

STATE OF NEW YORK

5630

2021-2022 Regular Sessions

IN ASSEMBLY

February 22, 2021

Introduced by M. of A. FITZPATRICK, DeSTEFANO -- read once and referred to the Committee on Housing

AN ACT to amend the public housing law, in relation to expanding the New York state low income housing tax credit program to certain one to four family residences

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 6 and 7 of section 21 of the public housing
2 law, as added by section 1 of part CC of chapter 63 of the laws of 2000,
3 are amended and four new subdivisions 8, 9, 10 and 11 are added to read
4 as follows:

5 6. "Qualified basis" of an eligible low-income building means the
6 qualified basis of such building determined under section 42(c) of the
7 internal revenue code, or which would be determined under such section
8 if the 40-90 test specified in paragraph (b) of subdivision five of this
9 section applied under such section 42 to determine if such building were
10 part of a qualified low-income housing project or in the case of a qual-
11 ified residence, means its adjusted basis (excluding land) immediately
12 before the sale of such residence.

13 7. References in this article to [~~section~~] sections 5, 42 and 143 of
14 the internal revenue code shall mean such section as amended from time
15 to time.

16 8. "Qualified residence" means any residence

17 (a) which is located:

18 (i) in a census tract in which seventy percent of the families have a
19 median gross income that is less than ninety percent of the greater of
20 area or statewide median gross income,

21 (ii) in a rural area (defined under section 520 of the federal housing
22 act of 1949),

23 (iii) on a reservation for a federally recognized Indian tribe, or

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

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1 (iv) in an area of chronic economic distress, as defined by section
2 143 of the internal revenue code; and

3 (b) which is purchased by a qualified buyer.

4 9. "Residence" means

5 (a) a single-family home containing one to four housing units, or

6 (b) a condominium unit, or stock in a cooperative housing corporation.

7 10. "Qualified buyer" means a person or persons of low or moderate
8 income as defined in subdivision fourteen of section twenty-four hundred
9 two of the public authorities law.

10 11. "Substantially rehabilitates" means rehabilitation expenditures
11 paid or incurred with respect to a qualified residence that are at least
12 fifteen thousand dollars.

13 § 2. Subdivisions 1, 2, 3 and 5 of section 22 of the public housing
14 law, subdivision 1 as amended by section 1 of part PP of chapter 59 of
15 the laws of 2018 and subdivisions 2, 3 and 5 as added by section 1 of
16 part CC of chapter 63 of the laws of 2000, are amended to read as
17 follows:

18 1. A taxpayer subject to tax under article nine-A, twenty-two, or
19 thirty-three of the tax law which owns an interest in one or more eligi-
20 ble low-income buildings, or a transferee of such a taxpayer as
21 described in subdivision eight of this section, or a taxpayer who
22 substantially rehabilitates or constructs a qualified residence shall be
23 allowed a credit against such tax for the amount of low-income housing
24 credit allocated by the commissioner to each such building. Except as
25 provided in subdivision two of this section, the credit amount so allo-
26 cated shall be allowed as a credit against the tax for the ten taxable
27 years in the credit period.

28 2. Adjustment of first-year credit allowed in eleventh year. The cred-
29 it allowable for the first taxable year of the credit period with
30 respect to any building or qualified residence shall be adjusted using
31 the rules of section 42(f)(2) of the internal revenue code (relating to
32 first-year adjustment of qualified basis by the weighted average of
33 low-income to total residential units), and any reduction in first-year
34 credit by reason of such adjustment shall be allowable for the first
35 taxable year following the credit period.

36 3. Amount of credit. Except as provided in subdivisions four and five
37 of this section, the amount of low-income housing credit shall be the
38 applicable percentage of the qualified basis of each eligible low-income
39 building or qualified residence.

40 5. Building limitation. The dollar amount of credit allocated to any
41 building shall not exceed the amount the commissioner determines is
42 necessary for the financial feasibility of the project and the viability
43 of the building as an eligible low-income building or as a qualified
44 residence throughout the credit period. In allocating a dollar amount of
45 credit to any building, the commissioner shall specify the applicable
46 percentage and the maximum qualified basis which may be taken into
47 account under this article with respect to such building. The applicable
48 percentage and the maximum qualified basis with respect to a building
49 shall not exceed the amounts determined in subdivisions one and six,
50 respectively, of section twenty-one of this article.

51 § 3. Subdivision 4 of section 22 of the public housing law, as amended
52 by section 5 of part H of chapter 60 of the laws of 2016, is amended to
53 read as follows:

54 4. Statewide limitation. The aggregate dollar amount of credit which
55 the commissioner may allocate to eligible low-income buildings under
56 this article shall be one hundred four million dollars. The aggregate

1 dollar amount of credit which the commissioner may allocate to eligible
2 qualified residents shall be six million dollars. The limitation
3 provided by this subdivision applies only to allocation of the aggregate
4 dollar amount of credit by the commissioner, and does not apply to
5 allowance to a taxpayer of the credit with respect to an eligible low-
6 income building for each year of the credit period.

7 § 4. Section 23 of the public housing law, as amended by section 5 of
8 part PP of chapter 59 of the laws of 2018, is amended to read as
9 follows:

10 § 23. Project monitoring. The commissioner shall establish such proce-
11 dures deemed necessary for monitoring compliance of an eligible low-in-
12 come building or qualified residence with the provisions of this arti-
13 cle, and for notifying the commissioner of taxation and finance of any
14 such noncompliance.

15 § 5. This act shall take effect immediately.