FOR THE TAXABLE YEAR IN WHICH SUCH DISPOSITION OR CESSA-  
9 TION OCCURS SHALL BE INCREASED BY THE RECAPTURE PORTION OF THE CREDIT  
10 ALLOWED UNDER THIS SUBDIVISION FOR ALL PRIOR TAXABLE YEARS WITH RESPECT  
11 TO SUCH REHABILITATION.

12 (B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE RECAPTURE  
13 PORTION SHALL BE THE PRODUCT OF THE AMOUNT OF CREDIT CLAIMED BY THE  
14 TAXPAYER MULTIPLIED BY A RATIO, THE NUMERATOR OF WHICH IS EQUAL TO SIXTY  
15 LESS THE NUMBER OF MONTHS THE BUILDING IS OWNED OR USED AS RESIDENTIAL  
16 PROPERTY BY THE TAXPAYER AND THE DENOMINATOR OF WHICH IS SIXTY.

17 S 4. This act shall take effect immediately and shall apply to taxable  
18 years beginning on or after January 1, 2014.