S T A T E   O F   N E W   Y O R K

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2009-2010 Regular Sessions

I N   A S S E M B L Y

January 28, 2009

Introduced by M. of A. WALKER, BARRA, SALADINO, McDONOUGH, McKEVITT, RAIA, KOLB -- Multi-Sponsored by -- M. of A. CONTE, THIELE -- read once and referred to the Committee on Housing

AN ACT to amend the private housing finance law and the tax law, in relation to granting tax credit to business firms for contributions of real property made to not-for-profit housing companies

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

Section 1. The private housing finance law is amended by adding a new section 1134 to read as follows:

S 1134. AFFORDABLE HOUSING ASSISTANCE PROGRAM. 1. (A) AS USED IN THIS SECTION, THE TERM "BUSINESS FIRM" SHALL MEAN ANY BUSINESS ENTITY AUTHORIZED TO DO BUSINESS IN THE STATE OF NEW YORK AND WHICH IS SUBJECT TO THE CORPORATION FRANCHISE TAX IMPOSED UNDER ARTICLE NINE-A OF THE TAX LAW, OR ANY BANKING CORPORATION WHICH IS SUBJECT TO THE FRANCHISE TAX UNDER ARTICLE THIRTY-TWO OF THE TAX LAW, OR ANY INSURANCE CORPORATION WHICH IS SUBJECT TO THE FRANCHISE TAX UNDER ARTICLE THIRTY-THREE OF THE TAX LAW.

(B) AS USED IN THIS SECTION, THE TERM "LOW AND MODERATE INCOME PERSONS OR FAMILIES" SHALL MEAN THOSE PERSONS OR FAMILIES FOR WHOM THERE ARE NO OTHER REASONABLE AND AFFORDABLE HOMEOWNERSHIP, RENTAL, REHABILITATION OR HOME IMPROVEMENT ALTERNATIVES, AS THE CASE MAY BE, IN THE PRIVATE MARKET.

2. THE COMMISSIONER OF TAXATION AND FINANCE SHALL GRANT A CREDIT AGAINST ANY TAX DUE UNDER THE PROVISIONS OF ARTICLES NINE-A, THIRTY-TWO AND THIRTY-THREE OF THE TAX LAW IN AN AMOUNT EQUAL TO THE AMOUNT SPECIFIED BY THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL IN ANY TAX CREDIT VOUCHER ISSUED BY SUCH COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

3. THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH A SYSTEM OF TAX CREDIT VOUCHERS FOR BUSINESS FIRMS MAKING CONTRIBUTIONS OF REAL PROPERTY TO ANY NOT-FOR-PROFIT NEIGHBORHOOD PRESERVATION COMPANY,

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

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RURAL PRESERVATION COMPANY, OR HOUSING DEVELOPMENT FUND COMPANY THAT DEVELOPS, SPONSORS OR MANAGES ANY HOUSING PROJECT OR PROGRAM WHICH BENEFITS LOW AND MODERATE INCOME PERSONS OR FAMILIES. SUCH VOUCHERS MAY BE USED AS A CREDIT AGAINST ANY OF THE TAXES TO WHICH SUCH BUSINESS FIRM IS SUBJECT AND WHICH ARE ENUMERATED IN SUBDIVISION TWO OF THIS SECTION. THE AMOUNT OF THE TAX CREDIT VOUCHER SHALL EQUAL ONE-HALF THE AMOUNT OF THE FAIR MARKET VALUE OF THE REAL PROPERTY.

4. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT TWO OR MORE BUSINESS FIRMS FROM PARTICIPATING JOINTLY IN ONE OR MORE PROGRAMS UNDER THE PROVISIONS OF THIS SECTION.

5. THE SUM OF ALL TAX CREDITS GRANTED PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS ANNUALLY PER BUSINESS FIRM.

6. NO TAX CREDIT SHALL BE GRANTED TO ANY BANK, BANK AND TRUST COMPANY, INSURANCE COMPANY, TRUST COMPANY, NATIONAL BANK, SAVINGS ASSOCIATION, OR BUILDING AND LOAN ASSOCIATION OR ANY OTHER BUSINESS ENTITY FOR ACTIVITIES THAT ARE A PART OF ITS ORDINARY COURSE OF BUSINESS.

7. ANY TAX CREDIT NOT USED DURING THE PERIOD WITHIN WHICH THE CONTRIBUTION WAS MADE MAY BE CARRIED FORWARD OR BACKWARD FOR THE FIVE, IMMEDIATELY SUCCEEDING OR PRECEDING, CALENDAR OR FISCAL YEARS UNTIL THE FULL CREDIT HAS BEEN ALLOWED.

8. IN NO EVENT SHALL THE TOTAL AMOUNT OF THE TAX CREDITS ALLOWED TO BUSINESS FIRMS, PURSUANT TO THE PROVISIONS OF THIS SECTION, EXCEED FIVE MILLION DOLLARS IN ANY ONE FISCAL YEAR.

9. NO NEIGHBORHOOD PRESERVATION COMPANY, RURAL PRESERVATION COMPANY, OR HOUSING DEVELOPMENT FUND COMPANY, CONDUCTING A HOUSING PROGRAM OR PROJECT ELIGIBLE FOR FUNDING, WITH RESPECT TO WHICH TAX CREDITS MAY BE ALLOWED UNDER THIS SECTION, SHALL BE ALLOWED TO RECEIVE REAL PROPERTY WITH AN AGGREGATE VALUE IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS FOR ANY FISCAL YEAR.

10. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A BUSINESS FIRM FROM MAKING ANY CONTRIBUTION TO A HOUSING PROGRAM OR PROJECT TO WHICH TAX CREDITS MAY BE APPLIED, WHICH CONTRIBUTION MAY RESULT IN THE BUSINESS FIRM HAVING A LIMITED EQUITY INTEREST IN THE PROGRAM OR PROJECT.

11. THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL, WITH THE APPROVAL OF THE COMMISSIONER OF TAXATION AND FINANCE, SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 2. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) CREDIT FOR CONTRIBUTIONS OF REAL PROPERTY MADE TO CERTAIN NOT-FOR-PROFIT HOUSING COMPANIES. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY ARTICLES NINE-A, THIRTY-TWO AND THIRTY-THREE OF THIS CHAPTER PURSUANT TO THE PROVISIONS OF SECTION ELEVEN HUNDRED THIRTY-FOUR OF THE PRIVATE HOUSING FINANCE LAW.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.