

# STATE OF NEW YORK

6021

2025-2026 Regular Sessions

## IN SENATE

March 4, 2025

Introduced by Sen. BASKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law and the parks, recreation and historic preservation law, in relation to establishing the large projects historic rehabilitation tax credit and the "white elephant" housing historic rehabilitation projects tax credit program

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

1 Section 1. Subsection (oo) of section 606 of the tax law, as amended  
2 by chapter 239 of the laws of 2009, paragraph 1 as amended by chapter  
3 472 of the laws of 2010, subparagraph (A) of paragraph 1 as amended by  
4 section 1 of subpart B of part I of chapter 59 of the laws of 2023,  
5 paragraph 3 as amended by section 1 of part RR of chapter 59 of the laws  
6 of 2018, paragraph 4 as amended by section 1 of part F of chapter 59 of  
7 the laws of 2013, paragraph 5 as amended by section 2 of part U of chap-  
8 ter 59 of the laws of 2019 and paragraph 6 as added by section 1 of part  
9 CCC of chapter 59 of the laws of 2021, is amended to read as follows:  
10 (oo) Credit for rehabilitation of historic properties. (1)  
11 (A) For taxable years beginning on or after January first, two thou-  
12 sand ten and before January first, two thousand [~~thirty~~ thirty-seven, a  
13 taxpayer shall be allowed a credit as hereinafter provided, against the  
14 tax imposed by this article, in an amount equal to:  
15 (i) one hundred percent of the amount of credit allowed the taxpayer  
16 with respect to a certified historic structure, and one hundred fifty  
17 percent of the amount of credit allowed the taxpayer with respect to a  
18 certified historic structure that is a small project, under internal  
19 revenue code section 47(c)(3), determined without regard to ratably  
20 allocating the credit over a five year period as required by subsection  
21 (a) of such section 47; and  
22 (ii) one hundred percent of the amount of credit allowed the taxpayer  
23 with respect to a certified historic structure that is a white elephant

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

LBD10242-01-5

1 project, under internal revenue code section 47(c)(3), with respect to a  
2 certified historic structure located within the state. Provided, howev-  
3 er, the credit shall not exceed five million dollars, unless such credit  
4 is allowed with respect to a certified historic structure that is a  
5 white elephant project, in which case, the credit shall not exceed  
6 fifteen million dollars. Provided, further, that whenever the commis-  
7 sioner of parks, recreation and historic preservation receives an appli-  
8 cation for a white elephant project from an applicant for which such  
9 commissioner has previously certified credit for an eligible white  
10 elephant project, the commissioner of parks, recreation and historic  
11 preservation may deem such subsequent application to be phase II of the  
12 original eligible project if such commissioner determines that the two  
13 projects are reasonably related, as determined by such commissioner; the  
14 previous project qualified as an eligible white elephant project with  
15 seventy-five million dollars or less of qualified rehabilitation expend-  
16 itures; and the phase II application has been submitted within five  
17 years of such commissioner's previous certification of credit for the  
18 previously eligible white elephant project.

19 (B) For taxable years beginning on or after January first, two thou-  
20 sand [~~thirty~~ thirty-seven, a taxpayer shall be allowed a credit as  
21 hereinafter provided, against the tax imposed by this article, in an  
22 amount equal to thirty percent of the amount of credit allowed the  
23 taxpayer with respect to a certified historic structure under internal  
24 revenue code section 47(c)(3), determined without regard to ratably  
25 allocating the credit over a five year period as required by subsection  
26 (a) of such section 47, with respect to a certified historic structure  
27 located within the state; provided, however, the credit shall not exceed  
28 one hundred thousand dollars, unless such credit is allowed with respect  
29 to a certified historic structure that is a white elephant project, in  
30 which case, the credit shall not exceed three hundred thousand dollars.

31 [~~(B)~~] (C) If the taxpayer is a partner in a partnership or a share-  
32 holder of a New York S corporation, then the credit cap imposed in  
33 [~~subparagraph~~ subparagraphs (A) and (B) of this paragraph shall be  
34 applied at the entity level, so that the aggregate credit allowed to all  
35 the partners or shareholders of each such entity in the taxable year  
36 does not exceed the credit cap that is applicable in that taxable year.

37 (2) Tax credits allowed pursuant to this subsection shall be allowed  
38 in the taxable year that the qualified rehabilitation is placed in  
39 service under section 167 of the federal internal revenue code.

40 (3) If the taxpayer is allowed a credit pursuant to section 47 of the  
41 internal revenue code with respect to a qualified rehabilitation that is  
42 also the subject of the credit allowed by this subsection and that cred-  
43 it pursuant to such section 47 is recaptured pursuant to subsection (a)  
44 of section 50 of the internal revenue code, a portion of the credit  
45 allowed under this subsection must be added back in the same taxable  
46 year and in the same proportion as the federal recapture.

47 (4) If the amount of the credit allowed under this subsection for any  
48 taxable year shall exceed the taxpayer's tax for such year, the excess  
49 shall be treated as an overpayment of tax to be credited or refunded in  
50 accordance with the provisions of section six hundred eighty-six of this  
51 article, provided, however, that no interest shall be paid thereon.

52 (5) Except in the case of (A) a qualified rehabilitation project  
53 undertaken within a state park, state historic site, or other land owned  
54 by the state, that is under the jurisdiction of the office of parks,  
55 recreation and historic preservation, or (B) a qualified white elephant  
56 rehabilitation project that is also a qualified low-income housing

1 project under article two-A of the public housing law, to be eligible  
2 for the credit allowable under this subsection the rehabilitation  
3 project shall be in whole or in part located within a census tract which  
4 is identified as being at or below one hundred percent of the state  
5 median family income as calculated as of April first of each year using  
6 the most recent five year estimate from the American community survey  
7 published by the United States Census bureau. If there is a change in  
8 the most recent five year estimate, a census tract that qualified for  
9 eligibility under this program before information about the change was  
10 released will remain eligible for a credit under this subsection for an  
11 additional two calendar years.

12 (6) [~~For purposes of this subsection the term~~] As used in this  
13 subsection, the following terms shall have the following meanings:

14 [~~small~~] (A) "Small project" means qualified rehabilitation expendi-  
15 tures totaling two million five hundred thousand dollars or less[.];

16 (B) "White elephant project" means qualified rehabilitation expendi-  
17 tures totaling fifty million dollars or more with respect to a certified  
18 historic structure that has been vacant, as determined by local code  
19 enforcement or other reasonable means, for at least ten of fifteen  
20 consecutive years preceding the date of the taxpayer's application for  
21 the rehabilitation credit; and

22 (C) "Phase II housing project" means a white elephant housing project  
23 which the commissioner determines (i) is reasonably related to a prior  
24 eligible white elephant project or eligible white elephant housing  
25 project by the same applicant, (ii) such prior project qualified as  
26 eligible with seventy-five million dollars or less of qualified rehabil-  
27 itation expenditures, and (iii) the phase II application has been  
28 submitted within five years of the commissioner's previous allowance of  
29 credit for the prior eligible white elephant project or eligible white  
30 elephant housing project.

31 (7) The allocation of the credit established by this subsection may be  
32 made without regard to and in a separate manner from any federal  
33 rehabilitation credit that may be allocated with respect to a qual-  
34 ified white elephant project.

35 (8) The commissioner shall report annually, on or before the first day  
36 of November, on the aggregate amount of credits claimed and awarded  
37 pursuant to this subsection on returns filed during the preceding calen-  
38 dar year. Such report shall be provided to the governor, temporary pres-  
39 ident of the senate, speaker of the assembly, chair of the senate  
40 finance committee and chair of the assembly ways and means committee and  
41 shall be made publicly available on the department's website.

42 § 2. Subdivision 26 of section 210-B of the tax law, as added by  
43 section 17 of part A of chapter 59 of the laws of 2014, paragraphs (a)  
44 and (c) as amended by section 2 of part RR of chapter 59 of the laws of  
45 2018, subparagraph (i) of paragraph (a) as amended by section 2, subpar-  
46 agraph (ii) of paragraph (a) as amended by section 4 and paragraph (a-1)  
47 as amended by section 3 of subpart B of part I of chapter 59 of the laws  
48 of 2023, paragraph (e) as amended by section 1 of part U of chapter 59  
49 of the laws of 2019 and paragraph (f) as added by section 2 of part CCC  
50 of chapter 59 of the laws of 2021, is amended to read as follows:

51 26. Credit for rehabilitation of historic properties. (a) Application  
52 of credit. (i) For taxable years beginning on or after January first,  
53 two thousand ten, and before January first, two thousand [~~thirty~~ thir-  
54 ty-seven, a taxpayer shall be allowed a credit as hereinafter provided,  
55 against the tax imposed by this article, in an amount equal to:

1 (A) one hundred percent of the amount of credit allowed the taxpayer  
2 for the same taxable year with respect to a certified historic struc-  
3 ture, and one hundred fifty percent of the amount of credit allowed the  
4 taxpayer with respect to a certified historic structure that is a small  
5 project, under internal revenue code section 47(c)(3), determined with-  
6 out regard to ratably allocating the credit over a five year period as  
7 required by subsection (a) of such section 47; and

8 (B) one hundred percent of the amount of credit allowed the taxpayer  
9 with respect to a certified historic structure that is a "white elephant  
10 project", under internal revenue code section 47(c)(3), with respect to  
11 a certified historic structure located within the state. Provided,  
12 however, the credit shall not exceed five million dollars, unless such  
13 credit is allowed with respect to a certified historic structure that is  
14 a white elephant project, in which case, the credit shall not exceed  
15 fifteen million dollars. Provided, further, that whenever the commis-  
16 sioner of parks, recreation and historic preservation receives an appli-  
17 cation for a white elephant project from an applicant for which such  
18 commissioner has previously certified credit for an eligible white  
19 elephant project, the commissioner of parks, recreation and historic  
20 preservation may deem such subsequent application to be phase II of the  
21 original eligible project if such commissioner determines that the two  
22 projects are reasonably related, as determined by such commissioner; the  
23 previous project qualified as an eligible white elephant project with  
24 seventy-five million dollars or less of qualified rehabilitation expend-  
25 itures; and the phase II application has been submitted within five  
26 years of such commissioner's previous certification of credit for the  
27 previously eligible white elephant project.

28 (ii) For taxable years beginning on or after January first, two thou-  
29 sand [~~thirty~~] thirty-seven, a taxpayer shall be allowed a credit as  
30 hereinafter provided, against the tax imposed by this article, in an  
31 amount equal to thirty percent of the amount of credit allowed the  
32 taxpayer for the same taxable year determined without regard to ratably  
33 allocating the credit over a five year period as required by subsection  
34 (a) of section 47 of the internal revenue code, with respect to a certi-  
35 fied historic structure under subsection (c)(3) of section 47 of the  
36 internal revenue code with respect to a certified historic structure  
37 located within the state. Provided, however, the credit shall not exceed  
38 one hundred thousand dollars, unless such credit is allowed with respect  
39 to a certified historic structure that is a white elephant project, in  
40 which case, the credit shall not exceed three hundred thousand dollars.

41 [~~(a-1)~~] (iii) If the taxpayer is a partner in a partnership or a  
42 shareholder in a New York S corporation, then the credit caps imposed in  
43 [~~paragraph (a)~~] subparagraphs (i) and (ii) of this [~~subdivision~~] para-  
44 graph shall be applied at the entity level, so that the aggregate credit  
45 allowed to all the partners or shareholders of each such entity in the  
46 taxable year does not exceed the credit cap that is applicable in that  
47 taxable year.

48 (b) Tax credits allowed pursuant to this subdivision shall be allowed  
49 in the taxable year that the qualified rehabilitation is placed in  
50 service under section 167 of the federal internal revenue code.

51 (c) If the taxpayer is allowed a credit pursuant to section 47 of the  
52 internal revenue code with respect to a qualified rehabilitation that is  
53 also the subject of the credit allowed by this subdivision and that  
54 credit pursuant to such section 47 is recaptured pursuant to subsection  
55 (a) of section 50 of the internal revenue code, a portion of the credit

1 allowed under this subdivision must be added back in the same taxable  
2 year and in the same proportion as the federal credit.

3 (d) The credit allowed under this subdivision for any taxable year  
4 shall not reduce the tax due for such year to less than the amount  
5 prescribed in paragraph (d) of subdivision one of section two hundred  
6 ten of this article. However, if the amount of the credit allowed under  
7 this subdivision for any taxable year reduces the tax to such amount or  
8 if the taxpayer otherwise pays tax based on the fixed dollar minimum  
9 amount, any amount of credit thus not deductible in such taxable year  
10 shall be treated as an overpayment of tax to be recredited or refunded  
11 in accordance with the provisions of section one thousand eighty-six of  
12 this chapter. Provided, however, the provisions of subsection (c) of  
13 section one thousand eighty-eight of this chapter notwithstanding, no  
14 interest shall be paid thereon.

15 (e) Except in the case of (i) a qualified rehabilitation project  
16 undertaken within a state park, state historic site, or other land owned  
17 by the state, that is under the jurisdiction of the office of parks,  
18 recreation and historic preservation, or (ii) a qualified white elephant  
19 rehabilitation project that is also a qualified low-income housing  
20 project under article two-A of the public housing law, to be eligible  
21 for the credit allowable under this subdivision, the rehabilitation  
22 project shall be in whole or in part located within a census tract which  
23 is identified as being at or below one hundred percent of the state  
24 median family income as calculated as of April first of each year using  
25 the most recent five year estimate from the American community survey  
26 published by the United States Census bureau. If there is a change in  
27 the most recent five year estimate, a census tract that qualified for  
28 eligibility under this program before information about the change was  
29 released will remain eligible for a credit under this subdivision for an  
30 additional two calendar years.

31 (f) [~~For purposes of this subdivision~~] Definitions. As used in this  
32 subdivision, the following terms shall have the following meanings:

33 [~~small~~] (i) "Small project" means qualified rehabilitation expendi-  
34 tures totaling two million five hundred thousand dollars or less[-];

35 (ii) "White elephant project" means qualified rehabilitation expendi-  
36 tures totaling fifty million dollars or more with respect to a certified  
37 historic structure that has been vacant, as determined by local code  
38 enforcement or other reasonable means, for at least ten of fifteen  
39 consecutive years preceding the date of the taxpayer's application for  
40 the rehabilitation credit; and

41 (iii) "Phase II housing project" means a white elephant housing  
42 project which the commissioner determines (A) is reasonably related to a  
43 prior eligible white elephant project or eligible white elephant housing  
44 project by the same applicant, (B) such prior project qualified as  
45 eligible with seventy-five million dollars or less of qualified rehabil-  
46 itation expenditures, and (C) the phase II application has been submit-  
47 ted within five years of the commissioner's previous allowance of credit  
48 for the prior eligible white elephant project or eligible white elephant  
49 housing project.

50 (g) The allocation of the credit established by this subdivision  
51 may be made without regard to and in a separate manner from any  
52 federal rehabilitation credit that may be allocated with respect to  
53 a qualified white elephant project.

54 (h) The commissioner shall report annually, on or before the first day  
55 of November, on the aggregate amount of credits claimed and awarded  
56 pursuant to this subdivision on returns filed during the preceding

1 calendar year. Such report shall be provided to the governor, temporary  
2 president of the senate, speaker of the assembly, chair of the senate  
3 finance committee and chair of the assembly ways and means committee and  
4 shall be made publicly available on the department's website.

5 § 3. Subdivision (y) of section 1511 of the tax law, as added by chap-  
6 ter 472 of the laws of 2010, subparagraph (A) of paragraph 1 as amended  
7 by section 5 of subpart B of part I of chapter 59 of the laws of 2023,  
8 paragraph 3 as amended by section 3 of part RR of chapter 59 of the laws  
9 of 2018, paragraph 4 as amended by section 4 of part F of chapter 59 of  
10 the laws of 2013, paragraph 5 as amended by section 3 of part U of chap-  
11 ter 59 of the laws of 2019 and paragraph 6 as added by section 3 of part  
12 CCC of chapter 59 of the laws of 2021, is amended to read as follows:

13 (y) Credit for rehabilitation of historic properties. (1)

14 (A) For taxable years beginning on or after January first, two thou-  
15 sand ten and before January first, two thousand [~~thirty~~] thirty-seven, a  
16 taxpayer shall be allowed a credit as hereinafter provided, against the  
17 tax imposed by this article, in an amount equal to:

18 (i) one hundred percent of the amount of credit allowed the taxpayer  
19 with respect to a certified historic structure, and one hundred fifty  
20 percent of the amount of credit allowed the taxpayer with respect to a  
21 certified historic structure that is a small project, under internal  
22 revenue code section 47(c)(3), determined without regard to ratably  
23 allocating the credit over a five year period as required by subsection  
24 (a) of such section 47; and

25 (ii) one hundred percent of the amount of credit allowed the taxpayer  
26 with respect to a certified historic structure that is a "white elephant  
27 project", under internal revenue code section 47(c)(3), with respect to  
28 a certified historic structure located within the state. Provided,  
29 however, the credit shall not exceed five million dollars, unless such  
30 credit is allowed with respect to a certified historic structure that is  
31 a "white elephant project", in which case, the credit shall not exceed  
32 fifteen million dollars. Provided, further, that whenever the commis-  
33 sioner of parks, recreation and historic preservation receives an appli-  
34 cation for a white elephant project from an applicant for which such  
35 commissioner has previously certified credit for an eligible white  
36 elephant project, the commissioner of parks, recreation and historic  
37 preservation may deem such subsequent application to be "phase II" of  
38 the original eligible project if such commissioner determines that the  
39 two projects are reasonably related, as determined by such commissioner;  
40 the previous project qualified as an eligible white elephant project  
41 with seventy-five million dollars or less of qualified rehabilitation  
42 expenditures; and the "phase II" application has been submitted within  
43 five years of such commissioner's previous certification of credit for  
44 the previously eligible white elephant project.

45 (B) For taxable years beginning on or after January first, two thou-  
46 sand [~~thirty~~] thirty-seven, a taxpayer shall be allowed a credit as  
47 hereinafter provided, against the tax imposed by this article, in an  
48 amount equal to thirty percent of the amount of credit allowed the  
49 taxpayer with respect to a certified historic structure under internal  
50 revenue code section 47(c)(3), determined without regard to ratably  
51 allocating the credit over a five year period as required by subsection  
52 (a) of such section 47 with respect to a certified historic structure  
53 located within the state. Provided, however, the credit shall not  
54 exceed one hundred thousand dollars, unless such credit is allowed with  
55 respect to a certified historic structure that is a white elephant

1 project, in which case, the credit shall not exceed three hundred thou-  
2 sand dollars.

3 [~~(B)~~] (C) If the taxpayer is a partner in a partnership, then the cap  
4 imposed in [~~subparagraph~~] subparagraphs (A) and (B) of this paragraph  
5 shall be applied at the entity level, so that the aggregate credit  
6 allowed to all the partners of such partnership in the taxable year does  
7 not exceed the credit cap that is applicable in that taxable year.

8 (2) Tax credits allowed pursuant to this subsection shall be allowed  
9 in the taxable year that the qualified rehabilitation is placed in  
10 service under section 167 of the federal internal revenue code.

11 (3) If the taxpayer is allowed a credit pursuant to section 47 of the  
12 internal revenue code with respect to a qualified rehabilitation that is  
13 also the subject of the credit allowed by this subdivision and that  
14 credit pursuant to such section 47 is recaptured pursuant to subsection  
15 (a) of section 50 of the internal revenue code, a portion of the credit  
16 allowed under this subdivision in the taxable year the credit was  
17 claimed must be added back in the same taxable year and in the same  
18 proportion as the federal recapture.

19 (4) The credit allowed under this subdivision for any taxable year  
20 shall not reduce the tax due for such year to less than the minimum  
21 fixed by paragraph four of subdivision (a) of section fifteen hundred  
22 two or section fifteen hundred two-a of this article, whichever is  
23 applicable. However, if the amount of credits allowed under this subdivi-  
24 sion for any taxable year reduces the tax to such amount, any amount  
25 of credit thus not deductible in such taxable year shall be treated as  
26 an overpayment of tax to be credited or refunded in accordance with the  
27 provisions of section one thousand eighty-six of this chapter. Provided,  
28 however, the provisions of subsection (c) of section one thousand eight-  
29 y-eight of this chapter notwithstanding, no interest shall be paid ther-  
30 eon.

31 (5) Except in the case of a (A) qualified rehabilitation project  
32 undertaken within a state park, state historic site, or other land owned  
33 by the state, that is under the jurisdiction of the office of parks,  
34 recreation and historic preservation, or (B) a qualified white elephant  
35 rehabilitation project that is also a qualified low-income housing  
36 project under article two-A of the public housing law, to be eligible  
37 for the credit allowable under this subdivision, the rehabilitation  
38 project shall be in whole or in part located within a census tract which  
39 is identified as being at or below one hundred percent of the state  
40 median family income as calculated as of April first of each year using  
41 the most recent five year estimate from the American community survey  
42 published by the United States Census bureau. If there is a change in  
43 the most recent five year estimate, a census tract that qualified for  
44 eligibility under this program before information about the change was  
45 released will remain eligible for a credit under this subdivision for an  
46 additional two calendar years.

47 (6) [~~For purposes of this subdivision~~] As used in this subdivision,  
48 the following terms shall have the following meanings:

49 [~~small~~] (A) "Small project" means qualified rehabilitation expendi-  
50 tures totaling two million five hundred thousand dollars or less[-];

51 (B) "White elephant project" means qualified rehabilitation expendi-  
52 tures totaling fifty million dollars or more with respect to a certified  
53 historic structure that has been vacant, as determined by local code  
54 enforcement or other reasonable means, for at least ten of fifteen  
55 consecutive years preceding the date of the taxpayer's application for  
56 the rehabilitation credit; and

1 (C) "Phase II housing project" means a white elephant housing project  
 2 which the commissioner determines (I) is reasonably related to a prior  
 3 eligible white elephant project or eligible white elephant housing  
 4 project by the same applicant, (II) such prior project qualified as  
 5 eligible with seventy-five million dollars or less of qualified rehabil-  
 6 itation expenditures, and (III) the phase II application has been  
 7 submitted within five years of the commissioner's previous allowance of  
 8 credit for the prior eligible white elephant project or eligible white  
 9 elephant housing project.

10 (7) The allocation of the credit established by this subdivision  
 11 may be made without regard to and in a separate manner from any  
 12 federal rehabilitation credit that may be allocated with respect to  
 13 a qualified white elephant project.

14 (8) The commissioner shall report annually, on or before the first day  
 15 of November, on the aggregate amount of credits claimed and awarded  
 16 pursuant to this subdivision on returns filed during the preceding  
 17 calendar year. Such report shall be provided to the governor, temporary  
 18 president of the senate, speaker of the assembly, chair of the senate  
 19 finance committee and chair of the assembly ways and means committee and  
 20 shall be made publicly available on the department's website.

21 § 4. The parks, recreation and historic preservation law is amended by  
 22 adding a new article 14-A to read as follows:

23 ARTICLE 14-A

24 WHITE ELEPHANT HOUSING HISTORIC REHABILITATION PROJECTS TAX

25 CREDIT PROGRAM

26 Section 14.15 Definitions.

27 14.16 Allowance of credit, amount and limitations.

28 14.17 Project monitoring.

29 14.18 Regulations, coordination with federal rehabilitation  
 30 credit provisions.

31 § 14.15 Definitions. As used in this article, the following terms  
 32 shall have the following meanings:

33 1. "Eligibility statement" means a statement issued by the commis-  
 34 er, in consultation with the commissioner of the division of community  
 35 housing and renewal, certifying that a white elephant housing project is  
 36 eligible for white elephant housing project historic rehabilitation  
 37 credits under this article and low income housing tax credits under  
 38 article two-A of the public housing law. Such statement shall set forth  
 39 the taxable year in which the building is placed in service, the dollar  
 40 amount of rehabilitation credit certified by the commissioner to such  
 41 building as provided in section 14.16 of this article, the dollar amount  
 42 of low income housing tax credit allocated by the commissioner of commu-  
 43 nity housing and renewal to such building as provided in section twen-  
 44 ty-two of the public housing law, sufficient information to identify  
 45 each such building and the taxpayer or taxpayers with respect to each  
 46 such building, whether the project is a phase II housing project, and  
 47 such other information as the commissioner, in consultation with the  
 48 commissioner of taxation and finance and commissioner of community hous-  
 49 ing and renewal, shall prescribe. Such eligibility statement shall be  
 50 first issued following the close of the first taxable year, and there-  
 51 after, to the extent required by the commissioner of taxation and  
 52 finance, following the close of each of the following four taxable  
 53 years.

54 2. "Eligible white elephant project" means a white elephant project as  
 55 defined in section two hundred ten-B, six hundred six or one thousand

1 five hundred eleven of the tax law that qualifies for historic rehabili-  
2 tation tax credit.

3 3. "Eligible white elephant housing project" means an eligible white  
4 elephant project as defined in this section that also qualifies for low  
5 income housing tax credit under article two-A of the public housing law.

6 4. "Phase II housing project" means a white elephant housing project  
7 which the commissioner determines (a) is reasonably related to a prior  
8 eligible white elephant project or eligible white elephant housing  
9 project by the same applicant, (b) such prior project qualified as  
10 eligible with less than seventy-five million dollars of qualified reha-  
11 ilitation expenditures, and (c) the phase II application has been  
12 submitted within five years of the commissioner's previous allowance of  
13 credit for the prior eligible white elephant project or eligible white  
14 elephant housing project.

15 5. "Qualified rehabilitation expenditures" shall have the same meaning  
16 as in section 47 of the internal revenue code.

17 6. "White elephant project" means a project as defined in section two  
18 hundred ten-B, six hundred six or one thousand five hundred eleven of  
19 the tax law.

20 7. "White elephant housing project" means a "white elephant project"  
21 as defined in section two hundred ten-B, six hundred six or one thousand  
22 five hundred eleven of the tax law that is also a housing project.

23 8. References in this article to section 47 of the internal revenue  
24 code shall mean such section as amended from time to time.

25 § 14.16 Allowance of credit, amount and limitations. 1. A taxpayer  
26 subject to tax under article nine-A, twenty-two, or thirty-three of the  
27 tax law which owns an interest in one or more eligible white elephant  
28 housing projects, or a transferee of such a taxpayer as described in  
29 subdivision two of this section, shall be allowed a credit against such  
30 tax for the amount of white elephant housing project historic rehabili-  
31 tation credit certified by the commissioner to each such structure.

32 2. (a) A taxpayer allowed a credit pursuant to this article may trans-  
33 fer the credit, in whole or in part, to another person or entity, who  
34 shall be referred to as the transferee, notwithstanding that such other  
35 person or entity owns no interest in the eligible white elephant housing  
36 project or in an entity with an ownership interest in the eligible white  
37 elephant housing project. Transferees shall be entitled to apply trans-  
38 ferred credit to a tax imposed under article nine-A, twenty-two or thir-  
39 ty-three of the tax law, provided all requirements for claiming the  
40 credit are met. A transferee may not transfer any credit, or portion  
41 thereof, acquired by transfer.

42 (b) A taxpayer allowed a credit pursuant to this article must enter  
43 into a transfer contract with the transferee. The transfer contract must  
44 specify:

45 (i) the building identification numbers for all buildings in the white  
46 elephant housing project;

47 (ii) the date each building was placed into service;

48 (iii) the five year ownership period for the project;

49 (iv) the schedule of years for which the transfer credit may be  
50 claimed and the amount of credit previously claimed;

51 (v) the amount of consideration received by the taxpayer for the  
52 transfer credit; and

53 (vi) the amount of credit being transferred.

54 (c) No transfer shall be effective unless the taxpayer allowed a cred-  
55 it pursuant to this article and seeking to transfer the credit files a  
56 transfer statement with the commissioner prior to the transfer and the

1 commissioner approves such transfer. The transfer statement shall  
2 provide the name and federal identification numbers of the filing  
3 transferor and the taxpayer to whom the filing transferor transferred  
4 the credit, and the amount of credit transferred to each such person or  
5 entity. A copy of the transfer contract shall be attached to the trans-  
6 fer statement. The statement shall also contain such other information  
7 as the commissioner may require. After reviewing the transfer contract  
8 and the transfer statement, the commissioner shall approve or deny the  
9 transfer as provided in this subdivision. If the commissioner approves  
10 the transfer, the commissioner shall issue an approval statement that  
11 provides the name of the transferor and transferee, the amount of credit  
12 being transferred and such other information as the commissioner and the  
13 commissioner of taxation and finance deem necessary. A copy of the  
14 commissioner's approval statement must be attached to the transferee's  
15 tax return. If the commissioner denies the transfer, the commissioner  
16 shall provide the taxpayer a written determination for such denial. The  
17 commissioner, in consultation with the commissioner of taxation and  
18 finance, may establish such other procedures and standards deemed neces-  
19 sary for the transferability of the white elephant housing project  
20 historic rehabilitation credit.

21 (d) The commissioner shall forward copies of all transfer statements  
22 and attachments thereto and approval statements to the department of  
23 taxation and finance within thirty days after the transfer is approved  
24 by the commissioner.

25 § 14.17 Project monitoring. The commissioner shall establish such  
26 procedures deemed necessary for monitoring compliance of an eligible  
27 white elephant housing project with the provisions of this article, and  
28 for notifying the commissioner of taxation and finance of any such  
29 noncompliance.

30 § 14.18 Regulations, coordination with federal rehabilitation credit  
31 provisions. 1. The commissioner shall promulgate rules and regulations  
32 necessary to administer the provisions of this article.

33 2. The provisions of section 47 of the internal revenue code shall  
34 apply to the credit under this article, provided however, to the extent  
35 such provisions are inconsistent with this article, the provisions of  
36 this article shall control.

37 3. The allocation of the credit established by this article may be  
38 made without regard to and in a separate manner from any federal reha-  
39 bilitation credit that may be allocated with respect to an eligible  
40 white elephant housing project.

41 § 5. Paragraph 2 of subsection (pp) of section 606 of the tax law, as  
42 amended by section 4 of part RR of chapter 59 of the laws of 2018, is  
43 amended and a new paragraph 13 is added to read as follows:

44 (2) (A) With respect to any particular residence of a taxpayer, the  
45 credit allowed under paragraph one of this subsection shall not exceed  
46 fifty thousand dollars for taxable years beginning on or after January  
47 first, two thousand ten and before January first, two thousand [~~twenty-~~  
48 ~~five~~] thirty-seven and twenty-five thousand dollars for taxable years  
49 beginning on or after January first, two thousand [~~twenty-five~~] thirty-  
50 seven. In the case of a [~~husband and wife~~] married couple, the amount of  
51 the credit shall be divided between them equally or in such other manner  
52 as they may both elect. If a taxpayer incurs qualified rehabilitation  
53 expenditures in relation to more than one residence in the same year,  
54 the total amount of credit allowed under paragraph one of this  
55 subsection for all such expenditures shall not exceed fifty thousand  
56 dollars for taxable years beginning on or after January first, two thou-

1 sand ten and before January first, two thousand [~~twenty-five~~] thirty-  
2 seven and twenty-five thousand dollars for taxable years beginning on or  
3 after January first, two thousand [~~twenty-five~~] thirty-seven.

4 (B) For taxable years beginning on or after January first, two thou-  
5 sand ten and before January first, two thousand [~~twenty-five~~] thirty-  
6 seven, if the amount of credit allowable under this subsection shall  
7 exceed the taxpayer's tax for such year, and the taxpayer's New York  
8 adjusted gross income for such year does not exceed sixty thousand  
9 dollars, the excess shall be treated as an overpayment of tax to be  
10 credited or refunded in accordance with the provisions of section six  
11 hundred eighty-six of this article, provided, however, that no interest  
12 shall be paid thereon. If the taxpayer's New York adjusted gross income  
13 for such year exceeds sixty thousand dollars, the excess credit that may  
14 be carried over to the following year or years and may be deducted from  
15 the taxpayer's tax for such year or years. For taxable years beginning  
16 on or after January first, two thousand [~~twenty-five~~] thirty-seven, if  
17 the amount of credit allowable under this subsection shall exceed the  
18 taxpayer's tax for such year, the excess may be carried over to the  
19 following year or years and may be deducted from the taxpayer's tax for  
20 such year or years.

21 (13) The commissioner shall report annually, on or before the first  
22 day of November, on the aggregate amount of credits claimed and awarded  
23 pursuant to this subdivision on returns filed during the preceding  
24 calendar year. Such report shall be provided to the governor, temporary  
25 president of the senate, speaker of the assembly, chair of the senate  
26 finance committee and chair of the assembly ways and means committee,  
27 shall be made publicly available on the department's website.

28 § 6. Section 14.05 of the parks, recreation and historic preservation  
29 law is amended by adding a new subdivision 5 to read as follows:

30 5. (a) The commissioner shall report annually, on or before the first  
31 day of November, on the tax credit projects applied for in accordance  
32 with subdivision twenty-six of section two hundred ten-B, subsection  
33 (oo) of section six hundred six, and subdivision (y) of section fifteen  
34 hundred eleven of the tax law on returns filed during the preceding  
35 calendar year. Such report shall be provided to the governor, temporary  
36 president of the senate, speaker of the assembly, chair of the senate  
37 finance committee and chair of the assembly ways and means committee,  
38 shall be made publicly available on the department's website and shall  
39 include the following information:

40 (i) the number and value of tax credit projects applied for during the  
41 state fiscal year, organized by municipality and county, and project  
42 size;

43 (ii) the number and value of tax credit projects certified by the  
44 national park service during the state fiscal year, organized by munici-  
45 pality and county, and project size;

46 (iii) the total value of credits certified annually for each of the  
47 taxable years beginning on or after January first, two thousand seven to  
48 the present, by municipality and county;

49 (iv) the number of housing units before and after rehabilitation;

50 (v) the number of low-moderate housing units before and after rehabil-  
51 itation; and

52 (vi) the number of projects certified for both federal and state cred-  
53 its, and the number of projects certified for federal credits only.

54 (b) The commissioner shall report annually, on or before the first day  
55 of November, on the tax credit projects applied for pursuant to subdivi-  
56 sion (pp) of section six hundred six of the tax law on returns filed

1 during the preceding calendar year. Such report shall be provided to the  
2 governor, temporary president of the senate, speaker of the assembly,  
3 chair of the senate finance committee and chair of the assembly ways and  
4 means committee, shall be made publicly available on the office's  
5 website and shall include the following information:

6 (i) the number and value of tax credit projects applied for during the  
7 state fiscal year, organized by municipality and county, and project  
8 size;

9 (ii) the number and value of tax credit projects certified by the  
10 office during the state fiscal year, organized by municipality and coun-  
11 ty, and project size;

12 (iii) the total value of credits certified annually for each of the  
13 taxable years beginning on or after January first, two thousand seven to  
14 the present, by municipality and county;

15 (iv) the number of housing units before and after rehabilitation; and

16 (v) the number of projects certified for state credits by the office.

17 § 7. This act shall take effect immediately and shall apply to taxable  
18 years beginning on or after January 1, 2026.