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I N   S E N A T E

May 15, 2014

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Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to establishing a tax credit for developers utilizing renewable energy sources in affordable housing units

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

1     Section 1. The tax law is amended by adding a new section 42 to read  
2     as follows:  
3     S 42. CREDIT FOR UTILIZING RENEWABLE ENERGY SOURCES. (A) GENERAL. A  
4     TAXPAYER SUBJECT TO TAX UNDER ARTICLE 9-A OR TWENTY-TWO OF THIS CHAPTER,  
5     WHO IS A DEVELOPER WHO USES RENEWABLE SOURCES OF ENERGY, AS SUCH TERM IS  
6     DEFINED IN SUBDIVISION TWELVE OF SECTION 1-103 OF THE ENERGY LAW, DURING  
7     THE CONSTRUCTION OF AN AFFORDABLE HOUSING FACILITY, SHALL BE ALLOWED A  
8     CREDIT AGAINST SUCH TAXES IN AN AMOUNT OF TWO THOUSAND DOLLARS PER QUAL-  
9     IFIED UNIT AND PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (C)  
10    OF THIS SECTION.  
11    (B) DEFINITIONS. (1) "AFFORDABLE HOUSING FACILITY" SHALL MEAN A BUILD-  
12    ING CONTAINING TEN OR MORE UNITS, NINETY PERCENT OF WHICH ARE QUALIFIED  
13    UNITS.  
14    (2) "QUALIFIED UNIT" SHALL MEAN ANY UNIT WITHIN AN AFFORDABLE HOUSING  
15    FACILITY THAT USES RENEWABLE SOURCES OF ENERGY AND IS OCCUPIED BY ONE OR  
16    MORE PEOPLE WHOSE TOTAL INCOME IS LESS THAN ONE HUNDRED PERCENT OF THE  
17    AREA MEDIAN INCOME.  
18    (C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN  
19    THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:  
20    (1) ARTICLE 9-A: SECTION 210, SUBDIVISION 50  
21    (2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (CCC)  
22    S 2. Section 210 of the tax law is amended by adding a new subdivision  
23    50 to read as follows:  
24    50. CREDIT FOR UTILIZING RENEWABLE ENERGY SOURCES. A TAXPAYER SHALL BE  
25    ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF  
26    THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IN NO EVENT SHALL

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

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1 THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCE  
2 THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARA-  
3 GRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF  
4 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE  
5 TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH  
6 TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
7 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
8 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
9 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
10 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

11 S 3. Section 606 of the tax law is amended by adding a new subsection  
12 (ccc) to read as follows:

13 (CCC) CREDIT FOR UTILIZING RENEWABLE ENERGY SOURCES. A TAXPAYER SHALL  
14 BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED FOR IN SECTION FORTY-TWO  
15 OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF THE AMOUNT  
16 OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL  
17 EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS  
18 AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE  
19 PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED,  
20 HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

21 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
22 of the tax law is amended by adding a new clause (xli) to read as  
23 follows:

24 (XLI) CREDIT FOR UTILIZING RENEWABLE	AMOUNT OF CREDIT UNDER
25 ENERGY SOURCES UNDER SUBSECTION (CCC)	SUBDIVISION FORTY-TWO
26	OF SECTION TWO HUNDRED
27	TEN

28 S 5. This act shall take effect immediately; provided, however, that  
29 the amendments made to subparagraph (B) of paragraph 1 of subsection (i)  
30 of section 606 of the tax law made by section four of this act shall  
31 take effect on the same date and in the same manner as section 68 of  
32 part A of chapter 59 of the laws of 2014, takes effect.