

4533--C

2013-2014 Regular Sessions

I N S E N A T E

April 8, 2013

Introduced by Sens. MAZIARZ, DeFRANCISCO, FELDER, RANZENHOFER, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Energy and Telecommunications 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 public service law and the tax law, in relation to establishing an energy efficiency tax credit for single family and multi-family homes

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 "energy
2 efficiency and carbon emission reduction tax credit act".
3 S 2. The public service law is amended by adding a new section 73 to
4 read as follows:
5 S 73. COORDINATION WITH CERTAIN PROVISIONS OF THE TAX LAW. THE DEPART-
6 MENT MAY REQUEST FROM THE DEPARTMENT OF TAXATION AND FINANCE OR THE NEW
7 YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY A SUMMARY OF
8 INSPECTION REPORTS PREPARED BY THE NEW YORK STATE ENERGY RESEARCH AND
9 DEVELOPMENT AUTHORITY IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION
10 (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW. SUCH SUMMARY SHALL
11 INCLUDE THE TOTAL NUMBER OF RESIDENCES THAT HAVE BEEN GRANTED A CARBON
12 EMISSIONS REDUCTION CREDIT, A DESCRIPTION OF THE IMPROVEMENTS TO WHICH
13 THE CREDIT RELATES, AND AN INDICATION OF THE AMOUNT BY WHICH CARBON
14 EMISSIONS ARE TO BE REDUCED AND/OR THE AMOUNT BY WHICH FUEL USAGE IS
15 REDUCED.

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

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1 S 3. 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 (bbb) is
4 added to read as follows:

5 (BBB) CARBON EMISSIONS REDUCTION CREDIT. (1) ALLOWANCE OF CREDIT.
6 SUBJECT TO APPROVAL BY THE DEPARTMENT PURSUANT TO THIS SECTION, A
7 TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTI-
8 CLE FOR COSTS INCURRED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
9 BY SUCH TAXPAYER WHICH ARE DIRECTLY ASSOCIATED WITH INSTALLING ANY
10 IMPROVEMENT TO A HEATING OR COOLING SYSTEM WHICH WILL INCREASE EFFICIEN-
11 CY BY AT LEAST TEN PERCENT OR REDUCE FUEL USAGE BY AT LEAST TEN PERCENT
12 AND LEAD TO A SIGNIFICANT REDUCTION IN CARBON EMISSIONS AS DEFINED BY
13 THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY GUIDELINES,
14 PROVIDED THAT SUCH PROJECT SHALL HAVE A RETURN ON INVESTMENT OF FIVE
15 YEARS OR LESS AT MINIMUM. SUCH IMPROVEMENTS SHALL INCLUDE, BUT SHALL
16 NOT BE LIMITED TO, THE INSTALLATION OF A HIGH EFFICIENCY BOILER OR
17 FURNACE, AN IMPROVEMENT TO AND/OR REPLACEMENT OF A BURNER IN A BOILER,
18 THE INSTALLATION OF ON-SITE RENEWABLE GENERATION, A FUEL CATALYST SYSTEM
19 AS DEFINED IN THIS SUBSECTION, OR ANY OTHER IMPROVEMENT TO A HEATING
20 SYSTEM THAT SATISFIES THE CRITERIA SET FORTH IN THIS SUBSECTION.
21 NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBSECTION, FOR BOILERS
22 THAT ARE REGULATED BY THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL
23 PROTECTION, THE IMPROVEMENTS MUST RESULT IN A REDUCTION OF PARTICULATE
24 MATTER THAT IS TWO AND ONE-HALF MICRONS OR LESS IN WIDTH (COMMONLY
25 REFERRED TO AS PM 2.5 EMISSIONS) OF AT LEAST FIFTY PERCENT.

26 (2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE UP TO FIVE
27 THOUSAND DOLLARS FOR A SINGLE FAMILY HOME AND UP TO TWENTY-FIVE THOUSAND
28 DOLLARS FOR A MULTIPLE FAMILY DWELLING OF AT LEAST FIVE UNITS, TOWARDS
29 THE TOTAL COST OF DESIGNING, PURCHASING AND INSTALLING SUCH A HEATING
30 SYSTEM, WHICH COST SHALL INCLUDE THE DECOMMISSIONING AND REMOVAL OF
31 EXISTING EQUIPMENT. IN NO CASE SHALL THE AMOUNT OF THE APPLICABLE CREDIT
32 EXCEED THE AMOUNT OF THE INVESTMENT IN THE IMPROVEMENT MADE.

33 (3) MULTIPLE TAXPAYERS. IF THE PRINCIPAL RESIDENCE IS SHARED BY TWO OR
34 MORE TAXPAYERS, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION
35 FOR EACH SUCH ELIGIBLE TAXPAYER SHALL BE PRORATED ACCORDING TO THE
36 PERCENTAGE OF THE TOTAL EXPENDITURE FOR SUCH CONVERSION INCURRED BY EACH
37 TAXPAYER.

38 (4) APPLICATION FOR CREDIT. SUCH CREDIT SHALL BE GRANTED ONLY UPON
39 APPLICATION BY THE ELIGIBLE TAXPAYER OR TAXPAYERS ON A FORM PRESCRIBED
40 BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND
41 AFTER INSPECTION BY SUCH AUTHORITY, THE RESULTS OF WHICH SHALL BE SET
42 FORTH IN A REPORT PREPARED THEREBY. THE APPLICATION SHALL REQUIRE
43 SUBMISSION OF DOCUMENTATION OF THE CONVERSION, INCLUDING INVOICES FOR
44 ANY SERVICES USED AND CONTRACTED AND EQUIPMENT INSTALLED OR ADDED, AS
45 WELL AS ANY CONTRACTS WITH A HEATING SUPPLIER. THE APPLICATION AND
46 INSPECTION REPORT SHALL BE FILED WITH THE DEPARTMENT ON OR BEFORE THE
47 LAST DAY OF THE APPLICABLE TAXABLE YEAR, WHO SHALL APPROVE OR DISAPPROVE
48 SUCH APPLICATION. A COPY OF SUCH APPLICATION SHALL BE FILED WITH THE NEW
49 YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY.

50 (5) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
51 THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR
52 SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
53 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX
54 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST
55 SHALL BE PAID THEREON.

1 (A) FOR PURPOSES OF THIS SUBSECTION, "PRINCIPAL RESIDENCE" FOR A
2 SINGLE FAMILY DWELLING SHALL MEAN THE RESIDENTIAL PROPERTY WHERE THE
3 TAXPAYER HAS HIS OR HER TRUE, FIXED, AND PERMANENT HOME TO WHICH, WHEN-
4 EVER ABSENT HE OR SHE INTENDS TO RETURN.

5 (B) "FUEL CATALYST SYSTEM" SHALL MEAN ANY HETEROGENEOUS METALLIC ALLOY
6 CATALYST OR "HMAC" COMPONENT THAT WHEN APPLIED TO A FURNACE OR BOILER
7 UTILIZING NUMBER 2 OIL LEADS TO REDUCED FUEL USAGE OF AT LEAST TEN
8 PERCENT, A SUBSTANTIAL REDUCTION IN CARBON EMISSIONS OR AN INCREASE IN
9 OVERALL EFFICIENCY OF AT LEAST TEN PERCENT WITH A RETURN ON INVESTMENT
10 OF FIVE YEARS OR UNDER.

11 (C) IN ORDER TO VERIFY A TAXPAYER'S CLAIM THAT A PARTICULAR PROPERTY
12 IS A PRINCIPAL RESIDENCE, THE DEPARTMENT MAY ACCEPT VARIOUS DOCUMENTS
13 THAT, TAKEN TOGETHER, ESTABLISH THAT THE TAXPAYER CLAIMING THE CREDIT
14 PROVIDED BY THIS SUBSECTION OCCUPIES THE PROPERTY AS A PRINCIPAL RESI-
15 DENCE, INCLUDING, BUT NOT LIMITED TO, THE TAXPAYER'S DRIVER'S LICENSE,
16 VOTER REGISTRATION CARD, CANCELLED CHECKS LISTING THE PROPERTY ADDRESS,
17 STATEMENTS SUCH AS MEDICAL, BANK OR CHARGE ACCOUNTS OR INCOME TAX
18 RECORDS INDICATING THE MAILING ADDRESS AND INSURANCE POLICIES.

19 (D) THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOP-
20 MENT AUTHORITY SHALL PROVIDE ADDITIONAL DEFINITIONS AND GUIDELINES FOR
21 THE ELIGIBILITY OF AN IMPROVEMENT OR PROJECT, WHICH SHALL INCLUDE DEFIN-
22 ING THE PARAMETERS OF WHAT CONSTITUTES A SIGNIFICANT REDUCTION IN CARBON
23 EMISSIONS FOR A SINGLE FAMILY OR MULTIPLE FAMILY DWELLING AS WELL AS ANY
24 AND ALL APPLICABLE STANDARDS, OTHER THAN THOSE ENUMERATED IN THIS
25 SUBSECTION.

26 S 4. The New York state energy research and development authority
27 shall make available funding in the amount of \$15 million for fiscal
28 years 2014-2015 and 2015-2016, and \$3 million in each subsequent year
29 until fiscal year 2021-2022. Funding for the carbon emissions reduction
30 credit provided by subsection (bbb) of section 606 of the tax law, as
31 added by section three of this act, shall be provided through funds
32 collected pursuant to proceeds collected but not allocated by such
33 authority from the auction, pursuant to regulations of such authority,
34 of emission allowances allocated by the department of environmental
35 conservation to such authority pursuant to regulations adopted by such
36 department.

37 S 5. This act shall take effect on the one hundred eightieth day after
38 it shall have become a law.