

2009-2010 Regular Sessions

I N S E N A T E

January 18, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, the public service law, the tax law and the real property tax law, in relation to authorizing the creation of housing opportunity zones in certain cities, towns and villages within the state

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

1 Section 1. The general municipal law is amended by adding a new arti-  
2 cle 19-AA to read as follows:

3 ARTICLE 19-AA

4 NEW YORK STATE HOUSING OPPORTUNITY ZONES

- 5 SECTION 981. SHORT TITLE.  
6 982. LEGISLATIVE FINDINGS AND DECLARATION.  
7 983. DEFINITIONS.  
8 984. CRITERIA FOR HOUSING OPPORTUNITY ZONES.  
9 985. POWERS OF THE COMMISSIONER.  
10 986. PROPERTY TAX RELIEF.  
11 987. BUSINESS TAX CREDIT.  
12 988. REDUCED ELECTRICITY AND GAS RATES.  
13 989. EXEMPTION FROM SALES TAX.  
14 989-A. WAIVER OF PERMIT FEES.  
15 989-B. SPECIAL PROVISIONS.  
16 989-C. MINIMIZATION OF DISPLACEMENT.

17 S 981. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS  
18 THE "NEW YORK STATE HOUSING OPPORTUNITY ZONES ACT".

19 S 982. LEGISLATIVE FINDINGS AND DECLARATION. THE HIGH COST OF HOUSING  
20 IS NOW A MAJOR PROBLEM FOR THOUSANDS OF NEW YORKERS. COSTS OF ACQUIRING  
21 OR OCCUPYING ACCEPTABLE HOUSING HAVE INCREASED SIGNIFICANTLY IN RECENT  
22 YEARS. FOR TOO MANY HOUSEHOLDS, THE HIGH COST OF SHELTER IS NOT MERELY

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

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1 SERIOUS, IT IS TOO OFTEN AN INSURMOUNTABLE BARRIER TO THE ACHIEVEMENT OF  
2 A SAFE AND DECENT PLACE IN WHICH TO LIVE.

3 IT IS HEREBY FOUND AND DECLARED THAT THERE EXISTS WITHIN THE STATE  
4 CERTAIN AREAS CHARACTERIZED BY A SEVERE SHORTAGE OF SAFE, DECENT AND  
5 AFFORDABLE HOUSING, DILAPIDATED AND ABANDONED RESIDENTIAL STRUCTURES AND  
6 SHRINKING TAX BASES. MOREOVER, IT IS FOUND THAT THE LACK OF HOUSING IN  
7 THESE AREAS THREATENS EMPLOYMENT GROWTH PROSPECTS AND THAT WITHOUT  
8 ADEQUATE PROVISION OF HOUSING AND THE SATISFACTION OF HOUSING NEEDS,  
9 THESE REGIONS OF THE STATE MAY NOT RETAIN SKILLED LABOR AND SUSTAIN THE  
10 GROWTH IN EMPLOYMENT AND OUTPUT OF WHICH THEY ARE CAPABLE.

11 S 983. DEFINITIONS. 1. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF  
12 HOUSING AND COMMUNITY RENEWAL.

13 2. "SUBSTANTIAL REHABILITATION" SHALL MEAN THE IMPROVEMENT OF A RESI-  
14 DENTIAL PROPERTY WITH THE ASSISTANCE OF ANY FORM OF PUBLIC HOUSING  
15 MONIES TO A DECENT, SAFE AND SANITARY CONDITION IN ACCORDANCE WITH STAN-  
16 DARDS AS SHALL BE PROMULGATED BY THE COMMISSIONER. SUBSTANTIAL REHABILI-  
17 TATION MAY VARY IN DEGREE FROM GUTTING AND EXTENSIVE RECONSTRUCTION TO  
18 THE CURE OF SUBSTANTIAL ACCUMULATION OF DEFERRED MAINTENANCE. COSMETIC  
19 IMPROVEMENTS ALONE SHALL NOT QUALIFY AS SUBSTANTIAL REHABILITATION.

20 S 984. CRITERIA FOR HOUSING OPPORTUNITY ZONES. TO BE ELIGIBLE FOR  
21 DESIGNATION BY THE COMMISSIONER AS A HOUSING OPPORTUNITY ZONE, AN AREA  
22 MUST BE CHARACTERIZED BY A SIGNIFICANT AMOUNT OF DETERIORATING,  
23 SUBSTANDARD, VACANT OR ABANDONED RESIDENTIAL BUILDINGS WHICH ARE NOT  
24 BEING ADEQUATELY REPAIRED, RENOVATED, UPGRADED, MODERNIZED OR REHABILI-  
25 TATED UNDER EXISTING PROGRAMS SO AS TO PROVIDE AN ADEQUATE SUPPLY OF  
26 SAFE AND DECENT HOUSING AT COSTS WHICH THE RESIDENTS OF THE AREA CAN  
27 REASONABLY AFFORD, A HIGH VACANCY RATE, A LARGE NUMBER OF HOMELESS FAMI-  
28 LIES OR INDIVIDUALS AND GENERAL ECONOMIC DISTRESS. THE LACK OF ANY ONE  
29 FACTOR IN A PARTICULAR REGION SHALL NOT BE DETERMINATIVE IN THE DESIG-  
30 NATION PROCESS. THE DESIGNATION OF ONE HOUSING OPPORTUNITY ZONE WITHIN A  
31 PARTICULAR REGION SHALL NOT PRECLUDE OTHER AREAS WITHIN THE REGION FROM  
32 BEING SO DESIGNATED AS WELL, AS LONG AS THE APPROPRIATE CRITERIA EXIST  
33 WITHIN THE AREA TO SUPPORT SUCH A DESIGNATION.

34 S 985. POWERS OF THE COMMISSIONER. THE COMMISSIONER SHALL:

35 1. AFTER CONSULTATION WITH THE DIRECTOR OF THE BUDGET, THE CHIEF EXEC-  
36 UTIVE OFFICER OF THE STATE OF NEW YORK MORTGAGE AGENCY, THE EXECUTIVE  
37 DIRECTOR OF THE HOUSING FINANCE AGENCY, THE SECRETARY OF STATE, THE  
38 COMMISSIONER OF TAXATION AND FINANCE AND THE EXECUTIVE DIRECTOR OF THE  
39 STATE OFFICE OF RURAL AFFAIRS, PROMULGATE REGULATIONS GOVERNING (A)  
40 CRITERIA OF ELIGIBILITY FOR HOUSING OPPORTUNITY ZONE DESIGNATION, (B)  
41 THE APPLICATION PROCESS, (C) THE ELIGIBILITY OF BUSINESS ENTERPRISES FOR  
42 BENEFITS REFERRED TO IN SECTION NINE HUNDRED EIGHTY-SEVEN OF THIS ARTI-  
43 CLE AND (D) STANDARDS DEFINING WHAT COMPRISES SUBSTANTIAL REHABILITATION  
44 AS USED IN THIS ARTICLE;

45 2. RECEIVE AND REVIEW APPLICATIONS FOR DESIGNATION OF AREAS AS HOUSING  
46 OPPORTUNITY ZONES;

47 3. SOLICIT AND REVIEW THE OPINIONS OF LOCAL OFFICIALS AS TO WHETHER  
48 PARTICULAR AREAS SHOULD BE DESIGNATED AS HOUSING OPPORTUNITY ZONES; AND

49 4. MAKE FINAL DETERMINATIONS OF AREAS AS HOUSING OPPORTUNITY ZONES,  
50 PROVIDED, HOWEVER, THAT ALL SUCH ZONES SHALL MEET THE REQUIREMENTS OF  
51 THIS ARTICLE.

52 S 986. PROPERTY TAX RELIEF. ALL NEW RESIDENTIAL CONSTRUCTION INVOLVING  
53 THE ASSISTANCE OF ANY FORM OF PUBLIC HOUSING MONIES AND SUBSTANTIAL  
54 REHABILITATION OF RESIDENTIAL UNITS WITH THE ASSISTANCE OF ANY FORM OF  
55 PUBLIC HOUSING MONIES COMPLETED SUBSEQUENT TO THE DESIGNATION OF AN AREA  
56 AS A HOUSING OPPORTUNITY ZONE SHALL BE ENTITLED TO AN EXEMPTION FROM

1 PROPERTY TAXES AS PROVIDED FOR IN THE REAL PROPERTY TAX LAW; PROVIDED  
2 THAT SUCH NEW CONSTRUCTION OR SUBSTANTIAL REHABILITATION IS DONE TO A  
3 UNIT LOCATED WITHIN SUCH ZONE.

4 S 987. BUSINESS TAX CREDIT. BUSINESS ENTERPRISES WHICH INVEST IN NEW  
5 CONSTRUCTION INVOLVING THE ASSISTANCE OF ANY FORM OF PUBLIC HOUSING  
6 MONIES OR SUBSTANTIAL REHABILITATION OF RESIDENTIAL UNITS WITH THE  
7 ASSISTANCE OF ANY FORM OF PUBLIC HOUSING MONIES LOCATED WITHIN A HOUSING  
8 OPPORTUNITY ZONE SHALL BE ENTITLED TO A TAX CREDIT PURSUANT TO SUBPARA-  
9 GRAPH (I) OF PARAGRAPH (B) OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED  
10 TEN AND SUBPARAGRAPH (A) OF PARAGRAPH TWO OF SUBSECTION (A) OF SECTION  
11 SIX HUNDRED SIX OF THE TAX LAW, PROVIDED, THAT SAID CONSTRUCTION OR  
12 REHABILITATION MUST PRODUCE A RATIO OF AT LEAST ONE UNIT OF HOUSING AT  
13 AN AFFORDABLE RATE FOR EVERY TWO UNITS THAT ARE TO BE SOLD AT THE  
14 PREVAILING MARKET RATE IN THE HOUSING OPPORTUNITY ZONE. AFFORDABLE RATE  
15 SHALL BE DEFINED AS THE RATE DESCRIBED IN THE HOUSING PROGRAM USED AND  
16 WHICH HAS SERVED AS THE SOURCE OF THE PUBLIC HOUSING MONIES APPLIED TO  
17 THE SPECIFIC PROJECTS BUILT OR REHABILITATED IN THE HOUSING OPPORTUNITY  
18 ZONE.

19 S 988. REDUCED ELECTRICITY AND GAS RATES. EACH UTILITY PROVIDING ELEC-  
20 TRIC SERVICE, GAS SERVICE OR BOTH, OTHER THAN A UTILITY OWNED OR OPER-  
21 ATED BY A MUNICIPALITY, SHALL BE REQUIRED TO PROVIDE A REDUCED RATE AS  
22 PROVIDED FOR IN SECTION SIXTY-FIVE-C OF THE PUBLIC SERVICE LAW TO RESI-  
23 DENTIAL CUSTOMERS RESIDING IN HOUSING OPPORTUNITY ZONE RESIDENTIAL UNITS  
24 WHICH WERE NEWLY CONSTRUCTED WITH THE ASSISTANCE OF ANY FORM OF PUBLIC  
25 HOUSING MONIES OR WHICH WERE SUBSTANTIALLY REHABILITATED WITH THE  
26 ASSISTANCE OF ANY FORM OF PUBLIC HOUSING MONIES SUBSEQUENT TO THE DESIG-  
27 NATION OF THE AREA AS A HOUSING OPPORTUNITY ZONE.

28 S 989. EXEMPTION FROM SALES TAX. ALL MATERIALS USED IN THE  
29 CONSTRUCTION INVOLVING THE ASSISTANCE OF ANY FORM OF PUBLIC HOUSING  
30 MONIES OR SUBSTANTIAL REHABILITATION WITH THE ASSISTANCE OF ANY FORM OF  
31 PUBLIC HOUSING MONIES OF HOUSING OPPORTUNITY ZONE RESIDENTIAL UNITS  
32 SHALL BE EXEMPT FROM ALL STATE AND LOCAL SALES TAXES.

33 S 989-A. WAIVER OF PERMIT FEES. ALL PERMIT FEES REQUIRED BY THE STATE  
34 OR LOCALITY FOR ANY PHASE OF THE CONSTRUCTION OR SUBSTANTIAL REHABILI-  
35 TATION OF HOUSING OPPORTUNITY ZONE RESIDENTIAL UNITS WHICH HAVE RECEIVED  
36 ASSISTANCE OF ANY FORM OF PUBLIC HOUSING MONIES SHALL BE WAIVED IN TOTAL  
37 BY THE STATE OR THE LOCALITY.

38 S 989-B. SPECIAL PROVISIONS. EACH RESIDENTIAL UNIT CONSTRUCTED WITH  
39 THE ASSISTANCE OF ANY FORM OF PUBLIC HOUSING MONIES OR SUBSTANTIALLY  
40 REHABILITATED WITH THE ASSISTANCE OF ANY FORM OF PUBLIC HOUSING MONIES  
41 WITHIN A HOUSING OPPORTUNITY ZONE SHALL BE READILY ADAPTABLE TO A UNIT  
42 WHICH IS COMPLETELY ACCESSIBLE BY PERSONS WITH HANDICAPPING CONDITIONS.

43 S 989-C. MINIMIZATION OF DISPLACEMENT. EACH LOCALITY WITHIN A DESIG-  
44 NATED HOUSING OPPORTUNITY ZONE SHALL USE ITS BEST EFFORTS TO ENSURE THAT  
45 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION ARE CARRIED OUT IN SUCH  
46 A MANNER AS TO MINIMIZE THE LIKELIHOOD OF ANY INVOLUNTARY PHYSICAL OR  
47 ECONOMIC DISPLACEMENT OF TENANTS AND OWNERS WHO RESIDE IN DWELLING  
48 ACCOMMODATIONS WHICH ARE THE SUBJECT OF SUCH NEW CONSTRUCTION OR  
49 SUBSTANTIAL REHABILITATION.

50 S 2. The public service law is amended by adding a new section 65-c to  
51 read as follows:

52 S 65-C. REDUCED ELECTRIC AND GAS RATES FOR HOUSING OPPORTUNITY ZONE  
53 RESIDENTIAL UNITS. 1. THE TERM "REDUCED RATE" SHALL MEAN A TWENTY-FIVE  
54 PERCENT REDUCTION PRIOR TO THE IMPOSITION OF GROSS RECEIPTS TAXES PURSU-  
55 ANT TO SECTION ONE HUNDRED EIGHTY-SIX-A OF THE TAX LAW AND SALES TAXES

1 PURSUANT TO ARTICLE TWENTY-EIGHT OF THE TAX LAW, IN THE MONTHLY AMOUNT  
2 BILLED TO AN ELIGIBLE CUSTOMER FOR ELECTRICITY, GAS OR BOTH.

3 2. A UTILITY SHALL HAVE A CREDIT AGAINST THE GROSS RECEIPTS TAX  
4 IMPOSED BY SECTION ONE HUNDRED EIGHTY-SIX-A OF THE TAX LAW IN THE AMOUNT  
5 OF ONE HUNDRED PERCENT OF ANY LOSS OF REVENUE IT INCURS DUE TO THE  
6 IMPLEMENTATION OF ITS REDUCED RATE.

7 S 3. The tax law is amended by adding a new section 4-a to read as  
8 follows:

9 S 4-A. TAX CREDIT; REDUCED ELECTRIC AND GAS RATES. NOTWITHSTANDING  
10 ANY OTHER PROVISION OF GENERAL, SPECIAL OR LOCAL LAW TO THE CONTRARY,  
11 ELECTRIC OR GAS UTILITY LIABLE FOR A TAX ASSESSED OR LEVIED BY THE STATE  
12 PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED EIGHTY-SIX-A OF THIS  
13 CHAPTER SHALL HAVE A CREDIT AGAINST ANY SUCH TAX IN THE AMOUNT OF ONE  
14 HUNDRED PERCENT OF ANY LOSS OF REVENUE ANY SUCH UTILITY HAS INCURRED AS  
15 TO THE IMPLEMENTATION OF A REDUCED RATE PURSUANT TO THE PROVISIONS OF  
16 SECTION SIXTY-FIVE-C OF THE PUBLIC SERVICE LAW. THE COMMISSIONER IS  
17 HEREBY AUTHORIZED TO ADOPT RULES AND REGULATIONS TO IMPLEMENT THE  
18 PROVISIONS OF THIS SECTION.

19 S 4. Subparagraph (i) of paragraph (b) of subdivision 12 of section  
20 210 of the tax law, as amended by chapter 637 of the laws of 2008, is  
21 amended to read as follows:

22 (i) A credit shall be allowed under this subdivision with respect to  
23 tangible personal property and other tangible property, including build-  
24 ings and structural components of buildings, which are: depreciable  
25 pursuant to section one hundred sixty-seven of the internal revenue  
26 code, have a useful life of four years or more, are acquired by purchase  
27 as defined in section one hundred seventy-nine (d) of the internal  
28 revenue code, have a situs in this state and are (A) principally used by  
29 the taxpayer in the production of goods by manufacturing, processing,  
30 assembling, refining, mining, extracting, farming, agriculture, horti-  
31 culture, floriculture, viticulture [or], commercial fishing, OR ELIGIBLE  
32 BUSINESS ENTERPRISE AS DETERMINED BY THE COMMISSIONER OF HOUSING AND  
33 COMMUNITY RENEWAL PURSUANT TO SECTION NINE HUNDRED EIGHT-FIVE OF THE  
34 GENERAL MUNICIPAL LAW, (B) industrial waste treatment facilities or air  
35 pollution control facilities, used in the taxpayer's trade or business,  
36 (C) research and development property, (D) principally used in the ordi-  
37 nary course of the taxpayer's trade or business as a broker or dealer in  
38 connection with the purchase or sale (which shall include but not be  
39 limited to the issuance, entering into, assumption, offset, assignment,  
40 termination, or transfer) of stocks, bonds or other securities as  
41 defined in section four hundred seventy-five (c)(2) of the Internal  
42 Revenue Code, or of commodities as defined in section four hundred  
43 seventy-five (e) of the Internal Revenue Code, (E) principally used in  
44 the ordinary course of the taxpayer's trade or business of providing  
45 investment advisory services for a regulated investment company as  
46 defined in section eight hundred fifty-one of the Internal Revenue Code,  
47 or lending, loan arrangement or loan origination services to customers  
48 in connection with the purchase or sale (which shall include but not be  
49 limited to the issuance, entering into, assumption, offset, assignment,  
50 termination, or transfer) of securities as defined in section four  
51 hundred seventy-five (c)(2) of the Internal Revenue Code, (F) principal-  
52 ly used in the ordinary course of the taxpayer's business as an exchange  
53 registered as a national securities exchange within the meaning of  
54 sections 3(a)(1) and 6(a) of the Securities Exchange Act of 1934 or a  
55 board of trade as defined in section 1410(a)(1) of the New York Not-for-  
56 Profit Corporation Law or as an entity that is wholly owned by one or

1 more such national securities exchanges or boards of trade and that  
2 provides automation or technical services thereto, or (G) principally  
3 used as a qualified film production facility including qualified film  
4 production facilities having a situs in an empire zone designated as  
5 such pursuant to article eighteen-B of the general municipal law, where  
6 the taxpayer is providing three or more services to any qualified film  
7 production company using the facility, including such services as a  
8 studio lighting grid, lighting and grip equipment, multi-line phone  
9 service, broadband information technology access, industrial scale elec-  
10 trical capacity, food services, security services, and heating, venti-  
11 lation and air conditioning. For purposes of clauses (D), (E) and (F) of  
12 this subparagraph, property purchased by a taxpayer affiliated with a  
13 regulated broker, dealer, registered investment adviser, national secu-  
14 rities exchange or board of trade, is allowed a credit under this subdivi-  
15 sion if the property is used by its affiliated regulated broker, deal-  
16 er, registered investment adviser, national securities exchange or board  
17 of trade in accordance with this subdivision. For purposes of determin-  
18 ing if the property is principally used in qualifying uses, the uses by  
19 the taxpayer described in clauses (D) and (E) of this subparagraph may  
20 be aggregated. In addition, the uses by the taxpayer, its affiliated  
21 regulated broker, dealer, and registered investment adviser under either  
22 or both of those clauses may be aggregated. Provided, however, a  
23 taxpayer shall not be allowed the credit provided by clauses (D), (E)  
24 and (F) of this subparagraph unless (I) eighty percent or more of the  
25 employees performing the administrative and support functions resulting  
26 from or related to the qualifying uses of such equipment are located in  
27 this state or (II) the average number of employees that perform the  
28 administrative and support functions resulting from or related to the  
29 qualifying uses of such equipment and are located in this state during  
30 the taxable year for which the credit is claimed is equal to or greater  
31 than ninety-five percent of the average number of employees that perform  
32 these functions and are located in this state during the thirty-six  
33 months immediately preceding the year for which the credit is claimed,  
34 or (III) the number of employees located in this state during the taxa-  
35 ble year for which the credit is claimed is equal to or greater than  
36 ninety percent of the number of employees located in this state on  
37 December thirty-first, nineteen hundred ninety-eight or, if the taxpayer  
38 was not a calendar year taxpayer in nineteen hundred ninety-eight, the  
39 last day of its first taxable year ending after December thirty-first,  
40 nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in  
41 this state after the taxable year beginning in nineteen hundred ninety-  
42 eight, then the taxpayer is not required to satisfy the employment test  
43 provided in the preceding sentence of this subparagraph for its first  
44 taxable year. For purposes of clause (III) of this subparagraph the  
45 employment test will be based on the number of employees located in this  
46 state on the last day of the first taxable year the taxpayer is subject  
47 to tax in this state. If the uses of the property must be aggregated to  
48 determine whether the property is principally used in qualifying uses,  
49 then either each affiliate using the property must satisfy this employ-  
50 ment test or this employment test must be satisfied through the aggre-  
51 gation of the employees of the taxpayer, its affiliated regulated  
52 broker, dealer, and registered investment adviser using the property.  
53 For purposes of this subdivision, the term "goods" shall not include  
54 electricity.

1 S 5. Subparagraph (A) of paragraph 2 of subsection (a) of section 606  
2 of the tax law, as amended by chapter 637 of the laws of 2008, is  
3 amended to read as follows:

4 (A) A credit shall be allowed under this subsection with respect to  
5 tangible personal property and other tangible property, including build-  
6 ings and structural components of buildings, which are: depreciable  
7 pursuant to section one hundred sixty-seven of the internal revenue  
8 code, have a useful life of four years or more, are acquired by purchase  
9 as defined in section one hundred seventy-nine (d) of the internal  
10 revenue code, have a situs in this state and are (i) principally used by  
11 the taxpayer in the production of goods by manufacturing, processing,  
12 assembling, refining, mining, extracting, farming, agriculture, horti-  
13 culture, floriculture, viticulture [or], commercial fishing, OR ELIGIBLE  
14 BUSINESS ENTERPRISE AS DETERMINED BY THE COMMISSIONER OF HOUSING AND  
15 COMMUNITY RENEWAL PURSUANT TO SECTION NINE HUNDRED EIGHT-FIVE OF THE  
16 GENERAL MUNICIPAL LAW, (ii) industrial waste treatment facilities or air  
17 pollution control facilities, used in the taxpayer's trade or business,  
18 (iii) research and development property, (iv) principally used in the  
19 ordinary course of the taxpayer's trade or business as a broker or deal-  
20 er in connection with the purchase or sale (which shall include but not  
21 be limited to the issuance, entering into, assumption, offset, assign-  
22 ment, termination, or transfer) of stocks, bonds or other securities as  
23 defined in section four hundred seventy-five (c)(2) of the Internal  
24 Revenue Code, or of commodities as defined in section 475(e) of the  
25 Internal Revenue Code, (v) principally used in the ordinary course of  
26 the taxpayer's trade or business of providing investment advisory  
27 services for a regulated investment company as defined in section eight  
28 hundred fifty-one of the Internal Revenue Code, or lending, loan  
29 arrangement or loan origination services to customers in connection with  
30 the purchase or sale (which shall include but not be limited to the  
31 issuance, entering into, assumption, offset, assignment, termination, or  
32 transfer) of securities as defined in section four hundred seventy-five  
33 (c)(2) of the Internal Revenue Code, or (vi) principally used as a qual-  
34 ified film production facility including qualified film production  
35 facilities having a situs in an empire zone designated as such pursuant  
36 to article eighteen-B of the general municipal law, where the taxpayer  
37 is providing three or more services to any qualified film production  
38 company using the facility, including such services as a studio lighting  
39 grid, lighting and grip equipment, multi-line phone service, broadband  
40 information technology access, industrial scale electrical capacity,  
41 food services, security services, and heating, ventilation and air  
42 conditioning. For purposes of clauses (iv) and (v) of this subparagraph,  
43 property purchased by a taxpayer affiliated with a regulated broker,  
44 dealer, or registered investment adviser is allowed a credit under this  
45 subsection if the property is used by its affiliated regulated broker,  
46 dealer or registered investment adviser in accordance with this  
47 subsection. For purposes of determining if the property is principally  
48 used in qualifying uses, the uses by the taxpayer described in clauses  
49 (iv) and (v) of this subparagraph may be aggregated. In addition, the  
50 uses by the taxpayer, its affiliated regulated broker, dealer and regis-  
51 tered investment adviser under either or both of those clauses may be  
52 aggregated. Provided, however, a taxpayer shall not be allowed the cred-  
53 it provided by clauses (iv) and (v) of this subparagraph unless (I)  
54 eighty percent or more of the employees performing the administrative  
55 and support functions resulting from or related to the qualifying uses  
56 of such equipment are located in this state, or (II) the average number

1 of employees that perform the administrative and support functions  
2 resulting from or related to the qualifying uses of such equipment and  
3 are located in this state during the taxable year for which the credit  
4 is claimed is equal to or greater than ninety-five percent of the aver-  
5 age number of employees that perform these functions and are located in  
6 this state during the thirty-six months immediately preceding the year  
7 for which the credit is claimed, or (III) the number of employees  
8 located in this state during the taxable year for which the credit is  
9 claimed is equal to or greater than ninety percent of the number of  
10 employees located in this state on December thirty-first, nineteen  
11 hundred ninety-eight or, if the taxpayer was not a calendar year taxpay-  
12 er in nineteen hundred ninety-eight, the last day of its first taxable  
13 year ending after December thirty-first, nineteen hundred ninety-eight.  
14 If the taxpayer becomes subject to tax in this state after the taxable  
15 year beginning in nineteen hundred ninety-eight, then the taxpayer is  
16 not required to satisfy the employment test provided in the preceding  
17 sentence of this subparagraph for its first taxable year. For the  
18 purposes of clause (III) of this subparagraph the employment test will  
19 be based on the number of employees located in this state on the last  
20 day of the first taxable year the taxpayer is subject to tax in this  
21 state. If the uses of the property must be aggregated to determine  
22 whether the property is principally used in qualifying uses, then either  
23 each affiliate using the property must satisfy this employment test or  
24 this employment test must be satisfied through the aggregation of the  
25 employees of the taxpayer, its affiliated regulated broker, dealer, and  
26 registered investment adviser using the property. For purposes of this  
27 subsection, the term "goods" shall not include electricity.

28 S 6. The real property tax law is amended by adding a new section  
29 420-d to read as follows:

30 S 420-D. REAL PROPERTY TAX ABATEMENTS. NEWLY CONSTRUCTED OR SUBSTAN-  
31 Tially REHABILITATED RESIDENTIAL DWELLINGS LOCATED WITHIN HOUSING OPPOR-  
32 TUNITY ZONES DESIGNATED PURSUANT TO ARTICLE NINETEEN-AA OF THE GENERAL  
33 MUNICIPAL LAW SHALL BE EXEMPT FROM ALL TAXES IMPOSED BY A MUNICIPAL  
34 CORPORATION, INCLUDING THOSE IMPOSED BY A SCHOOL DISTRICT, OTHER THAN  
35 ASSESSMENTS FOR LOCAL IMPROVEMENTS, DURING CONSTRUCTION OR REHABILI-  
36 TATION, SO LONG AS SUCH DWELLING IS USED FOR RESIDENTIAL UNIT PURPOSES  
37 FOR A PERIOD NOT TO EXCEED TEN YEARS IN THE AGGREGATE AFTER THE TAXABLE  
38 STATUS DATE IMMEDIATELY FOLLOWING THE COMPLETION THEREOF, CALCULATED NOT  
39 TO EXCEED THE FOLLOWING EXEMPTIONS: TWO YEARS OF FULL EXEMPTION FOLLOWED  
40 BY TWO YEARS OF EXEMPTION FROM EIGHTY PERCENT OF SUCH TAXATION, FOLLOWED  
41 BY THREE YEARS OF EXEMPTION FROM SIXTY PERCENT OF SUCH TAXATION,  
42 FOLLOWED BY TWO YEARS OF EXEMPTION FROM FORTY PERCENT OF SUCH TAXATION,  
43 FOLLOWED BY TWO YEARS OF EXEMPTION FROM TWENTY PERCENT OF SUCH TAXATION;  
44 PROVIDED THAT TAXES SHALL BE PAID DURING ANY SUCH PERIOD AT LEAST IN THE  
45 AMOUNT OF THE TAXES PAID ON SUCH LAND AND IMPROVEMENTS THEREON DURING  
46 THE TAX YEAR PRECEDING THE COMMENCEMENT OF SUCH CONSTRUCTION OR REHABILI-  
47 TATION AND THAT THE EXEMPTION FROM TAXES SHALL NOT BE AVAILED OF  
48 CONCURRENTLY UNDER ANY OTHER LAW.

49 S 7. This act shall take effect on the first of October next succeed-  
50 ing the date on which it shall have become a law.