STATE OF NEW YORK

8930

IN SENATE

January 16, 2026

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

AN ACT to amend the tax law, in relation to the brownfield redevelopment tax credit

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

Section 1. Paragraph 2 of subdivision (b) of section 21 of the tax law, as amended by section 1 of subpart B of part J of chapter 59 of the laws of 2023, is amended to read as follows:

(2) Site preparation costs. The term "site preparation costs" shall mean all amounts properly chargeable to a capital account, which are paid or incurred which are necessary to implement a site's investigation, remediation, or qualification for a certificate of completion, and shall include costs of: excavation; demolition; activities undertaken under the oversight of the department of labor or in accordance with standards established by the department of health to remediate and dispose of regulated materials including asbestos, lead or polychlorinated biphenyls; environmental consulting; engineering; legal costs; transportation, disposal, treatment or containment of contaminated soil; remediation measures taken to address contaminated soil vapor; cover systems consistent with applicable regulations; physical support of excavation; dewatering and other work to facilitate or enable remediation activities; sheeting, shoring, and other engineering controls required to prevent off-site migration of contamination from the qualified site or migrating onto the qualified site; and the costs of fencing, temporary electric wiring, scaffolding, and security facilities until such time as the certificate of completion has been issued. Site preparation shall include all costs paid or incurred within sixty months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved

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

LBD14384-01-6

site management plan, and an environmental easement with respect to the qualified site; provided, however, with respect to any qualified site for which a certificate of completion was issued on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one, site preparation shall include all costs paid or incurred within eighty-four months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved site management plan, and an environmental easement with respect to the qualified site, provided, however, with respect to any qualified site located in cities with a population greater than [~~two hundred five thousand~~] **one hundred seventy-five thousand** and less than two hundred fifteen thousand in counties with a population greater than [~~one million~~] **seven hundred thousand** but less than one million ten thousand based on the latest federal decennial census for which the department of environmental conservation has issued a certificate of completion to the taxpayer on or after January first, two thousand seventeen and before December thirty-first, two thousand seventeen, this credit component shall be allowed for up to one hundred eighty months after the date of the issuance of such certificate of completion. Site preparation cost shall not include the costs of foundation systems that exceed the cover system requirements in the regulations applicable to the qualified site.

§ 2. Subparagraph (i) of paragraph 3 of subdivision (a) of section 21 of the tax law, as amended by section 2 of subpart B of part J of chapter 59 of the laws of 2023, is amended to read as follows:

(i) The tangible property credit component shall be equal to the applicable percentage of the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, which constitute qualified tangible property and may include any related party service fee paid; provided that in determining the cost or other basis of such property, the taxpayer shall exclude the acquisition cost of any item of property with respect to which a credit under this section was allowable to another taxpayer; and provided further that for the purposes of this section, starting with taxable year two thousand twenty-two, on sites that comply with the track one remediation standards promulgated pursuant to subdivision four of section 27-1415 of the environmental conservation law, stadiums, baseball parks, basketball courts and other athletic facilities shall be considered buildings, and that components of stadiums, baseball parks, basketball courts, and other athletic facilities constructed on such sites, including sports field turf, site lighting, sidewalks, access and entry ways, and other improvements added to land, shall be considered structural components of buildings under the internal revenue code, and shall be included in the definition of tangible property for the purposes of this section. A related party service fee shall be allowed only in the calculation of the tangible property credit component and shall not be allowed in the calculation of the site preparation credit component or the on-site groundwater remediation credit component. The portion of the tangible property credit component which is attributable to related party service fees shall be allowed only as follows: (A) in the taxable year in which the qualified tangible property described in subparagraph (iii) of this paragraph is placed in service, for that portion of the related party

service fees which have been earned and actually paid to the related party on or before the last day of such taxable year; and (B) with respect to any other taxable year for which the tangible property credit component may be claimed under this subparagraph and in which the amount of any additional related party service fees are actually paid by the taxpayer to the related party, the tangible property credit component for such amount shall be allowed in such taxable year. The credit component amount so determined shall be allowed for the taxable year in which such qualified tangible property is first placed in service on a qualified site with respect to which a certificate of completion has been issued to the taxpayer, or for the taxable year in which the certificate of completion is issued if the qualified tangible property is placed in service prior to the issuance of the certificate of completion. This credit component shall only be allowed for up to one hundred twenty months after the date of the issuance of such certificate of completion, provided, however, that for qualified sites to which a certificate of completion is issued on or after March twentieth, two thousand ten, but prior to January first, two thousand twelve, the commissioner may extend the credit component for up to one hundred forty-four months after the date of such issuance, if the commissioner, in consultation with the commissioner of environmental conservation, determines that the requirements for the credit would have been met if not for the restrictions related to the state disaster emergency declared pursuant to executive order 202 of 2020 or any extension thereof or subsequent executive order issued in response to the novel coronavirus (COVID-19) pandemic; provided, however, with respect to any qualified site for which the department of environmental conservation has issued a certificate of completion to the taxpayer on or after March twentieth, two thousand ten and before December thirty-first, two thousand fifteen, this credit component shall be allowed for up to one hundred eighty months after the date of the issuance of such certificate of completion; and provided further, with respect to any qualified site located in cities with a population greater than [~~two hundred five thousand~~] **one hundred seventy-five thousand** and less than two hundred fifteen thousand in counties with a population greater than [~~one million~~] **seven hundred thousand** but less than one million ten thousand based on the latest federal decennial census for which the department of environmental conservation has issued a certificate of completion to the taxpayer on or after January first, two thousand seventeen and before December thirty-first, two thousand seventeen, this credit component shall be allowed for up to one hundred eighty months after the date of the issuance of such certificate of completion.

§ 3. Paragraph 2 of subdivision (a) of section 21 of the tax law, as amended by section 3 of subpart B of part J of chapter 59 of the laws of 2023, is amended to read as follows:

(2) Site preparation credit component. The site preparation credit component shall be equal to the applicable percentage of the site preparation costs paid or incurred by the taxpayer with respect to a qualified site. The credit component amount so determined with respect to a site's qualification for a certificate of completion shall be allowed for the taxable year in which the effective date of the certificate of completion occurs. The credit component amount determined other than with respect to such qualification shall be allowed for the taxable year in which the improvement to which the applicable costs apply is placed in service for up to five taxable years after the issuance of such certificate of completion; provided, however, that for any qualified

site to which a certificate of completion is issued on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one, the site preparation credit component for such costs shall be allowed for up to seven taxable years after the issuance of such certificate of completion; and provided further, however, that for any qualified site located in cities with a population greater than [~~two hundred five thousand~~] **one hundred seventy-five thousand** and less than two hundred fifteen thousand in counties with a population greater than [~~one million~~] **seven hundred thousand** but less than one million ten thousand based on the latest federal decennial census for which the department of environmental conservation has issued a certificate of completion to the taxpayer on or after January first, two thousand seventeen and before December thirty-first, two thousand seventeen, the site preparation credit component for such costs shall be allowed for up to fifteen taxable years after the issuance of such certificate of completion.

§ 4. This act shall take effect immediately.