

2359

2011-2012 Regular Sessions

I N A S S E M B L Y

January 18, 2011

Introduced by M. of A. GIBSON -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the New York state urban development corporation act, in relation to enacting the food retail establishment subsidization for healthy communities (FRESH Communities) act; and to amend the tax law, in relation to establishing the retail food establishment living wages tax credit

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "food retail establishment subsidization for healthy communities
3 act".

4 S 2. Legislative intent. The legislature finds that the lack of access
5 to fresh foods is a problem of growing concern in many communities
6 across the state. Substantial increases in urban land values and rents,
7 limited access to financing and other economic pressures have left many
8 lower-income residents in urban and rural areas underserved by supermar-
9 kets and other food retail establishments. The resulting lack of access
10 to a variety of fresh food retailers makes it more difficult and expen-
11 sive for these residents to maintain a nutritionally balanced diet and
12 leads to increased public health costs, dilutes the value of public
13 assistance for food purchases, leads to greater travel times and energy
14 expenditures to obtain fresh food, and deprives the state's farmers of
15 markets for their products. Providing access to financial assistance for
16 urban and rural supermarkets in underserved areas will remedy these
17 adverse conditions, create employment opportunities and help to revital-
18 ize and stabilize currently underserved neighborhoods.

19 S 3. Paragraph (k) of subdivision 1 of section 16-m of section 1 of
20 chapter 174 of the laws of 1968, constituting the New York state urban
21 development corporation act, as added by section 4 of part FF of chapter

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

LBD06275-01-1

1 59 of the laws of 2006, is amended and a new paragraph (1) is added to
2 read as follows:

3 (k) Assistance for regional partnership proposals, as provided in
4 subdivision 12 of section 3154 of the public authorities law[.]; AND

5 (1) LOANS, LOAN GUARANTEES, INTEREST SUBSIDIES AND GRANTS TO BUSI-
6 NESSES, MUNICIPALITIES, NOT-FOR-PROFIT CORPORATIONS OR LOCAL DEVELOPMENT
7 CORPORATIONS FOR THE PURPOSE OF ATTRACTING, MAINTAINING OR PERMITTING
8 THE EXPANSION OF FOOD RETAIL ESTABLISHMENTS IN UNDERSERVED AREAS. FOR
9 PURPOSES OF THIS PARAGRAPH, "UNDERSERVED AREAS" SHALL INCLUDE LOW OR
10 MODERATE-INCOME CENSUS TRACTS, AREAS OF BELOW AVERAGE SUPERMARKET DENSI-
11 TY OR HAVING A SUPERMARKET CUSTOMER BASE WITH MORE THAN FIFTY PERCENT
12 LIVING IN LOW-INCOME CENSUS TRACTS, OR OTHER AREAS DEMONSTRATED TO HAVE
13 SIGNIFICANT ACCESS LIMITATIONS DUE TO TRAVEL DISTANCE, AS DETERMINED BY
14 THE CORPORATION, AND "FOOD RETAIL ESTABLISHMENTS" SHALL INCLUDE SUPER-
15 MARKETS AND OTHER GROCERY RETAILERS THAT OPERATE ON A SELF-SERVICE BASIS
16 AND SELL A MINIMUM PERCENTAGE OF PRODUCE, MEAT, POULTRY, SEAFOOD, BAKED
17 GOODS AND/OR DAIRY PRODUCTS AND WHICH:

- 18 (A) PARTICIPATES IN THE PRIDE OF NEW YORK PROGRAM;
- 19 (B) ACCEPT PAYMENT FROM ELECTRONIC BENEFIT TRANSFER THROUGH THE
20 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND THROUGH THE SPECIAL
21 SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN;
- 22 (C) DO NOT CHARGE A MEMBERSHIP FEE;
- 23 (D) HIRE RESIDENTS LIVING WITHIN A TWENTY MILE RADIUS OF SUCH RETAIL
24 FOOD ESTABLISHMENT; AND
- 25 (E) PAY ITS EMPLOYEES AN AMOUNT AT LEAST EQUAL TO A LIVING WAGE RATE,
26 WHICH SHALL BE DETERMINED BY THE COMMISSIONER OF LABOR; PROVIDED, HOWEV-
27 ER, THAT SUCH TERM SHALL NOT INCLUDE CONVENIENCE STORES, AND THAT REAL
28 ESTATE PROJECTS WHICH HAVE MULTI-TENANT USES ARE NOT ELIGIBLE UNLESS A
29 MINIMUM OF FIFTY PERCENT OF THE BUILDING AREA FOR WHICH ASSISTANCE IS
30 SOUGHT WILL BE USED FOR FOOD RETAIL ESTABLISHMENTS.

31 S 4. Section 210 of the tax law is amended by adding a new subdivision
32 43 to read as follows:

33 43. RETAIL FOOD ESTABLISHMENT LIVING WAGES TAX CREDIT. (A) GENERAL. A
34 TAXPAYER THAT IS A RETAIL FOOD ESTABLISHMENT AS DEFINED IN PARAGRAPH (B)
35 OF THIS SUBDIVISION SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
36 THIS ARTICLE, FOR PROVIDING LIVING WAGES TO ITS EMPLOYEES.

37 (B) RETAIL FOOD ESTABLISHMENTS. AN ELIGIBLE TAXPAYER SHALL BE A RETAIL
38 FOOD ESTABLISHMENT AS DEFINED IN PARAGRAPH (L) OF SUBDIVISION ONE OF
39 SECTION SIXTEEN-M OF SECTION ONE OF THE NEW YORK STATE URBAN DEVELOPMENT
40 CORPORATION ACT.

41 (C) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE
42 DIFFERENCE BETWEEN THE NEW YORK STATE MINIMUM WAGE ESTABLISHED PURSUANT
43 TO SECTION SIX HUNDRED FIFTY-TWO OF THE LABOR LAW AND THE LIVING WAGE,
44 TO BE DEFINED BY THE COMMISSIONER OF LABOR.

45 (D) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-
46 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
47 HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVI-
48 SION ONE OF THIS SECTION. PROVIDED, HOWEVER, IF THE AMOUNT OF CREDIT
49 ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
50 SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
51 MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED
52 FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

53 S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
54 of the tax law is amended by adding a new clause (xxxi) to read as
55 follows:

56 (XXXI) RETAIL FOOD AMOUNT OF CREDIT

1	ESTABLISHMENT TAX CREDIT UNDER	UNDER SUBDIVISION
2	SUBSECTION (K-1)	FORTY-THREE OF SECTION
3		TWO HUNDRED TEN

4 S 6. Section 606 of the tax law is amended by adding a new subsection
5 (k-1) to read as follows:

6 (K-1) RETAIL FOOD ESTABLISHMENT LIVING WAGES TAX CREDIT. (1) A TAXPAY-
7 ER THAT IS A RETAIL FOOD ESTABLISHMENT AS DEFINED IN PARAGRAPH (1) OF
8 SUBDIVISION ONE OF SECTION SIXTEEN-M OF SECTION ONE OF THE NEW YORK
9 STATE URBAN DEVELOPMENT CORPORATION ACT SHALL BE ALLOWED A CREDIT
10 AGAINST THE TAX IMPOSED BY THE ARTICLE. THE AMOUNT OF THE CREDIT SHALL
11 BE EQUAL TO THE DIFFERENCE BETWEEN THE NEW YORK STATE MINIMUM WAGE
12 ESTABLISHED PURSUANT TO SECTION SIX HUNDRED FIFTY-TWO OF THE LABOR LAW
13 AND THE LIVING WAGE TO BE DETERMINED BY THE COMMISSIONER OF LABOR.

14 (2) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY
15 TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS
16 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
17 ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS
18 ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

19 S 7. This act shall take effect on the first of April next succeeding
20 the date on which it shall have become a law; provided, however:

21 1. that the urban development corporation shall be immediately author-
22 ized to take any and all actions necessary to fully implement the
23 provision of section three of this act on or before such effective date;
24 and provided further, that the amendments to section 16-m of the urban
25 development corporation act made by section three of this act shall not
26 affect the expiration of such section and shall be deemed to expire
27 therewith; and

28 2. that the credit established by sections four, five and six of this
29 act shall apply to taxable years beginning on or after January 1, 2011.