

2631

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 19, 2011

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Introduced by M. of A. FITZPATRICK, FINCH, RABBITT, REILICH -- Multi-Sponsored by -- M. of A. BARCLAY, BURLING, CONTE, CROUCH, GIGLIO, KOLB, McDONOUGH, RAIA, TEDISCO, THIELE -- 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,  
21    (II) IN A RURAL AREA (DEFINED UNDER SECTION 520 OF THE FEDERAL HOUSING  
22    ACT OF 1949),

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

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(III) ON A RESERVATION FOR A FEDERALLY RECOGNIZED INDIAN TRIBE, OR  
(IV) IN AN AREA OF CHRONIC ECONOMIC DISTRESS, AS DEFINED BY SECTION  
143 OF THE INTERNAL REVENUE CODE; AND

(B) WHICH IS PURCHASED BY A QUALIFIED BUYER.

9. "RESIDENCE" MEANS

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

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

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

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

S 2. Subdivisions 1, 2, 3, 4 and 5 of section 22 of the public housing  
law, subdivisions 1, 2, 3 and 5 as added by section 1 of part CC of  
chapter 63 of the laws of 2000 and subdivision 4 as amended by section 1  
of part P of chapter 57 of the laws of 2010, are amended to read as  
follows:

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

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

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

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

5. Building limitation. The dollar amount of credit allocated to any  
building shall not exceed the amount the commissioner determines is  
necessary for the financial feasibility of the project and the viability  
of the building as an eligible low-income building OR AS A QUALIFIED  
RESIDENCE throughout the credit period. In allocating a dollar amount of  
credit to any building, the commissioner shall specify the applicable  
percentage and the maximum qualified basis which may be taken into  
account under this article with respect to such building. The applicable  
percentage and the maximum qualified basis with respect to a building

1 shall not exceed the amounts determined in subdivisions one and six,  
2 respectively, of section twenty-one of this article.

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

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

11 S 4. This act shall take effect immediately.