

9993

I N A S S E M B L Y

April 30, 2012

Introduced by M. of A. SCHIMMINGER -- read once and referred to the
Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a credit
against income tax for the rehabilitation of distressed residential
properties

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

- 1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (uu) to read as follows:
3 (UU) CREDIT FOR REHABILITATION OF DISTRESSED RESIDENTIAL PROPERTIES.
4 (1) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
5 TWELVE, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED,
6 AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY
7 PERCENT OF THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE TAXPAY-
8 ER WITH RESPECT TO A QUALIFIED DISTRESSED RESIDENTIAL PROPERTY.
9 PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND
10 DOLLARS.
11 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED
12 IN THE TAXABLE YEAR IN WHICH THE PROPERTY IS DEEMED A CERTIFIED REHABIL-
13 ITATION.
14 (3) IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR
15 ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
16 EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE
17 APPLIED AGAINST THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS, BUT SHALL NOT
18 EXCEED TWENTY-FIVE THOUSAND DOLLARS.
19 (4) (A) THE TERM "QUALIFIED REHABILITATION EXPENDITURE" MEANS, FOR
20 PURPOSES OF THIS SUBSECTION, ANY AMOUNT PROPERLY CHARGEABLE TO A CAPITAL
21 ACCOUNT:
22 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED
23 DISTRESSED RESIDENTIAL PROPERTY, AND
24 (II) FOR PROPERTY FOR WHICH DEPRECIATION WOULD BE ALLOWABLE UNDER
25 SECTION 168 OF THE INTERNAL REVENUE CODE.
26 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING
27 OR INTEREST THEREIN, (II) ANY EXPENDITURE ATTRIBUTABLE TO THE ENLARGE-

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

LBD15277-01-2

1 MENT OF AN EXISTING BUILDING, OR (III) ANY EXPENDITURE MADE PRIOR TO
2 JANUARY FIRST, TWO THOUSAND TWELVE OR AFTER DECEMBER THIRTY-FIRST, TWO
3 THOUSAND SEVENTEEN.

4 (5) THE TERM "CERTIFIED REHABILITATION" MEANS, FOR PURPOSES OF
5 DISTRESSED RESIDENTIAL PROPERTY IN THIS SUBSECTION, ANY REHABILITATION
6 OF A CERTIFIED DISTRESSED RESIDENTIAL PROPERTY WHICH HAS BEEN APPROVED
7 AND CERTIFIED BY A LOCAL GOVERNMENT AS BEING COMPLETED, WITH A CERTIF-
8 ICATE OF OCCUPANCY ISSUED, AND THAT THE COSTS ARE CONSISTENT WITH THE
9 WORK COMPLETED. SUCH CERTIFICATION SHALL BE ACCEPTABLE AS PROOF THAT THE
10 EXPENDITURES RELATED TO SUCH REHABILITATION QUALIFY AS QUALIFIED REHA-
11 BILITATION EXPENDITURES FOR PURPOSES OF THE CREDIT ALLOWED UNDER PARA-
12 GRAPH ONE OF THIS SUBSECTION.

13 (6) (A) THE TERM "QUALIFIED RESIDENTIAL PROPERTY" MEANS, FOR PURPOSES
14 OF THIS SUBSECTION, A DISTRESSED RESIDENTIAL PROPERTY LOCATED WITHIN NEW
15 YORK STATE:

- 16 (I) WHICH HAS BEEN SUBSTANTIALLY REHABILITATED,
- 17 (II) WHICH WAS CONSTRUCTED PRIOR TO JANUARY FIRST, NINETEEN HUNDRED
18 SIXTY-TWO,
- 19 (III) WHICH IS OWNED BY THE TAXPAYER, AND
- 20 (IV) WHICH IS LOCATED WITHIN A DISTRESSED RESIDENTIAL OR MIXED-USE
21 AREA, AS IDENTIFIED BY EACH LOCALITY THROUGH LOCAL LAW, THAT IS DEEMED
22 AN AREA IN NEED OF COMMUNITY RENEWAL DUE TO DILAPIDATION AND VACANCIES.

23 (B) IF THE DISTRESSED RESIDENTIAL PROPERTY IS RENTAL PROPERTY, SUCH
24 PROPERTY SHALL HAVE BEEN VACANT FOR AT LEAST SIX MONTHS WHILE ACTIVELY
25 MARKETED FOR LEASE.

26 (C) A BUILDING SHALL BE TREATED AS HAVING BEEN "SUBSTANTIALLY REHABIL-
27 ITATED" IF THE QUALIFIED REHABILITATION EXPENDITURES IN RELATION TO SUCH
28 BUILDING TOTAL TEN THOUSAND DOLLARS OR MORE.

29 (7) (A) IF THE TAXPAYER DISPOSES OF SUCH TAXPAYER'S INTEREST IN THE
30 QUALIFIED DISTRESSED RESIDENTIAL PROPERTY, OR SUCH PROPERTY CEASES TO BE
31 USED AS A RESIDENTIAL PROPERTY OF THE TAXPAYER WITHIN FIVE YEARS OF
32 RECEIVING THE CREDIT UNDER THIS SUBSECTION, THE TAXPAYER'S TAX IMPOSED
33 BY THIS ARTICLE FOR THE TAXABLE YEAR IN WHICH SUCH DISPOSITION OR CESSA-
34 TION OCCURS SHALL BE INCREASED BY THE RECAPTURE PORTION OF THE CREDIT
35 ALLOWED UNDER THIS SUBSECTION FOR ALL PRIOR TAXABLE YEARS WITH RESPECT
36 TO SUCH REHABILITATION.

37 (B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE RECAPTURE
38 PORTION SHALL BE THE PRODUCT OF THE AMOUNT OF CREDIT CLAIMED BY THE
39 TAXPAYER MULTIPLIED BY A RATIO, THE NUMERATOR OF WHICH IS EQUAL TO SIXTY
40 LESS THE NUMBER OF MONTHS THE BUILDING IS OWNED OR USED AS RESIDENTIAL
41 PROPERTY BY THE TAXPAYER AND THE DENOMINATOR OF WHICH IS SIXTY.

42 S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
43 of the tax law is amended by adding a new clause (xxxiv) to read as
44 follows:

| | |
|--------------------------------------|---------------------------------|
| 45 (XXXIV) CREDIT FOR REHABILITATION | AMOUNT OF CREDIT |
| 46 OF DISTRESSED RESIDENTIAL | UNDER SUBDIVISION FORTY- |
| 47 PROPERTIES UNDER SUBSECTION (UU) | FIVE OF SECTION TWO HUNDRED TEN |

48 S 3. Section 210 of the tax law is amended by adding a new subdivision
49 45 to read as follows:

50 45. CREDIT FOR REHABILITATION OF DISTRESSED RESIDENTIAL PROPERTIES.
51 (1) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
52 TWELVE, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED,
53 AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY
54 PERCENT OF THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE TAXPAY-

1 ER WITH RESPECT TO A QUALIFIED DISTRESSED RESIDENTIAL PROPERTY.
2 PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND
3 DOLLARS.

4 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE ALLOWED
5 IN THE TAXABLE YEAR IN WHICH THE PROPERTY IS DEEMED A CERTIFIED REHABIL-
6 ITATION.

7 (3) IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR
8 ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
9 EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE
10 APPLIED AGAINST THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS, BUT SHALL NOT
11 EXCEED TWENTY-FIVE THOUSAND DOLLARS.

12 (4) (A) THE TERM "QUALIFIED REHABILITATION EXPENDITURE" MEANS, FOR
13 PURPOSES OF THIS SUBDIVISION, ANY AMOUNT PROPERLY CHARGEABLE TO A CAPI-
14 TAL ACCOUNT:

15 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED
16 RESIDENTIAL PROPERTY, AND

17 (II) FOR PROPERTY FOR WHICH DEPRECIATION WOULD BE ALLOWABLE UNDER
18 SECTION 168 OF THE INTERNAL REVENUE CODE.

19 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING
20 OR INTEREST THEREIN, (II) ANY EXPENDITURE ATTRIBUTABLE TO THE ENLARGE-
21 MENT OF AN EXISTING BUILDING, OR (III) ANY EXPENDITURE MADE PRIOR TO
22 JANUARY FIRST, TWO THOUSAND TWELVE OR AFTER DECEMBER THIRTY-FIRST, TWO
23 THOUSAND SEVENTEEN.

24 (5) THE TERM "CERTIFIED REHABILITATION" MEANS, FOR PURPOSES OF THIS
25 SUBDIVISION, ANY REHABILITATION OF A CERTIFIED DISTRESSED RESIDENTIAL
26 PROPERTY WHICH HAS BEEN APPROVED AND CERTIFIED BY A LOCAL GOVERNMENT AS
27 BEING COMPLETED, WITH A CERTIFICATE OF OCCUPANCY ISSUED, AND THAT THE
28 COSTS ARE CONSISTENT WITH THE WORK COMPLETED. SUCH CERTIFICATION SHALL
29 BE ACCEPTABLE AS PROOF THAT THE EXPENDITURES RELATED TO SUCH REHABILI-
30 TATION QUALIFY AS QUALIFIED REHABILITATION EXPENDITURES FOR PURPOSES OF
31 THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBDIVISION.

32 (6) (A) THE TERM "QUALIFIED RESIDENTIAL PROPERTY" MEANS, FOR PURPOSES
33 OF THIS SUBDIVISION, A DISTRESSED RESIDENTIAL PROPERTY LOCATED WITHIN
34 NEW YORK STATE:

35 (I) WHICH HAS BEEN SUBSTANTIALLY REHABILITATED,

36 (II) WHICH WAS CONSTRUCTED PRIOR TO JANUARY FIRST, NINETEEN HUNDRED
37 SIXTY-TWO,

38 (III) WHICH IS OWNED BY THE TAXPAYER, AND

39 (IV) WHICH IS LOCATED WITHIN A DISTRESSED RESIDENTIAL OR MIXED-USE
40 AREA, AS IDENTIFIED BY EACH LOCALITY THROUGH LOCAL LAW, THAT IS DEEMED
41 AN AREA IN NEED OF COMMUNITY RENEWAL DUE TO DILAPIDATION AND VACANCIES.

42 (B) IF THE DISTRESSED RESIDENTIAL PROPERTY IS RENTAL PROPERTY, SUCH
43 PROPERTY SHALL HAVE BEEN VACANT FOR AT LEAST SIX MONTHS WHILE ACTIVELY
44 MARKETED FOR LEASE.

45 (C) A BUILDING SHALL BE TREATED AS HAVING BEEN "SUBSTANTIALLY REHABIL-
46 ITATED" IF THE QUALIFIED REHABILITATION EXPENDITURES IN RELATION TO SUCH
47 BUILDING TOTAL TEN THOUSAND DOLLARS OR MORE.

48 (7) (A) IF THE TAXPAYER DISPOSES OF SUCH TAXPAYER'S INTEREST IN THE
49 QUALIFIED DISTRESSED RESIDENTIAL PROPERTY, OR SUCH PROPERTY CEASES TO BE
50 USED AS A RESIDENTIAL PROPERTY OF THE TAXPAYER WITHIN FIVE YEARS OF
51 RECEIVING THE CREDIT UNDER THIS SUBDIVISION, THE TAXPAYER'S TAX IMPOSED
52 BY THIS ARTICLE FOR THE TAXABLE YEAR IN WHICH SUCH DISPOSITION OR CESSA-
53 TION OCCURS SHALL BE INCREASED BY THE RECAPTURE PORTION OF THE CREDIT
54 ALLOWED UNDER THIS SUBDIVISION FOR ALL PRIOR TAXABLE YEARS WITH RESPECT
55 TO SUCH REHABILITATION.

1 (B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE RECAPTURE
2 PORTION SHALL BE THE PRODUCT OF THE AMOUNT OF CREDIT CLAIMED BY THE
3 TAXPAYER MULTIPLIED BY A RATIO, THE NUMERATOR OF WHICH IS EQUAL TO SIXTY
4 LESS THE NUMBER OF MONTHS THE BUILDING IS OWNED OR USED AS RESIDENTIAL
5 PROPERTY BY THE TAXPAYER AND THE DENOMINATOR OF WHICH IS SIXTY.

6 S 4. This act shall take effect immediately and shall apply to taxable
7 years beginning on or after January 1, 2012.