

# STATE OF NEW YORK

6021--A

2025-2026 Regular Sessions

## IN SENATE

March 4, 2025

Introduced by Sens. BASKIN, COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- recommitted to the Committee on Budget and Revenue 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 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 section 2 of part E of chapter 59 of the laws of 2025, is amended to  
3 read as follows:  
4 (oo) Credit for rehabilitation of historic properties. (1) (A) For  
5 taxable years beginning on or after January first, two thousand ten and  
6 before January first, two thousand [~~thirty~~ thirty-seven, a taxpayer, or  
7 a transferee of such a taxpayer as described in paragraph seven of this  
8 subsection, shall be allowed a credit as hereinafter provided, against  
9 the tax imposed by this article, in an amount equal to:  
10 (i) one hundred percent of the amount of credit allowed the taxpayer  
11 with respect to a certified historic structure, and one hundred fifty  
12 percent of the amount of credit allowed the taxpayer with respect to a  
13 certified historic structure that is a small project, under internal  
14 revenue code section 47(c)(3), determined without regard to ratably  
15 allocating the credit over a five year period as required by subsection  
16 (a) of such section 47; and  
17 (ii) one hundred percent of the amount of credit allowed the taxpayer  
18 with respect to a certified historic structure that is a white elephant  
19 project, under internal revenue code section 47(c)(3), with respect to a  
20 certified historic structure located within the state. Provided, howev-

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

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er, the credit shall not exceed five million dollars, unless such credit is allowed with respect to a certified historic structure that is a white elephant project, in which case, the credit shall not exceed fifteen million dollars. Provided, further, that whenever the commissioner of parks, recreation and historic preservation receives an application for a white elephant project from an applicant for which such commissioner has previously certified credit for an eligible white elephant project, the commissioner of parks, recreation and historic preservation may deem such subsequent application to be phase II of the original eligible project if such commissioner determines that the two projects are reasonably related, as determined by such commissioner; the previous project qualified as an eligible white elephant project with seventy-five million dollars or less of qualified rehabilitation expenditures; and the phase II application has been submitted within five years of such commissioner's previous certification of credit for the previously eligible white elephant project.

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

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

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

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

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

(5) To be eligible for the credit allowable under this subsection the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below one hundred

1 percent of the state median family income as calculated as of April  
2 first of each year using the most recent five year estimate from the  
3 American community survey published by the United States Census bureau.  
4 If there is a change in the most recent five year estimate, a census  
5 tract that qualified for eligibility under this program before informa-  
6 tion about the change was released will remain eligible for a credit  
7 under this subsection for an additional two calendar years. The eligi-  
8 bility restrictions set forth in this paragraph shall not be applicable  
9 if:

10 (A) a qualified rehabilitation project is undertaken within a state  
11 park, state historic site, or other land owned by the state, that is  
12 under the jurisdiction of the office of parks, recreation and historic  
13 preservation; ~~[or]~~

14 (B) a qualified rehabilitation project is undertaken for the provision  
15 of affordable housing and the taxpayer has entered into a regulatory  
16 agreement with any state or federal agency or authority, or any other  
17 government entity that is authorized to engage in the financing,  
18 construction or oversight of affordable housing within such entity's  
19 jurisdiction, and where such regulatory agreement sets forth affordabil-  
20 ity requirements applicable for a period of not less than thirty years  
21 and that is binding on all successors of the taxpayer; or

22 (C) a qualified white elephant rehabilitation project is undertaken  
23 that is also a qualified low-income housing project under article two-A  
24 of the public housing law.

25 (6) ~~[For purposes of this subsection the term "small"]~~ As used in this  
26 subsection, the following terms shall have the following meanings:

27 (A) "Small project" means qualified rehabilitation expenditures total-  
28 ing two million five hundred thousand dollars or less[-];

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

35 (C) "Phase II housing project" means a white elephant housing project  
36 which the commissioner determines (i) is reasonably related to a prior  
37 eligible white elephant project or eligible white elephant housing  
38 project by the same applicant, (ii) such prior project qualified as  
39 eligible with seventy-five million dollars or less of qualified rehabil-  
40 itation expenditures, and (iii) the phase II application has been  
41 submitted within five years of the commissioner's previous allowance of  
42 credit for the prior eligible white elephant project or eligible white  
43 elephant housing project.

44 (7)(A) A taxpayer allowed a credit pursuant to this subsection may  
45 transfer the credit, in whole or in part, to another person or entity,  
46 who shall be referred to as the transferee, without regard to how any  
47 tax credit authorized pursuant to section forty-seven of the internal  
48 revenue code with respect to a qualified rehabilitation project may be  
49 allocated and notwithstanding that such other person or entity owns no  
50 interest in the qualified rehabilitation project or in an entity with an  
51 ownership interest in the qualified rehabilitation project. A transferee  
52 may not transfer any credit, or portion thereof, acquired by transfer.

53 (B) A taxpayer seeking to transfer a credit allowed pursuant to this  
54 subsection must enter into a transfer contract with the transferee. The  
55 transfer contract must specify:

1 (i) the building identification numbers for all buildings in the  
2 project;

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

4 (iii) the schedule of years for which the transfer credit may be  
5 claimed and the amount of credit previously claimed;

6 (iv) the amount of consideration received by the taxpayer for the  
7 transfer credit; and

8 (v) the amount of credit being transferred.

9 (C) No transfer shall be effective unless the taxpayer allowed a cred-  
10 it pursuant to this subsection and seeking to transfer the credit files  
11 a transfer application with the commissioner of parks, recreation and  
12 historic preservation prior to the transfer and such transfer applica-  
13 tion is approved. The transfer application shall include the name and  
14 federal identification numbers of the taxpayer and each proposed trans-  
15 feree, the amount of credit proposed to be transferred to each proposed  
16 transferee, a copy of the transfer contract, and such other information  
17 as the commissioner or the commissioner of parks, recreation and histor-  
18 ic preservation may require. The commissioner of parks, recreation and  
19 historic preservation shall approve or deny each transfer application  
20 and, if an application is denied, shall issue a written determination to  
21 the taxpayer. If the transfer is approved, the commissioner of parks,  
22 recreation and historic preservation shall issue a transfer approval  
23 certificate that provides the name of the transferor and all transfer-  
24 ees, the amount of credit being transferred and such other information  
25 as the commissioner of parks, recreation and historic preservation and  
26 the commissioner deem necessary. A copy of the transfer approval certif-  
27 icate must be attached to each transferee's tax return. The commission-  
28 er of parks, recreation and historic preservation, in consultation with  
29 the commissioner, may establish such other procedures and standards  
30 deemed necessary for the transferability of credits allowed under this  
31 subsection.

32 (D) The commissioner of parks, recreation and historic preservation  
33 shall forward copies of all transfer applications and attachments there-  
34 to and approval certificates to the commissioner within thirty days  
35 after the transfer is approved.

36 (E) A taxpayer allowed a credit pursuant to section forty-seven of the  
37 internal revenue code with respect to a qualified rehabilitation that is  
38 also the subject of the credit allowed by this subsection shall remain  
39 solely liable for all obligations and liabilities imposed on the taxpay-  
40 er with respect to the credit allowed by this subsection, none of which  
41 shall apply to a party to whom the credit has been subsequently trans-  
42 ferred.

43 (8) The allocation of the credit established by this subsection may be  
44 made without regard to and in a separate manner from any federal reha-  
45 ilitation credit that may be allocated with respect to a qualified  
46 white elephant project.

47 (9) The commissioner shall report annually, on or before the first day  
48 of November, on the aggregate amount of credits claimed and awarded  
49 pursuant to this subsection on returns filed during the preceding calen-  
50 dar year. Such report shall be provided to the governor, temporary pres-  
51 ident of the senate, speaker of the assembly, chair of the senate  
52 finance committee and chair of the assembly ways and means committee and  
53 shall be made publicly available on the department's website.

54 § 2. Subdivision 26 of section 210-B of the tax law, as amended by  
55 section 1 of part E of chapter 59 of the laws of 2025, is amended to  
56 read as follows:

1 26. Credit for rehabilitation of historic properties. (a) Application  
2 of credit. (i) For taxable years beginning on or after January first,  
3 two thousand ten, and before January first, two thousand [~~thirty~~ thir-  
4 ty-seven, a taxpayer, or a transferee of such a taxpayer as described in  
5 paragraph (g) of this subdivision, shall be allowed a credit as herein-  
6 after provided, against the tax imposed by this article, in an amount  
7 equal to:

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

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

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

50 [~~(a-1)~~] (iii) If the taxpayer or transferee is a partner in a partner-  
51 ship or a shareholder in a New York S corporation, then the credit caps  
52 imposed in [~~paragraph (a)~~] subparagraphs (i) and (ii) of this [~~subdivi-~~  
53 sion] paragraph shall be applied at the entity level, so that the aggre-  
54 gate credit allowed to all the partners or shareholders of each such  
55 entity in the taxable year does not exceed the credit cap that is appli-  
56 cable in that taxable year.

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

4 (c) If the taxpayer is allowed a credit pursuant to section 47 of the  
5 internal revenue code with respect to a qualified rehabilitation that is  
6 also the subject of the credit allowed by this subdivision and that  
7 credit pursuant to such section 47 is recaptured pursuant to subsection  
8 (a) of section 50 of the internal revenue code, a portion of the credit  
9 allowed under this subdivision must be added back by the taxpayer or  
10 transferee in the same taxable year and in the same proportion as the  
11 federal credit.

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

24 (e) To be eligible for the credit allowable under this subdivision,  
25 the rehabilitation project shall be in whole or in part located within a  
26 census tract which is identified as being at or below one hundred  
27 percent of the state median family income as calculated as of April  
28 first of each year using the most recent five year estimate from the  
29 American community survey published by the United States Census bureau.  
30 If there is a change in the most recent five year estimate, a census  
31 tract that qualified for eligibility under this program before informa-  
32 tion about the change was released will remain eligible for a credit  
33 under this subdivision for an additional two calendar years. The eligi-  
34 bility restrictions set forth in this paragraph shall not be applicable  
35 if:

36 (i) a qualified rehabilitation project is undertaken within a state  
37 park, state historic site, or other land owned by the state, that is  
38 under the jurisdiction of the office of parks, recreation and historic  
39 preservation; ~~[ex]~~

40 (ii) a qualified rehabilitation project is undertaken for the  
41 provision of affordable housing and the taxpayer has entered into a  
42 regulatory agreement with any state or federal agency or authority, or  
43 any other government entity that is authorized to engage in the financ-  
44 ing, construction or oversight of affordable housing within such enti-  
45 ty's jurisdiction, and where such regulatory agreement sets forth  
46 affordability requirements applicable for a period of not less than  
47 thirty years and that is binding on all successors of the taxpayer; or

48 (iii) a qualified white elephant rehabilitation project is undertaken  
49 that is also a qualified low-income housing project under article two-A  
50 of the public housing law.

51 (f) ~~[For purposes of this subdivision -"small]~~ Definitions. As used in  
52 this subdivision, the following terms shall have the following meanings:

53 (i) "Small project" means qualified rehabilitation expenditures total-  
54 ing two million five hundred thousand dollars or less[+];

55 (ii) "White elephant project" means qualified rehabilitation expendi-  
56 tures totaling fifty million dollars or more with respect to a certified

1 historic structure that has been vacant, as determined by local code  
2 enforcement or other reasonable means, for at least ten of fifteen  
3 consecutive years preceding the date of the taxpayer's application for  
4 the rehabilitation credit; and

5 (iii) "Phase II housing project" means a white elephant housing  
6 project which the commissioner determines (A) is reasonably related to a  
7 prior eligible white elephant project or eligible white elephant housing  
8 project by the same applicant, (B) such prior project qualified as  
9 eligible with seventy-five million dollars or less of qualified rehabil-  
10 itation expenditures, and (C) the phase II application has been submit-  
11 ted within five years of the commissioner's previous allowance of credit  
12 for the prior eligible white elephant project or eligible white elephant  
13 housing project.

14 (g)(i) A taxpayer allowed a credit pursuant to this subdivision may  
15 transfer the credit, in whole or in part, to another person or entity,  
16 who shall be referred to as the transferee, without regard to how any  
17 tax credit authorized pursuant to section forty-seven of the internal  
18 revenue code with respect to a qualified rehabilitation project may be  
19 allocated and notwithstanding that such other person or entity owns no  
20 interest in the qualified rehabilitation project or in an entity with an  
21 ownership interest in the qualified rehabilitation project. A transferee  
22 may not transfer any credit, or portion thereof, acquired by transfer.

23 (ii) A taxpayer seeking to transfer a credit allowed pursuant to this  
24 subdivision must enter into a transfer contract with the transferee. The  
25 transfer contract must specify:

26 (A) the building identification numbers for all buildings in the  
27 project;

28 (B) the date each building was placed into service;

29 (C) the schedule of years for which the transfer credit may be claimed  
30 and the amount of credit previously claimed;

31 (D) the amount of consideration received by the taxpayer for the  
32 transfer credit; and

33 (E) the amount of credit being transferred.

34 (iii) No transfer shall be effective unless the taxpayer allowed a  
35 credit pursuant to this subdivision and seeking to transfer the credit  
36 files a transfer application with the commissioner of parks, recreation  
37 and historic preservation prior to the transfer and such transfer appli-  
38 cation is approved. The transfer application shall include the name and  
39 federal identification numbers of the taxpayer and each proposed trans-  
40 feree, the amount of credit proposed to be transferred to each proposed  
41 transferee, a copy of the transfer contract, and such other information  
42 as the commissioner or the commissioner of parks, recreation and histor-  
43 ic preservation may require. The commissioner of parks, recreation and  
44 historic preservation shall approve or deny each transfer application  
45 and, if an application is denied, shall issue a written determination to  
46 the taxpayer. If the transfer is approved, the commissioner of parks,  
47 recreation and historic preservation shall issue a transfer approval  
48 certificate that provides the name of the transferor and all transfer-  
49 ees, the amount of credit being transferred and such other information  
50 as the commissioner of parks, recreation and historic preservation and  
51 the commissioner deem necessary. A copy of the transfer approval certif-  
52 icate must be attached to each transferee's tax return. The commission-  
53 er of parks, recreation and historic preservation, in consultation with  
54 the commissioner, may establish such other procedures and standards  
55 deemed necessary for the transferability of credits allowed under this  
56 subdivision.

1 (iv) The commissioner of parks, recreation and historic preservation  
2 shall forward copies of all transfer applications and attachments there-  
3 to and approval certificates to the commissioner within thirty days  
4 after the transfer is approved.

5 (v) A taxpayer allowed a credit pursuant to section forty-seven of the  
6 internal revenue code with respect to a qualified rehabilitation that is  
7 also the subject of the credit allowed by this subdivision shall remain  
8 solely liable for all obligations and liabilities imposed on the taxpay-  
9 er with respect to the credit allowed by this subdivision, none of which  
10 shall apply to a party to whom the credit has been subsequently trans-  
11 ferred.

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

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

23 § 3. Subdivision (y) of section 1511 of the tax law, as amended by  
24 section 3 of part E of chapter 59 of the laws of 2025, is amended to  
25 read as follows:

26 (y) Credit for rehabilitation of historic properties. (1) (A) For  
27 taxable years beginning on or after January first, two thousand ten and  
28 before January first, two thousand [~~thirty~~ thirty-seven, a taxpayer, or  
29 a transferee of such a taxpayer as described in paragraph seven of this  
30 subdivision, shall be allowed a credit as hereinafter provided, against  
31 the tax imposed by this article, in an amount equal to:

32 (i) one hundred percent of the amount of credit allowed the taxpayer  
33 with respect to a certified historic structure, and one hundred fifty  
34 percent of the amount of credit allowed the taxpayer with respect to a  
35 certified historic structure that is a small project, under internal  
36 revenue code section 47(c)(3), determined without regard to ratably  
37 allocating the credit over a five year period as required by subsection  
38 (a) of such section 47; and

39 (ii) one hundred percent of the amount of credit allowed the taxpayer  
40 with respect to a certified historic structure that is a white elephant  
41 project, under internal revenue code section 47(c)(3), with respect to a  
42 certified historic structure located within the state. Provided, howev-  
43 er, the credit shall not exceed five million dollars, unless such credit  
44 is allowed with respect to a certified historic structure that is a  
45 white elephant project, in which case, the credit shall not exceed  
46 fifteen million dollars. Provided, further, that whenever the commis-  
47 sioner of parks, recreation and historic preservation receives an appli-  
48 cation for a white elephant project from an applicant for which such  
49 commissioner has previously certified credit for an eligible white  
50 elephant project, the commissioner of parks, recreation and historic  
51 preservation may deem such subsequent application to be phase II of the  
52 original eligible project if such commissioner determines that the two  
53 projects are reasonably related, as determined by such commissioner; the  
54 previous project qualified as an eligible white elephant project with  
55 seventy-five million dollars or less of qualified rehabilitation expend-  
56 itures; and the phase II application has been submitted within five

1 years of such commissioner's previous certification of credit for the  
2 previously eligible white elephant project.

3 (B) For taxable years beginning on or after January first, two thou-  
4 sand [~~thirty~~] thirty-seven, a taxpayer, or a transferee of such a  
5 taxpayer as described in paragraph seven of this subdivision, shall be  
6 allowed a credit as hereinafter provided, against the tax imposed by  
7 this article, in an amount equal to thirty percent of the amount of  
8 credit allowed the taxpayer with respect to a certified historic struc-  
9 ture under internal revenue code section 47(c)(3), determined without  
10 regard to ratably allocating the credit over a five year period as  
11 required by subsection (a) of such section 47 with respect to a certi-  
12 fied historic structure located within the state. Provided, however, the  
13 credit shall not exceed one hundred thousand dollars, unless such credit  
14 is allowed with respect to a certified historic structure that is a  
15 white elephant project, in which case, the credit shall not exceed three  
16 hundred thousand dollars.

17 [~~(B)~~] (C) If the taxpayer or transferee is a partner in a partnership,  
18 then the cap imposed in [~~subparagraph~~] subparagraphs (A) and (B) of this  
19 paragraph shall be applied at the entity level, so that the aggregate  
20 credit allowed to all the partners of such partnership in the taxable  
21 year does not exceed the credit cap that is applicable in that taxable  
22 year.

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

26 (3) If the taxpayer is allowed a credit pursuant to section 47 of the  
27 internal revenue code with respect to a qualified rehabilitation that is  
28 also the subject of the credit allowed by this subdivision and that  
29 credit pursuant to such section 47 is recaptured pursuant to subsection  
30 (a) of section 50 of the internal revenue code, a portion of the credit  
31 allowed under this subdivision in the taxable year the credit was  
32 claimed must be added back by the taxpayer or transferee in the same  
33 taxable year and in the same proportion as the federal recapture.

34 (4) The credit allowed under this subdivision for any taxable year  
35 shall not reduce the tax due for such year to less than the minimum  
36 fixed by paragraph four of subdivision (a) of section fifteen hundred  
37 two or section fifteen hundred two-a of this article, whichever is  
38 applicable. However, if the amount of credits allowed under this subdivi-  
39 sion for any taxable year reduces the tax to such amount, any amount  
40 of credit thus not deductible in such taxable year shall be treated as  
41 an overpayment of tax to be credited or refunded in accordance with the  
42 provisions of section one thousand eighty-six of this chapter. Provided,  
43 however, the provisions of subsection (c) of section one thousand eight-  
44 y-eight of this chapter notwithstanding, no interest shall be paid ther-  
45 eon.

46 (5) To be eligible for the credit allowable under this subdivision,  
47 the rehabilitation project shall be in whole or in part located within a  
48 census tract which is identified as being at or below one hundred  
49 percent of the state median family income as calculated as of April  
50 first of each year using the most recent five year estimate from the  
51 American community survey published by the United States Census bureau.  
52 If there is a change in the most recent five year estimate, a census  
53 tract that qualified for eligibility under this program before informa-  
54 tion about the change was released will remain eligible for a credit  
55 under this subdivision for an additional two calendar years. The eligi-

1 bility restrictions set forth in this paragraph shall not be applicable  
2 if:

3 (A) a qualified rehabilitation project is undertaken within a state  
4 park, state historic site, or other land owned by the state, that is  
5 under the jurisdiction of the office of parks, recreation and historic  
6 preservation; ~~[or]~~

7 (B) a qualified rehabilitation project is undertaken for the provision  
8 of affordable housing and the taxpayer has entered into a regulatory  
9 agreement with any state or federal agency or authority, or any other  
10 government entity that is authorized to engage in the financing,  
11 construction or oversight of affordable housing within such entity's  
12 jurisdiction, and where such regulatory agreement sets forth affordabil-  
13 ity requirements applicable for a period of not less than thirty years  
14 and that is binding on all successors of the taxpayer; or

15 (C) a qualified white elephant rehabilitation project is undertaken  
16 that is also a qualified low-income housing project under article two-A  
17 of the public housing law.

18 ~~(6) [For purposes of this subdivision "small]~~ As used in this  
19 subdivision, the following terms shall have the following meanings:

20 (A) "Small project" means qualified rehabilitation expenditures total-  
21 ing two million five hundred thousand dollars or less[-];

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

28 (C) "Phase II housing project" means a white elephant housing project  
29 which the commissioner determines (I) is reasonably related to a prior  
30 eligible white elephant project or eligible white elephant housing  
31 project by the same applicant, (II) such prior project qualified as  
32 eligible with seventy-five million dollars or less of qualified rehabil-  
33 itation expenditures, and (III) the phase II application has been  
34 submitted within five years of the commissioner's previous allowance of  
35 credit for the prior eligible white elephant project or eligible white  
36 elephant housing project.

37 (7)(A) A taxpayer allowed a credit pursuant to this subdivision may  
38 transfer the credit, in whole or in part, to another person or entity,  
39 who shall be referred to as the transferee, without regard to how any  
40 tax credit authorized pursuant to section forty-seven of the internal  
41 revenue code with respect to a qualified rehabilitation project may be  
42 allocated and notwithstanding that such other person or entity owns no  
43 interest in the qualified rehabilitation project or in an entity with an  
44 ownership interest in the qualified rehabilitation project. A transferee  
45 may not transfer any credit, or portion thereof, acquired by transfer.

46 (B) A taxpayer seeking to transfer a credit allowed pursuant to this  
47 subdivision must enter into a transfer contract with the transferee. The  
48 transfer contract must specify:

49 (i) the building identification numbers for all buildings in the  
50 project;

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

52 (iii) the schedule of years for which the transfer credit may be  
53 claimed and the amount of credit previously claimed;

54 (iv) the amount of consideration received by the taxpayer for the  
55 transfer credit; and

56 (v) the amount of credit being transferred.

1 (C) No transfer shall be effective unless the taxpayer allowed a cred-  
 2 it pursuant to this subdivision and seeking to transfer the credit files  
 3 a transfer application with the commissioner of parks, recreation and  
 4 historic preservation prior to the transfer and such transfer applica-  
 5 tion is approved. The transfer application shall include the name and  
 6 federal identification numbers of the taxpayer and each proposed trans-  
 7 feree, the amount of credit proposed to be transferred to each proposed  
 8 transferee, a copy of the transfer contract, and such other information  
 9 as the commissioner or the commissioner of parks, recreation and histor-  
 10 ic preservation may require. The commissioner of parks, recreation and  
 11 historic preservation shall approve or deny each transfer application  
 12 and, if an application is denied, shall issue a written determination to  
 13 the taxpayer. If the transfer is approved, the commissioner of parks,  
 14 recreation and historic preservation shall issue a transfer approval  
 15 certificate that provides the name of the transferor and all transfer-  
 16 ees, the amount of credit being transferred and such other information  
 17 as the commissioner of parks, recreation and historic preservation and  
 18 the commissioner deem necessary. A copy of the transfer approval certif-  
 19 icate must be attached to each transferee's tax return. The commission-  
 20 er of parks, recreation and historic preservation, in consultation with  
 21 the commissioner, may establish such other procedures and standards  
 22 deemed necessary for the transferability of credits allowed under this  
 23 subdivision.

24 (D) The commissioner of parks, recreation and historic preservation  
 25 shall forward copies of all transfer applications and attachments there-  
 26 to and approval certificates to the commissioner within thirty days  
 27 after the transfer is approved.

28 (E) A taxpayer allowed a credit pursuant to section forty-seven of the  
 29 internal revenue code with respect to a qualified rehabilitation that is  
 30 also the subject of the credit allowed by this subdivision shall remain  
 31 solely liable for all obligations and liabilities imposed on the taxpay-  
 32 er with respect to the credit allowed by this subdivision, none of which  
 33 shall apply to a party to whom the credit has been subsequently trans-  
 34 ferred.

35 (8) The allocation of the credit established by this subdivision  
 36 may be made without regard to and in a separate manner from any  
 37 federal rehabilitation credit that may be allocated with respect to  
 38 a qualified white elephant project.

39 (9) The commissioner shall report annually, on or before the first day  
 40 of November, on the aggregate amount of credits claimed and awarded  
 41 pursuant to this subdivision on returns filed during the preceding  
 42 calendar year. Such report shall be provided to the governor, temporary  
 43 president of the senate, speaker of the assembly, chair of the senate  
 44 finance committee and chair of the assembly ways and means committee and  
 45 shall be made publicly available on the department's website.

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

48 ARTICLE 14-A

49 WHITE ELEPHANT HOUSING HISTORIC REHABILITATION PROJECTS TAX

50 CREDIT PROGRAM

51 Section 14.15 Definitions.

52 14.16 Allowance of credit, amount and limitations.

53 14.17 Project monitoring.

54 14.18 Regulations, coordination with federal rehabilitation  
 55 credit provisions.

1 § 14.15 Definitions. As used in this article, the following terms  
2 shall have the following meanings:

3 1. "Eligibility statement" means a statement issued by the commission-  
4 er, in consultation with the commissioner of the division of community  
5 housing and renewal, certifying that a white elephant housing project is  
6 eligible for white elephant housing project historic rehabilitation  
7 credits under this article and low-income housing tax credits under  
8 article two-A of the public housing law. Such statement shall set forth  
9 the taxable year in which the building is placed in service, the dollar  
10 amount of rehabilitation credit certified by the commissioner to such  
11 building as provided in section 14.16 of this article, the dollar amount  
12 of low-income housing tax credit allocated by the commissioner of commu-  
13 nity housing and renewal to such building as provided in section twen-  
14 ty-two of the public housing law, sufficient information to identify  
15 each such building and the taxpayer or taxpayers with respect to each  
16 such building, whether the project is a phase II housing project, and  
17 such other information as the commissioner, in consultation with the  
18 commissioner of taxation and finance and commissioner of community hous-  
19 ing and renewal, shall prescribe. Such eligibility statement shall be  
20 first issued following the close of the first taxable year, and there-  
21 after, to the extent required by the commissioner of taxation and  
22 finance, following the close of each of the following four taxable  
23 years.

24 2. "Eligible white elephant project" means a white elephant project as  
25 defined in section two hundred ten-B, six hundred six or one thousand  
26 five hundred eleven of the tax law that qualifies for historic rehabili-  
27 tation tax credit.

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

32 4. "Phase II housing project" means a white elephant housing project  
33 which the commissioner determines (a) is reasonably related to a prior  
34 eligible white elephant project or eligible white elephant housing  
35 project by the same applicant, (b) such prior project qualified as  
36 eligible with less than seventy-five million dollars of qualified reha-  
37 bilitation expenditures, and (c) the phase II application has been  
38 submitted within five years of the commissioner's previous allowance of  
39 credit for the prior eligible white elephant project or eligible white  
40 elephant housing project.

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

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

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

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

51 § 14.16 Allowance of credit, amount and limitations. 1. A taxpayer  
52 subject to tax under article nine-A, twenty-two, or thirty-three of the  
53 tax law which owns an interest in one or more eligible white elephant  
54 housing projects, or a transferee of such a taxpayer as described in  
55 subdivision two of this section, shall be allowed a credit against such

1 tax for the amount of white elephant housing project historic rehabili-  
2 tation credit certified by the commissioner to each such structure.

3 2. (a) A taxpayer allowed a credit pursuant to this article may trans-  
4 fer the credit, in whole or in part, to another person or entity, who  
5 shall be referred to as the transferee, notwithstanding that such other  
6 person or entity owns no interest in the eligible white elephant housing  
7 project or in an entity with an ownership interest in the eligible white  
8 elephant housing project. Transferees shall be entitled to apply trans-  
9 ferred credit to a tax imposed under article nine-A, twenty-two or thir-  
10 ty-three of the tax law, provided all requirements for claiming the  
11 credit are met. A transferee may not transfer any credit, or portion  
12 thereof, acquired by transfer.

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

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

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

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

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

22 (v) the amount of consideration received by the taxpayer for the  
23 transfer credit; and

24 (vi) the amount of credit being transferred.

25 (c) No transfer shall be effective unless the taxpayer allowed a cred-  
26 it pursuant to this article and seeking to transfer the credit files a cred-  
27 it transfer statement with the commissioner prior to the transfer and the  
28 commissioner approves such transfer. The transfer statement shall  
29 provide the name and federal identification numbers of the filing  
30 transferor and the taxpayer to whom the filing transferor transferred  
31 the credit, and the amount of credit transferred to each such person or  
32 entity. A copy of the transfer contract shall be attached to the trans-  
33 fer statement. The statement shall also contain such other information  
34 as the commissioner may require. After reviewing the transfer contract  
35 and the transfer statement, the commissioner shall approve or deny the  
36 transfer as provided in this subdivision. If the commissioner approves  
37 the transfer, the commissioner shall issue an approval statement that  
38 provides the name of the transferor and transferee, the amount of credit  
39 being transferred and such other information as the commissioner and the  
40 commissioner of taxation and finance deem necessary. A copy of the  
41 commissioner's approval statement must be attached to the transferee's  
42 tax return. If the commissioner denies the transfer, the commissioner  
43 shall provide the taxpayer a written determination for such denial. The  
44 commissioner, in consultation with the commissioner of taxation and  
45 finance, may establish such other procedures and standards deemed neces-  
46 sary for the transferability of the white elephant housing project  
47 historic rehabilitation credit.

48 (d) The commissioner shall forward copies of all transfer statements  
49 and attachments thereto and approval statements to the department of  
50 taxation and finance within thirty days after the transfer is approved  
51 by the commissioner.

52 § 14.17 Project monitoring. The commissioner shall establish such  
53 procedures deemed necessary for monitoring compliance of an eligible  
54 white elephant housing project with the provisions of this article, and  
55 for notifying the commissioner of taxation and finance of any such  
56 noncompliance.

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

4 2. The provisions of section 47 of the internal revenue code shall  
5 apply to the credit under this article, provided however, to the extent  
6 such provisions are inconsistent with this article, the provisions of  
7 this article shall control.

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

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

15 (2) (A) With respect to any particular residence of a taxpayer, the  
16 credit allowed under paragraph one of this subsection shall not exceed  
17 fifty thousand dollars for taxable years beginning on or after January  
18 first, two thousand ten and before January first, two thousand [~~twenty-~~  
19 ~~five~~] thirty-seven and twenty-five thousand dollars for taxable years  
20 beginning on or after January first, two thousand [~~twenty-five~~] thirty-  
21 seven. In the case of a [~~husband and wife~~] married couple, the amount of  
22 the credit shall be divided between them equally or in such other manner  
23 as they may both elect. If a taxpayer incurs qualified rehabilitation  
24 expenditures in relation to more than one residence in the same year,  
25 the total amount of credit allowed under paragraph one of this  
26 subsection for all such expenditures shall not exceed fifty thousand  
27 dollars for taxable years beginning on or after January first, two thou-  
28 sand ten and before January first, two thousand [~~twenty-five~~] thirty-  
29 seven and twenty-five thousand dollars for taxable years beginning on or  
30 after January first, two thousand [~~twenty-five~~] thirty-seven.

31 (B) For taxable years beginning on or after January first, two thou-  
32 sand ten and before January first, two thousand [~~twenty-five~~] thirty-  
33 seven, if the amount of credit allowable under this subsection shall  
34 exceed the taxpayer's tax for such year, and the taxpayer's New York  
35 adjusted gross income for such year does not exceed sixty thousand  
36 dollars, the excess shall be treated as an overpayment of tax to be  
37 credited or refunded in accordance with the provisions of section six  
38 hundred eighty-six of this article, provided, however, that no interest  
39 shall be paid thereon. If the taxpayer's New York adjusted gross income  
40 for such year exceeds sixty thousand dollars, the excess credit that may  
41 be carried over to the following year or years and may be deducted from  
42 the taxpayer's tax for such year or years. For taxable years beginning  
43 on or after January first, two thousand [~~twenty-five~~] thirty-seven, if  
44 the amount of credit allowable under this subsection shall exceed the  
45 taxpayer's tax for such year, the excess may be carried over to the  
46 following year or years and may be deducted from the taxpayer's tax for  
47 such year or years.

48 (13) The commissioner shall report annually, on or before the first  
49 day of November, on the aggregate amount of credits claimed and awarded  
50 pursuant to this subdivision on returns filed during the preceding  
51 calendar year. Such report shall be provided to the governor, temporary  
52 president of the senate, speaker of the assembly, chair of the senate  
53 finance committee and chair of the assembly ways and means committee,  
54 and shall be made publicly available on the department's website.

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

1 5. (a) The commissioner shall report annually, on or before the first  
2 day of November, on the tax credit projects applied for in accordance  
3 with subdivision twenty-six of section two hundred ten-B, subsection  
4 (oo) of section six hundred six, and subdivision (y) of section fifteen  
5 hundred eleven of the tax law on returns filed during the preceding  
6 calendar year. Such report shall be provided to the governor, temporary  
7 president of the senate, speaker of the assembly, chair of the senate  
8 finance committee and chair of the assembly ways and means committee,  
9 shall be made publicly available on the department's website and shall  
10 include the following information:

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

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

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

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

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

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

25 (b) The commissioner shall report annually, on or before the first day  
26 of November, on the tax credit projects applied for pursuant to  
27 subsection (pp) of section six hundred six of the tax law on returns  
28 filed during the preceding calendar year. Such report shall be provided  
29 to the governor, temporary president of the senate, speaker of the  
30 assembly, chair of the senate finance committee and chair of the assem-  
31 bly ways and means committee, shall be made publicly available on the  
32 office's website and shall include the following information:

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

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

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

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

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

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