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

5665

2009-2010 Regular Sessions

I N A S S E M B L Y

February 17, 2009

Introduced by M. of A. V. LOPEZ, JOHN, GREENE, WEISENBERG, ENGLEBRIGHT, JACOBS, PERRY, BROOK-KRASNY -- Multi-Sponsored by -- M. of A. CANESTRARI, CYMBROWITZ, DESTITO, EDDINGTON -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to granting a tax credit to business firms for contributions made to neighborhood assistance programs

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

Section 1. Section 210 of the tax law is amended by adding a new subdivision 25-b to read as follows:

25-B. NEIGHBORHOOD ASSISTANCE PROGRAM CREDIT. (A) FOR THE PURPOSE OF THIS SUBDIVISION A QUALIFYING RECIPIENT SHALL BE A COMPANY UNDER CONTRACT WITH THE DIVISION OF HOUSING AND COMMUNITY RENEWAL PURSUANT TO SECTIONS NINE HUNDRED THREE AND ONE THOUSAND THREE OF THE PRIVATE HOUSING FINANCE LAW OR OTHER NON-PROFIT ENTITIES THAT ENGAGE IN HOUSING AND COMMUNITY DEVELOPMENT ACTIVITIES INCLUDING BUT NOT LIMITED TO: PRESERVATION AND DEVELOPMENT OF AFFORDABLE HOUSING, HOUSING COUNSELING AND COMMUNITY RENEWAL. THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH A PROCEDURE TO CERTIFY SUCH OTHER ENTITIES AS QUALIFYING RECIPIENTS.

(B) THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH A PROCESS FOR APPROVAL OF A CREDIT AGAINST ANY TAX DUE UNDER THIS ARTICLE TO BUSINESSES, WHICH CONTRIBUTE TO A QUALIFYING RECIPIENT. SUCH APPROVAL SHALL BE FORWARDED TO THE DEPARTMENT UNDER PROCEDURES TO BE ESTABLISHED BY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AND THE DEPARTMENT. THE AMOUNT OF THE TAX CREDIT VOUCHER SHALL NOT EXCEED ONE-HALF THE AMOUNT OF THE CONTRIBUTION. ONLY CASH CONTRIBUTIONS SHALL BE ELIGIBLE FOR THIS TAX CREDIT.

(C) CRITERIA FOR APPROVAL OF TAX CREDIT PROPOSALS SHALL INCLUDE: THE EXTENT OF NEED OF THE COMMUNITY, VISION AND PLANS FOR THE REVITALIZATION

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

LBD08366-01-9

OF THE COMMUNITY; SUCCESSFUL TRACK RECORD OF SERVICE TO THE COMMUNITY; BOARD AND COMMUNITY INVOLVEMENT; AND DEMONSTRATED ABILITY TO UTILIZE RESOURCES EFFECTIVELY.

(D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT TWO OR MORE TAXPAYERS OR TWO OR MORE QUALIFYING RECIPIENTS FROM PARTICIPATING JOINTLY IN ONE OR MORE PROGRAMS UNDER THE PROVISIONS OF THIS SUBDIVISION NOR SHALL IT BE CONSTRUED TO PREVENT ANY BUSINESS FROM PARTICIPATING IN ONE OR MORE PROGRAMS.

(E) THE SUM OF ALL TAX CREDITS GRANTED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS ANNUALLY FOR ANY ONE TAXPAYER INCLUDING SUCH PARTY'S AFFILIATES AND RELATED ENTITIES AS DETERMINED BY THE COMMISSIONER, UNLESS THE COMMISSIONER DETERMINES THAT THE TOTAL AMOUNT OF THE TAX CREDITS ALLOWED TO TAXPAYERS WILL BE UNDER-UTILIZED IN ANY ONE FISCAL YEAR.

(F) NO TAX CREDIT SHALL BE GRANTED TO ANY BUSINESS FOR ACTIVITIES THAT ARE PART OF ITS OR ANY OF ITS AFFILIATES' OR RELATED ENTITIES' ORDINARY COURSE OF BUSINESS.

(G) ANY TAX CREDIT NOT USED DURING THE PERIOD WITHIN WHICH THE CONTRIBUTION WAS MADE MAY BE CARRIED FORWARD FOR ONE IMMEDIATELY SUCCEEDING CALENDAR OR FISCAL YEAR UNTIL THE FULL CREDIT HAS BEEN ALLOWED.

(H) NO ONE QUALIFYING RECIPIENT SHALL BE ALLOWED TO RECEIVE CAPITAL, WITH RESPECT TO WHICH A TAX CREDIT IS GRANTED PURSUANT TO THIS SUBDIVISION, IN EXCESS OF ONE HUNDRED FIFTY THOUSAND DOLLARS IN ANY ONE-YEAR PERIOD.

S 2. Section 1456 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) NEIGHBORHOOD ASSISTANCE PROGRAM CREDIT. (1) FOR THE PURPOSE OF THIS SUBSECTION A QUALIFYING RECIPIENT SHALL BE A COMPANY UNDER CONTRACT WITH THE DIVISION OF HOUSING AND COMMUNITY RENEWAL PURSUANT TO SECTIONS NINE HUNDRED THREE AND ONE THOUSAND THREE OF THE PRIVATE HOUSING FINANCE LAW OR OTHER NON-PROFIT ENTITIES THAT ENGAGE IN HOUSING AND COMMUNITY DEVELOPMENT ACTIVITIES INCLUDING BUT NOT LIMITED TO: PRESERVATION AND DEVELOPMENT OF AFFORDABLE HOUSING, HOUSING COUNSELING AND COMMUNITY RENEWAL. THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH A PROCEDURE TO CERTIFY SUCH OTHER ENTITIES AS QUALIFYING RECIPIENTS.

(2) THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH A PROCESS FOR APPROVAL OF A CREDIT AGAINST ANY TAX DUE UNDER THIS ARTICLE TO BUSINESSES, WHICH CONTRIBUTE TO A QUALIFYING RECIPIENT. SUCH APPROVAL SHALL BE FORWARDED TO THE DEPARTMENT UNDER PROCEDURES TO BE ESTABLISHED BY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AND THE DEPARTMENT. THE AMOUNT OF THE TAX CREDIT VOUCHER SHALL NOT EXCEED ONE-HALF THE AMOUNT OF THE CONTRIBUTION. ONLY CASH CONTRIBUTIONS SHALL BE ELIGIBLE FOR THIS TAX CREDIT.

(3) CRITERIA FOR APPROVAL OF TAX CREDIT PROPOSALS SHALL INCLUDE: THE EXTENT OF NEED OF THE COMMUNITY, VISION AND PLANS FOR THE REVITALIZATION OF THE COMMUNITY; SUCCESSFUL TRACK RECORD OF SERVICE TO THE COMMUNITY; BOARD AND COMMUNITY INVOLVEMENT; AND DEMONSTRATED ABILITY TO UTILIZE RESOURCES EFFECTIVELY.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT TWO OR MORE TAXPAYERS OR TWO OR MORE QUALIFYING RECIPIENTS FROM PARTICIPATING JOINTLY IN ONE OR MORE PROGRAMS UNDER THE PROVISIONS OF THIS SUBSECTION NOR SHALL IT BE CONSTRUED TO PREVENT ANY BUSINESS FROM PARTICIPATING IN ONE OR MORE PROGRAMS.

(5) THE SUM OF ALL TAX CREDITS GRANTED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS ANNUALLY FOR ANY ONE TAXPAYER INCLUDING SUCH PARTY'S AFFILIATES AND RELATED ENTITIES AS DETERMINED BY THE COMMISSIONER, UNLESS THE COMMISSIONER DETERMINES THAT THE TOTAL AMOUNT OF THE TAX CREDITS ALLOWED TO TAXPAYERS WILL BE UNDER-UTILIZED IN ANY ONE FISCAL YEAR.

(6) NO TAX CREDIT SHALL BE GRANTED TO ANY BUSINESS FOR ACTIVITIES THAT ARE PART OF ITS OR ANY OF ITS AFFILIATES' OR RELATED ENTITIES' ORDINARY COURSE OF BUSINESS.

(7) ANY TAX CREDIT NOT USED DURING THE PERIOD WITHIN WHICH THE CONTRIBUTION WAS MADE MAY BE CARRIED FORWARD FOR ONE IMMEDIATELY SUCCEEDING CALENDAR OR FISCAL YEAR UNTIL THE FULL CREDIT HAS BEEN ALLOWED.

(8) NO ONE QUALIFYING RECIPIENT SHALL BE ALLOWED TO RECEIVE CAPITAL, WITH RESPECT TO WHICH A TAX CREDIT IS GRANTED PURSUANT TO THIS SUBSECTION, IN EXCESS OF ONE HUNDRED FIFTY THOUSAND DOLLARS IN ANY ONE-YEAR PERIOD.

S 3. Section 1511 of the tax law is amended by adding a new subdivision (l-1) to read as follows:

(L-1) NEIGHBORHOOD ASSISTANCE PROGRAM CREDIT. (1) FOR THE PURPOSE OF THIS SUBDIVISION A QUALIFYING RECIPIENT SHALL BE A COMPANY UNDER CONTRACT WITH THE DIVISION OF HOUSING AND COMMUNITY RENEWAL PURSUANT TO SECTIONS NINE HUNDRED THREE AND ONE THOUSAND THREE OF THE PRIVATE HOUSING FINANCE LAW OR OTHER NON-PROFIT ENTITIES THAT ENGAGE IN HOUSING AND COMMUNITY DEVELOPMENT ACTIVITIES INCLUDING BUT NOT LIMITED TO: PRESERVATION AND DEVELOPMENT OF AFFORDABLE HOUSING, HOUSING COUNSELING AND COMMUNITY RENEWAL. THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH A PROCEDURE TO CERTIFY SUCH OTHER ENTITIES AS QUALIFYING RECIPIENTS.

(2) THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH A PROCESS FOR APPROVAL OF A CREDIT AGAINST ANY TAX DUE UNDER THIS ARTICLE TO BUSINESSES, WHICH CONTRIBUTE TO A QUALIFYING RECIPIENT. SUCH APPROVAL SHALL BE FORWARDED TO THE DEPARTMENT UNDER PROCEDURES TO BE ESTABLISHED BY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AND THE DEPARTMENT. THE AMOUNT OF THE TAX CREDIT VOUCHER SHALL NOT EXCEED ONE-HALF THE AMOUNT OF THE CONTRIBUTION. ONLY CASH CONTRIBUTIONS SHALL BE ELIGIBLE FOR THIS TAX CREDIT.

(3) CRITERIA FOR APPROVAL OF TAX CREDIT PROPOSALS SHALL INCLUDE: THE EXTENT OF NEED OF THE COMMUNITY, VISION AND PLANS FOR THE REVITALIZATION OF THE COMMUNITY; SUCCESSFUL TRACK RECORD OF SERVICE TO THE COMMUNITY; BOARD AND COMMUNITY INVOLVEMENT; AND DEMONSTRATED ABILITY TO UTILIZE RESOURCES EFFECTIVELY.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT TWO OR MORE TAXPAYERS OR TWO OR MORE QUALIFYING RECIPIENTS FROM PARTICIPATING JOINTLY IN ONE OR MORE PROGRAMS UNDER THE PROVISIONS OF THIS SUBDIVISION NOR SHALL IT BE CONSTRUED TO PREVENT ANY BUSINESS FROM PARTICIPATING IN ONE OR MORE PROGRAMS.

(5) THE SUM OF ALL TAX CREDITS GRANTED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS ANNUALLY FOR ANY ONE TAXPAYER INCLUDING SUCH PARTY'S AFFILIATES AND RELATED ENTITIES AS DETERMINED BY THE COMMISSIONER, UNLESS THE COMMISSIONER DETERMINES THAT THE TOTAL AMOUNT OF THE TAX CREDITS ALLOWED TO TAXPAYERS WILL BE UNDER-UTILIZED IN ANY ONE FISCAL YEAR.

(6) NO TAX CREDIT SHALL BE GRANTED TO ANY BUSINESS FOR ACTIVITIES THAT ARE PART OF ITS OR ANY OF ITS AFFILIATES' OR RELATED ENTITIES' ORDINARY COURSE OF BUSINESS.

(7) ANY TAX CREDIT NOT USED DURING THE PERIOD WITHIN WHICH THE CONTRIBUTION WAS MADE MAY BE CARRIED FORWARD FOR ONE IMMEDIATELY SUCCEEDING CALENDAR OR FISCAL YEAR UNTIL THE FULL CREDIT HAS BEEN ALLOWED.

(8) NO ONE QUALIFYING RECIPIENT SHALL BE ALLOWED TO RECEIVE CAPITAL, WITH RESPECT TO WHICH A TAX CREDIT IS GRANTED PURSUANT TO THIS SUBDIVISION, IN EXCESS OF ONE HUNDRED FIFTY THOUSAND DOLLARS IN ANY ONE-YEAR PERIOD.

S 4. In no event shall the total amount of the tax credits allowed to taxpayers pursuant to the provisions of subdivision 25-b of section 210, subsection (u) of section 1456 and subdivision (1-1) of section 1511 of the tax law, in the aggregate, exceed ten million dollars in any one fiscal year. No more than fifty percent of the total amount of the tax credits shall be granted for contributions made to neighborhood organizations located within a city with a population of one million or more.

S 5. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the commissioner of the division of housing and community renewal shall promulgate any rules and regulations necessary for the timely implementation of this act on or before such date.