

2425

2013-2014 Regular Sessions

I N   S E N A T E

January 17, 2013

---

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

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     (FRESH Communities) 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. Subdivision 1 of section 16-m of section 1 of chapter 174 of the  
20    laws of 1968, constituting the New York state urban development corpo-  
21    ration act, is amended by adding a new paragraph (o) to read as follows:

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

LBD03739-02-3

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

14 (A) PARTICIPATE IN THE PRIDE OF NEW YORK PROGRAM;

15 (B) ACCEPT PAYMENT FROM ELECTRONIC BENEFIT TRANSFER THROUGH THE  
16 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND THROUGH THE SPECIAL  
17 SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN;

18 (C) DO NOT CHARGE A MEMBERSHIP FEE;

19 (D) HIRE RESIDENTS LIVING WITHIN A TWENTY MILE RADIUS OF SUCH RETAIL  
20 FOOD ESTABLISHMENT; AND

21 (E) PAY ITS EMPLOYEES AN AMOUNT AT LEAST EQUAL TO A LIVING WAGE RATE,  
22 WHICH SHALL BE DETERMINED BY THE COMMISSIONER OF LABOR; PROVIDED, HOWEV-  
23 ER, THAT SUCH TERM SHALL NOT INCLUDE CONVENIENCE STORES, AND THAT REAL  
24 ESTATE PROJECTS WHICH HAVE MULTI-TENANT USES ARE NOT ELIGIBLE UNLESS A  
25 MINIMUM OF FIFTY PERCENT OF THE BUILDING AREA FOR WHICH ASSISTANCE IS  
26 SOUGHT WILL BE USED FOR FOOD RETAIL ESTABLISHMENTS.

27 S 4. Section 210 of the tax law is amended by adding a new subdivision  
28 46 to read as follows:

29 46. RETAIL FOOD ESTABLISHMENT LIVING WAGES TAX CREDIT. (A) GENERAL. A  
30 TAXPAYER THAT IS A RETAIL FOOD ESTABLISHMENT AS DEFINED IN PARAGRAPH (B)  
31 OF THIS SUBDIVISION SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY  
32 THIS ARTICLE, FOR PROVIDING LIVING WAGES TO ITS EMPLOYEES.

33 (B) RETAIL FOOD ESTABLISHMENTS. AN ELIGIBLE TAXPAYER SHALL BE A RETAIL  
34 FOOD ESTABLISHMENT AS DEFINED IN PARAGRAPH (O) OF SUBDIVISION ONE OF  
35 SECTION SIXTEEN-M OF SECTION ONE OF THE NEW YORK STATE URBAN DEVELOPMENT  
36 CORPORATION ACT.

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

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

49 S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
50 of the tax law is amended by adding a new clause (xxxv) to read as  
51 follows:

52 (XXXV) RETAIL FOOD	AMOUNT OF CREDIT
53 ESTABLISHMENT TAX CREDIT UNDER	UNDER SUBDIVISION
54 SUBSECTION (K-1)	FORTY-SIX OF SECTION
55	TWO HUNDRED TEN

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

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

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

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

18 1. the urban development corporation shall be immediately authorized  
19 to take any and all actions necessary to fully implement the provision  
20 of section three of this act on or before such effective date;

21 2. the amendments to section 16-m of the urban development corporation  
22 act made by section three of this act shall not affect the expiration of  
23 such section and shall be deemed to expire therewith; and

24 3. the credit established by sections four, five and six of this act  
25 shall apply to taxable years beginning on or after January 1, 2014.