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

4281

2009-2010 Regular Sessions

I N A S S E M B L Y

February 2, 2009

Introduced by M. of A. CROUCH, BUTLER, FINCH, KOLB, O'MARA, P. LOPEZ, WALKER, GIGLIO, ERRIGO, HAWLEY, SALADINO -- Multi-Sponsored by -- M. of A. ALFANO, BARCLAY, BARRA, BURLING, CONTE, GUNTHER, MAGEE, MILLER, MOLINARO, RAIA, REILICH, SAYWARD, SCOZZAFAVA, SPANO, TEDISCO, TOWNSEND -- read once and referred to the Committee on Labor

AN ACT to amend the labor law and the tax law, in relation to a grant program and a tax credit for businesses that purchase flood insurance

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

Section 1. The labor law is amended by adding a new section 44 to read as follows:

S 44. GRANT PROGRAM, DISASTER RELIEF. 1. THERE SHALL BE ESTABLISHED A PROGRAM TO PROVIDE GRANTS TO BUSINESSES OPERATING IN AN AREA DECLARED BY THE GOVERNOR TO BE A STATE DISASTER EMERGENCY DECLARATION AREA.

2. THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF EACH GRANT PROVIDED TO EACH QUALIFYING BUSINESS. A QUALIFYING BUSINESS MAY RECEIVE UP TO ONE GRANT PER DECLARED DISASTER. QUALIFYING BUSINESSES MAY APPLY FOR SUCH GRANT TO BE USED TO REPLACE OR MITIGATE LOSSES AS A RESULT OF DAMAGE RESULTING FROM A DISASTER IN A STATE DISASTER EMERGENCY DECLARATION AREA. SUCH LOSSES MAY INCLUDE REPAIR OR REPLACEMENT OF DAMAGED OR DESTROYED REAL PROPERTY AND OTHER TANGIBLE ASSETS INCLUDING EQUIPMENT, FURNITURE AND FIXTURES, SUPPLIES AND INVENTORY; AND DEBRIS REMOVAL AND RELATED CLEAN-UP COSTS. REIMBURSEMENT IS LIMITED TO ITEMS USED IN THE NORMAL COURSE OF BUSINESS OPERATIONS. COMPENSATION MAY NOT INCLUDE LOSSES COVERED BY INSURANCE, GRANTS OR OTHER GOVERNMENTAL SOURCES.

3. QUALIFYING BUSINESSES SHALL INCLUDE, BUT NOT BE LIMITED TO, RESIDENTIAL FACILITIES, AGRICULTURAL BUSINESSES, FARM BUSINESSES, AND BUSINESSES OPERATING OUT OF A RESIDENCE. CASINOS AND OTHER GAMBLING FACILITIES SHALL NOT BE ELIGIBLE FOR SUCH GRANTS. IF A BUSINESS RECEIVES SUCH A GRANT, THEY ARE ONLY ELIGIBLE TO RECEIVE ADDITIONAL STATE GRANTS IN THE AMOUNT OF FIFTY THOUSAND DOLLARS OR LESS. ADDITIONALLY, THE COMMIS-

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

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SIONER IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO DESIGNATE ADDITIONAL QUALIFYING BUSINESSES AND TO CREATE A PROCESS BY WHICH A BUSINESS MAY BE EXEMPT FROM THE GRANT LIMITS IMPOSED BY THIS SUBDIVISION.

4. SUCH GRANTS SHALL NOT EXCEED TWENTY THOUSAND DOLLARS IF SUCH BUSINESS HAS ONE HUNDRED EMPLOYEES OR LESS AND SHALL NOT EXCEED FIFTY THOUSAND DOLLARS IF SUCH INDIVIDUAL AND/OR BUSINESS IS ENGAGED IN FARMING OR IF SUCH BUSINESS HAS MORE THAN ONE HUNDRED EMPLOYEES.

5. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE ALL RULES AND REGULATIONS NECESSARY TO IMPLEMENT SUCH GRANT PROGRAM.

S 2. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. TAX CREDIT FOR BUSINESSES WHICH PURCHASE FLOOD INSURANCE. (A) A QUALIFIED TAXPAYER SHALL BE ALLOWED A ONE TIME CREDIT FOR THE PURCHASE OF FLOOD INSURANCE. THE CREDIT SHALL BE EQUAL TO SEVENTY-FIVE PERCENT OF THE COST OF FLOOD INSURANCE FOR THE BUSINESS.

(B) IN NO EVENT SHALL THE CREDIT UNDER THIS SUBDIVISION REDUCE THE TAX PAYABLE TO LESS THAN THE DOLLAR AMOUNT FIXED AS A MINIMUM TAX BY PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR WOULD HAVE REDUCED THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT USED IN SUCH TAXABLE YEAR MAY BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER.

(C) FOR PURPOSES OF THIS SUBDIVISION, "QUALIFIED TAXPAYER" SHALL MEAN A TAXPAYER UNDER THIS ARTICLE WHOSE BUSINESS IS LOCATED WITHIN A STATE DISASTER EMERGENCY DECLARATION AREA, WHICH HAS BEEN AFFECTED BY FLOODING, AND WHO CLAIMS THEIR PROPERTY AS DEPRECIABLE.

S 3. Section 606 of the tax law is amended by adding a new subsection (s-1) to read as follows:

(S-1) CREDIT FOR BUSINESS PURCHASE OF FLOOD INSURANCE. (1) A TAXPAYER SHALL BE ALLOWED A ONE TIME CREDIT AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF FLOOD INSURANCE. THE AMOUNT OF CREDIT SHALL BE SEVENTY-FIVE PERCENT OF THE COST TO THE TAXPAYER OF THE PURCHASE OF FLOOD INSURANCE FOR THE BUSINESS.

(2) FOR PURPOSES OF THIS SUBDIVISION, "QUALIFIED TAXPAYER" SHALL MEAN A TAXPAYER UNDER THIS ARTICLE WHOSE BUSINESS IS LOCATED WITHIN A STATE DISASTER EMERGENCY DECLARATION AREA, WHICH HAS BEEN AFFECTED BY FLOODING, AND WHO CLAIMS THEIR PROPERTY AS DEPRECIABLE.

(3) IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY 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.

S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law, as amended by section 2 of part ZZ-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(B) shall be treated as the owner of a new business with respect to such share if the corporation qualifies as a new business pursuant to paragraph (j) of subdivision twelve of section two hundred ten of this chapter.

With respect to the following credit under this section:	The corporation's credit base under section two hundred ten or section fourteen hundred fifty-six of this chapter is:

(I) Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
(II) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
(III) Empire zone wage tax credit under subsection (k)	Eligible wages under subdivision nineteen of section two hundred ten or subsection (e) of section fourteen hundred fifty-six
(IV) Empire zone capital tax credit under subsection (l)	Qualified investments and contributions under subdivision twenty of section two hundred ten or subsection (d) of section fourteen hundred fifty-six
(V) Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten
(VI) Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under subdivision twenty-three of section two hundred ten or subsection (f) of section fourteen hundred fifty-six
(VII) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D of section two hundred ten
(VIII) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C of section two hundred ten
(IX) Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four of section two hundred ten

(X) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision twelve-E of section two hundred ten
(XI) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
(XII) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision twenty-five of section two hundred ten or subsection (j) of section fourteen hundred fifty-six
(XIII) Low-income housing credit under subsection (x)	Credit amount under subdivision thirty of section two hundred ten or subsection (l) of section fourteen hundred fifty-six
(XIV) Credit for transportation improvement contributions under subsection (z)	Amount of credit under subdivision thirty-two of section two hundred ten or subsection (n) of section fourteen hundred fifty-six
(XV) QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision twenty-seven of section two hundred ten or subsection (o) of section fourteen hundred fifty-six
(XVI) QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard to pro ration) under subdivision twenty-eight of section two hundred ten or subsection (p) of section fourteen hundred fifty-six and amount of tax factor as determined under subdivision (f) of section sixteen
(XVII) Green building credit under subsection (y)	Amount of green building credit under subdivision thirty-one of section two hundred ten or subsection (m) of section fourteen hundred fifty-six

(XVIII) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision twenty-five-a of section two hundred ten or subsection (k) of section fourteen hundred fifty-six
(XIX) Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision thirty-three of section two hundred ten or subsection (q) of section fourteen hundred fifty-six
(XX) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision thirty-four of section two hundred ten or subsection (r) of section fourteen hundred fifty-six
(XXI) Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision thirty-five of section two hundred ten or subsection (s) of section fourteen hundred fifty-six
(XXII) Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision thirty-six of section two hundred ten
(XXIII) Qualified emerging technology company facilities, operations and training credit under subsection (nn)	Qualifying expenditures and development activities under subdivision twelve-G of section two hundred ten
(XXIV) Security training tax credit under subsection (ii)	Amount of credit under subdivision thirty-seven of section two hundred ten or under subsection (t) of section fourteen hundred fifty-six
(XXV) Credit for qualified fuel cell electric generating equipment expenditures under subsection (g-2)	Amount of credit under subdivision thirty-seven of section two hundred ten or subsection (t) of section fourteen hundred fifty-six

(XXVI) Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision thirty-eight of section two hundred ten
(XXVII) Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision thirty-eight of section two hundred ten
(XXVIII) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision thirty-nine of section two hundred ten
(XXIX) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision forty of [subsection] SECTION two hundred ten
(XXX) Credit for companies who provide transportation to individuals with disabilities under subsection (oo)	Amount of credit under subdivision forty of section two hundred ten
(XXXI) PURCHASE OF FLOOD INSURANCE BY BUSINESSES UNDER SUBSECTION (S-1)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN

S 5. This act shall take effect immediately; provided, however, that sections two and three of this act shall be deemed to have been in full force and effect on and after January 1, 2008; and provided, further that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and the credit for companies who provide transportation to individuals with disabilities under subsection (oo) of section 606 of the tax law contained in section four of this act shall expire on the same date as provided in section 9 of part P of chapter 60 of the laws of 2004, as amended, section 10 of part V of chapter 62 of the laws of 2006, as amended and section 5 of chapter 522 of the laws of 2006, as amended, respectively.