

2831

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. FITZPATRICK, FINCH, RABBITT, REILICH -- Multi-Sponsored by -- M. of A. BACALLES, BARCLAY, BARRA, BURLING, CONTE, CROUCH, ERRIGO, GIGLIO, KOLB, McDONOUGH, O'MARA, QUINN, RAIA, SCOZZAFAVA, TEDISCO, THIELE, WALKER -- read once and referred to the Committee on Housing

AN ACT to amend the public housing law, in relation to expanding the New York state low income housing tax credit program to certain one to four family residences

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

1 Section 1. Subdivisions 6 and 7 of section 21 of the public housing
2 law, as added by section 1 of part CC of chapter 63 of the laws of 2000,
3 are amended and four new subdivisions 8, 9, 10 and 11 are added to read
4 as follows:

5 6. "Qualified basis" of an eligible low-income building means the
6 qualified basis of such building determined under section 42(c) of the
7 internal revenue code, or which would be determined under such section
8 if the 40-90 test specified in paragraph (b) of subdivision five of this
9 section applied under such section 42 to determine if such building were
10 part of a qualified low-income housing project OR IN THE CASE OF A QUAL-
11 IFIED RESIDENCE, MEANS ITS ADJUSTED BASIS (EXCLUDING LAND) IMMEDIATELY
12 BEFORE THE SALE OF SUCH RESIDENCE.

13 7. References in this article to [section] SECTIONS 5, 42 AND 143 of
14 the internal revenue code shall mean such section as amended from time
15 to time.

16 8. "QUALIFIED RESIDENCE" MEANS ANY RESIDENCE

17 (A) WHICH IS LOCATED:

18 (I) IN A CENSUS TRACT IN WHICH SEVENTY PERCENT OF THE FAMILIES HAVE A
19 MEDIAN GROSS INCOME THAT IS LESS THAN NINETY PERCENT OF THE GREATER OF
20 AREA OR STATEWIDE MEDIAN GROSS INCOME,

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

LBD02730-01-9

1 (II) IN A RURAL AREA (DEFINED UNDER SECTION 520 OF THE FEDERAL HOUSING
2 ACT OF 1949),

3 (III) ON A RESERVATION FOR A FEDERALLY RECOGNIZED INDIAN TRIBE, OR

4 (IV) IN AN AREA OF CHRONIC ECONOMIC DISTRESS, AS DEFINED BY SECTION
5 143 OF THE INTERNAL REVENUE CODE; AND

6 (B) WHICH IS PURCHASED BY A QUALIFIED BUYER.

7 9. "RESIDENCE" MEANS

8 (A) A SINGLE-FAMILY HOME CONTAINING ONE TO FOUR HOUSING UNITS, OR

9 (B) A CONDOMINIUM UNIT, OR STOCK IN A COOPERATIVE HOUSING CORPORATION.

10 10. "QUALIFIED BUYER" MEANS A PERSON OR PERSONS OF LOW OR MODERATE
11 INCOME AS DEFINED IN SUBDIVISION FOURTEEN OF SECTION TWENTY-FOUR HUNDRED
12 TWO OF THE PUBLIC AUTHORITIES LAW.

13 11. "SUBSTANTIALLY REHABILITATES" MEANS REHABILITATION EXPENDITURES
14 PAID OR INCURRED WITH RESPECT TO A QUALIFIED RESIDENCE THAT ARE AT LEAST
15 FIFTEEN THOUSAND DOLLARS.

16 S 2. Subdivisions 1, 2, 3, 4 and 5 of section 22 of the public housing
17 law, subdivisions 1, 2, 3 and 5 as added by section 1 of part CC of
18 chapter 63 of the laws of 2000 and subdivision 4 as amended by section 1
19 of part XX-1 of chapter 57 of the laws of 2008, are amended to read as
20 follows:

21 1. A taxpayer subject to tax under article nine-A, twenty-two, thir-
22 ty-two or thirty-three of the tax law which owns an interest in one or
23 more eligible low-income buildings OR WHO SUBSTANTIALLY REHABILITATES OR
24 CONSTRUCTS A QUALIFIED RESIDENCE shall be allowed a credit against such
25 tax for the amount of low-income housing credit allocated by the commis-
26 sioner to each such building. Except as provided in subdivision two of
27 this section, the credit amount so allocated shall be allowed as a cred-
28 it against the tax for the ten taxable years in the credit period.

29 2. Adjustment of first-year credit allowed in eleventh year. The cred-
30 it allowable for the first taxable year of the credit period with
31 respect to any building OR QUALIFIED RESIDENCE shall be adjusted using
32 the rules of section 42(f)(2) of the internal revenue code (relating to
33 first-year adjustment of qualified basis by the weighted average of
34 low-income to total residential units), and any reduction in first-year
35 credit by reason of such adjustment shall be allowable for the first
36 taxable year following the credit period.

37 3. Amount of credit. Except as provided in subdivisions four and five
38 of this section, the amount of low-income housing credit shall be the
39 applicable percentage of the qualified basis of each eligible low-income
40 building OR QUALIFIED RESIDENCE.

41 4. Statewide limitation. The aggregate dollar amount of credit which
42 the commissioner may allocate to eligible low-income buildings under
43 this article shall be twenty million dollars. THE AGGREGATE DOLLAR
44 AMOUNT OF CREDIT WHICH THE COMMISSIONER MAY ALLOCATE TO ELIGIBLE QUALI-
45 FIED RESIDENCES SHALL BE SIX MILLION DOLLARS. The limitation provided by
46 this subdivision applies only to allocation of the aggregate dollar
47 amount of credit by the commissioner, and does not apply to allowance to
48 a taxpayer of the credit with respect to an eligible low-income building
49 OR A QUALIFIED RESIDENCE for each year of the credit period.

50 5. Building limitation. The dollar amount of credit allocated to any
51 building shall not exceed the amount the commissioner determines is
52 necessary for the financial feasibility of the project and the viability
53 of the building as an eligible low-income building OR AS A QUALIFIED
54 RESIDENCE throughout the credit period. In allocating a dollar amount of
55 credit to any building, the commissioner shall specify the applicable
56 percentage and the maximum qualified basis which may be taken into

1 account under this article with respect to such building. The applicable
2 percentage and the maximum qualified basis with respect to a building
3 shall not exceed the amounts determined in subdivisions one and six,
4 respectively, of section twenty-one of this article.

5 S 3. Section 23 of the public housing law, as added by section 1 of
6 part CC of chapter 63 of the laws of 2000, is amended to read as
7 follows:

8 S 23. Project monitoring. The commissioner shall establish such proce-
9 dures as he deems necessary for monitoring compliance of an eligible
10 low-income building OR QUALIFIED RESIDENCE with the provisions of this
11 article, and for notifying the commissioner of taxation and finance of
12 any such noncompliance of which he becomes aware.

13 S 4. This act shall take effect immediately.