

128--B

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. CUSICK, TITONE, MALLIOTAKIS, BORELLI -- read once and referred to the Committee on Economic Development -- recommitted to the Committee on Economic Development in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law and the tax law, in relation to enacting the New York state green economic development zones act

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

1 Section 1. This act shall be known and may be cited as the "New York
2 state green economic development zones act".

3 S 2. The general municipal law is amended by adding a new article 18-D
4 to read as follows:

5 ARTICLE 18-D
6 GREEN ECONOMIC DEVELOPMENT ZONES

7 SECTION 974. SHORT TITLE.

8 974-A. LEGISLATIVE FINDINGS AND DECLARATION.

9 974-B. DEFINITIONS.

10 974-C. RESPONSIBILITIES OF THE COMMISSIONER.

11 S 974. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
12 THE "NEW YORK STATE GREEN ECONOMIC DEVELOPMENT ZONES ACT".

13 S 974-A. LEGISLATIVE FINDINGS AND DECLARATION. IT IS HEREBY FOUND
14 AND DECLARED THAT THERE EXISTS WITHIN THE STATE THE NEED TO STIMULATE
15 EMPLOYMENT AND MORE EFFICIENT TRANSPORTATION BY UTILIZING THE EMERGING
16 GREEN TECHNOLOGY THAT WILL REDUCE THE OUTPUT OF CARBON IN THE ATMOSPHERE
17 OF THE STATE, IMPROVE THE STATE'S ENVIRONMENTAL QUALITY OF LIFE AND

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

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1 GENERAL HEALTH OF THE RESIDENTS. THIS NEED REQUIRES THE STATE GOVERNMENT
2 TO TARGET AREAS FOR EXTRAORDINARY ECONOMIC DEVELOPMENT PROGRAMS IN ORDER
3 TO STIMULATE PRIVATE INVESTMENT, PRIVATE BUSINESS DEVELOPMENT AND JOB
4 CREATION. IT IS THE PUBLIC POLICY OF THE STATE TO OFFER SPECIAL INCEN-
5 TIVES AND ASSISTANCE THAT WILL PROMOTE THE DEVELOPMENT OF NEW GREEN
6 BUSINESSES AND THE EXPANSION OF EXISTING BUSINESSES WITHIN PRE-DESIGNAT-
7 ED AREAS AND TO DO SO WITHOUT ENCOURAGING THE RELOCATION OF BUSINESS
8 INVESTMENT FROM OTHER AREAS OF THE STATE. IT IS FURTHER FOUND AND
9 DECLARED THAT IT IS THE PUBLIC POLICY OF THE STATE TO ACHIEVE THESE
10 GOALS THROUGH THE MUTUAL COOPERATION OF ALL LEVELS OF STATE AND LOCAL
11 GOVERNMENT AND THE BUSINESS COMMUNITY. STATEN ISLAND FACES UNIQUE AND
12 SERIOUS ECONOMIC DEVELOPMENT ISSUES THAT ARE NOT ENCOUNTERED BY OTHER
13 COMPARABLE COUNTIES AND MUNICIPALITIES IN THE REGION. THESE INCLUDE THE
14 COST OF TRANSPORTATION DUE TO DISTANCE, TOLLS AND TRAFFIC AS WELL AS THE
15 LIMITED DEVELOPMENT OPPORTUNITIES BECAUSE OF WETLANDS AND BROWNFIELDS.
16 SPECIAL ASSISTANCE THROUGH TAX BENEFITS IS REQUIRED TO ALLOW THE
17 PROPOSED AREA TO BE COMPETITIVE WITHIN THE REGION.

18 S 974-B. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS
19 SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE
20 ANOTHER OR DIFFERENT MEANING OR INTENT:

21 (A) "APPLICANT" SHALL MEAN THE COUNTY, CITY, TOWN OR VILLAGE SUBMIT-
22 TING AN APPLICATION IN THE MANNER AUTHORIZED BY LOCAL LAW FOR DESIG-
23 NATION OF AN AREA AS A GREEN ECONOMIC DEVELOPMENT ZONE.

24 (B) "ENTERPRISE" SHALL MEAN A BUSINESS ENTERPRISE THAT IS AUTHORIZED
25 TO DO BUSINESS IN THIS STATE AND IS INDEPENDENTLY OWNED AND OPERATED AND
26 FOUND TO COMPLY WITH GREEN ECONOMIC DEVELOPMENT ZONE CRITERIA.

27 (C) "GREEN BUSINESS" SHALL MEAN A BUSINESS THAT PRIMARILY OPERATES IN
28 ONE OR MORE OF THREE AREAS: PRODUCTION, SERVICE AND REPAIR, AND RESEARCH
29 AND DEVELOPMENT. A GREEN PRODUCTION COMPANY IS A COMPANY DEALING PRIMA-
30 RILY WITH THE MANUFACTURING AND DISTRIBUTION OF ENERGY EFFICIENCY TECH-
31 NOLOGIES AND GREENHOUSE GAS EMISSION REDUCTION TECHNOLOGIES. GREEN
32 PRODUCTION COMPANIES INCLUDE, BUT ARE NOT LIMITED TO, BIO FUEL DEVELOP-
33 MENT, SOLAR PANEL PRODUCTION OR ASSEMBLY, WIND TURBINE PRODUCTION OR
34 ASSEMBLY, CARBON CAPTURE AND STORAGE MECHANISM, CLEAN FUEL VEHICLES,
35 RENEWABLE ENERGY DEVELOPMENT, OR ENERGY EFFICIENCY TECHNOLOGIES. GREEN
36 PRODUCTION SHALL ALSO INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOW-
37 ING: (1) GREENHOUSE EMISSION REDUCTION TECHNOLOGIES; (2) THE ASSEMBLY
38 OF ESSENTIAL COMPONENTS FOR A CLEAN-FUELED VEHICLE; OR (3) ENERGY EFFI-
39 CIENCY TECHNOLOGIES; WHERE

40 (A) "GREENHOUSE GAS EMISSION REDUCTION TECHNOLOGIES" SHALL MEAN AND
41 INCLUDE, BUT NOT BE LIMITED TO: (I) COGENERATION TECHNOLOGIES, WHICH
42 SHALL MEAN ANY ONE OF THE SEVERAL TECHNOLOGIES WHEREIN WASTE HEAT FROM
43 ON-SITE ELECTRICAL GENERATION PROCESSES IS RECOVERED TO PROVIDE STEAM OR
44 HOT WATER TO MEET ON-SITE NEEDS, SUCH AS HEATING AND/OR AIR CONDITIONING
45 AND WHICH ATTAINS OVERALL SYSTEM EFFICIENCY AS ESTABLISHED BY THE
46 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, CONSIDERING BOTH THERMAL AND
47 ELECTRICAL PROCESSES TOGETHER; (II) FURNACE AND BOILER REPLACEMENTS AND
48 RETROFITS, PROVIDED THAT THE NEW OR RETROFITTED FURNACES AND BOILERS
49 SHALL NOT AT ANY TIME OPERATE ON DIESEL FUEL WITH SULFUR CONTENT GREATER
50 THAN 0.05 PERCENT BY WEIGHT; (III) THE PRODUCTION OF CLEAN-FUELED VEHI-
51 CLES OR THE CONVERSION OF EXISTING VEHICLES TO CLEAN-FUELED VEHICLES;
52 AND (IV) OTHER MEASURES THAT WILL REDUCE THE DEMAND FOR AND/OR THE
53 CONSUMPTION OF ENERGY INCLUDING FUELS, AS DETERMINED BY THE DEPARTMENT
54 OF ENVIRONMENTAL CONSERVATION WITH THE NEW YORK STATE ENERGY RESEARCH
55 AND DEVELOPMENT AUTHORITY;

(B) "CLEAN-FUELED VEHICLE" SHALL MEAN ANY MOTOR VEHICLE AS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, THAT USES ELECTRICITY, INCLUDING ELECTRICITY EITHER STORED OR GENERATED ON-BOARD, AS ITS PRIMARY MOTIVE FORCE, OR THAT IS FUELED BY NATURAL GAS, PROPANE, HYDROGEN OR ANY OTHER NON-CARBON PRODUCING FUEL;

(C) "ENERGY EFFICIENCY TECHNOLOGIES" SHALL MEAN TECHNOLOGIES THAT REDUCE THE CONSUMPTION OF ELECTRICITY INCLUDING BUT NOT LIMITED TO: (I) REPLACEMENT OF INEFFICIENT LIGHTING FIXTURES; (II) APPLIANCES AND EQUIPMENT THAT MEET ENERGY EFFICIENCY PERFORMANCE STANDARDS AS IDENTIFIED IN ARTICLE SIXTEEN OF THE ENERGY LAW; AND (III) OTHER SUCH MEASURES THAT WILL REDUCE THE DEMAND FOR AND/OR CONSUMPTION OF ELECTRICITY AS DETERMINED BY THE NEW YORK STATE ENERGY AND RESEARCH DEVELOPMENT AUTHORITY;

(D) "RENEWABLE ENERGY DEVELOPMENT" SHALL MEAN THE PURCHASE AND INSTALLATION OF TECHNOLOGIES DESIGNED TO CONVERT RENEWABLE ENERGY INTO ELECTRICITY OR OTHER END USES, WHERE RENEWABLE ENERGY SHALL MEAN RENEWABLE ENERGY RESOURCES AS DEFINED IN SUBDIVISION TWELVE OF SECTION 1-103 OF THE ENERGY LAW;

(E) "GREEN SERVICE AND REPAIR" SHALL MEAN ANY COMPANY THAT DEALS PRIMARILY WITH THE PROVISION OF SERVICES TO OTHER COMPANIES OR INDIVIDUALS IN A SUSTAINABLE OR ENERGY EFFICIENT MANNER. GREEN SERVICE AND REPAIR COMPANIES INCLUDE, BUT ARE NOT LIMITED TO, THOSE OFFERING SUCH SERVICES AS GREEN ROOFING, LEED CERTIFICATION AND INSPECTION SERVICES, THE GREEN BUILDING INITIATIVE'S GREEN GLOBES SYSTEM, USE AND SALE OF LOW VOC PAINTS, LOW ENERGY RADIANT FLOORING, WHITE, COATED, OR GREEN ROOF INSTALLATION, RECOVERY AND RECYCLING PROCESSING, REPLACEMENT OF INEFFICIENT TECHNOLOGIES, CLEAN-FUEL VEHICLE SALES AND REPAIR, COGENERATION TECHNOLOGY INSTALLATION AND REPAIR; AND

(F) "GREEN RESEARCH AND DEVELOPMENT" SHALL MEAN ANY ENTITY THAT WORKS PRIMARILY TO DISCOVER NEW KNOWLEDGE ABOUT GREEN PRODUCTS, PROCESSES, AND SERVICES, AND THEN APPLIES THAT KNOWLEDGE TO CREATE NEW AND IMPROVED GREEN PRODUCTS, PROCESSES, AND SERVICES THAT FILL MARKET NEEDS. GREEN RESEARCH AND DEVELOPMENT PROJECTS INCLUDE, BUT ARE NOT LIMITED TO, STUDIES INVOLVING IMPROVEMENTS TO RENEWABLE ENERGY TECHNOLOGY, SUSTAINABLE FARMING OR LANDSCAPING PROCESSES, WATER CONSERVATION TECHNOLOGIES, ENERGY EFFICIENCY TECHNOLOGY IMPROVEMENTS, ALTERNATIVE FUEL DEVELOPMENT, COST-BENEFIT ANALYSES OF SUSTAINABLE PRACTICES, ENERGY RETURN ON INVESTMENT, GREEN EDUCATION OUTREACH, AND URBAN SUSTAINABILITY PRACTICES.

(D) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF ECONOMIC DEVELOPMENT.

(E) "GREEN ZONE" SHALL MEAN THE AREA OF STATEN ISLAND DEFINED BY THE FOLLOWING AREA BASED ON THE NEW YORK CITY DEPARTMENT OF CITY PLANNING ZONING MAPS: BEGINNING AT THE INTERSECTION OF THE NORTH SIDE OF THE FOOT OF THE GOETHALS BRIDGES AND THE US PIERHEAD AND BULKHEAD LINE; THENCE RUNNING EASTERLY 3,214.78 FEET ALONG AND PARALLEL TO NORTH SIDE OF THE GOETHALS BRIDGE EXTENSION TO THE CENTERLINE OF WESTERN AVENUE; THENCE RUNNING NORTH 93.71 FEET TO THE CENTER LINE OF GOETHALS ROAD NORTH; THENCE RUNNING EAST 5,909.12 FEET ALONG AND PARALLEL TO THE SOUTH SIDE OF GOETHALS ROAD NORTH TO CENTERLINE OF SOUTH AVENUE; THENCE RUNNING SOUTH 433.81 FEET ALONG AND PARALLEL THE WEST SIDE OF SOUTH AVENUE TO THE CENTERLINE OF FAHEY AVENUE; THENCE RUNNING EAST 424.89 FEET ALONG AND PARALLEL TO THE SOUTH SIDE OF FAHEY AVENUE TO THE CENTERLINE OF FELTON STREET; THENCE RUNNING SOUTH 1,314.02 FEET ALONG AND PARALLEL THE WEST SIDE OF FELTON STREET TO THE CENTERLINE OF LAMBERTS LANE; THENCE RUNNING SOUTH 790.62 ALONG THE FELTON STREET LINE TO THE INTERSECTION OF GRAHAM AVENUE AND LANDER AVENUE; THENCE RUNNING SOUTH 3,413.10 FEET ALONG AND PARALLEL TO THE WEST SIDE OF GRAHAM AVENUE TO THE CENTERLINE

1 OF VICTORY BOULEVARD; THENCE RUNNING SOUTHEAST 3,114.21 ALONG THE WEST
 2 SIDE OF VICTORY BOULEVARD TO THE CENTERLINE OF TRAVIS AVENUE; THENCE
 3 RUNNING EAST 5,030.20 FEET ALONG AND PARALLEL THE SOUTH SIDE OF TRAVIS
 4 AVENUE TO THE CENTERLINE OF RICHMOND AVENUE; THENCE RUNNING SOUTH
 5 12,265.02 ALONG AND PARALLEL TO THE WEST SIDE OF RICHMOND AVENUE TO THE
 6 CENTERLINE OF ARTHUR KILL ROAD; THENCE RUNNING WEST 27,432.19 FEET ALONG
 7 AND PARALLEL THE NORTH SIDE OF ARTHUR KILL ROAD TO THE INTERSECTION OF
 8 ARTHUR KILL ROAD AND KREISCHER ST.; THENCE RUNNING 992.60 FEET TO THE
 9 INTERSECTION OF ANDROVETTE STREET; AND PARALLEL TO THE EAST SIDE OF THE
 10 US PIERHEAD AND BULKHEAD LINE TO THE POINT AND PLACE OF THE BEGINNING.

11 S 974-C. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL:

12 (A) PROMULGATE REGULATIONS, IN CONSULTATION WITH THE COMMISSIONER OF
 13 LABOR, FOR PROGRAM EVALUATION AND COORDINATE IMPLEMENTATION OF AN EVALU-
 14 ATION SYSTEM, WHICH IS CAPABLE OF COMPILING AND ANALYZING ACCURATE AND
 15 CONSISTENT INFORMATION NECESSARY FOR AN ASSESSMENT OF WHETHER STATUTORY
 16 OBJECTIVES AND CRITERIA ARE BEING MET;

17 (B) DESIGNATE BUSINESSES AS MEETING THE CRITERIA OF A GREEN BUSINESS;
 18 AND

19 (C) REVIEW PERFORMANCE OBJECTIVES AND PROGRESS IN MEETING OBJECTIVES.

20 S 3. Section 210 of the tax law is amended by adding a new subdivision
 21 50 to read as follows:

22 50. GREEN ZONE TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A
 23 TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS CHAP-
 24 TER. SUCH CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, SHALL BE
 25 ALLOWED FOR A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE, OR A SOLE
 26 PROPRIETOR OF A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE OR A MEMBER
 27 OF A PARTNERSHIP WHICH IS A QUALIFIED GREEN BUSINESS WITHIN A GREEN
 28 ZONE.

29 (B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS
 30 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, SHALL BE
 31 COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND ONE
 32 HUNDRED PERCENT OF NEW CONSTRUCTION RELATED TO THE BUSINESS OPERATION
 33 SITE OF THE QUALIFYING COMPANY AND/OR IMPROVEMENTS EQUAL TO OR GREATER
 34 THAN TWENTY PERCENT OF THE TAXABLE ASSESSED VALUE OF THE PROPERTY FOR
 35 EXISTING SITES BEING IMPROVED. THIS IS A NON-REFUNDABLE TAX CREDIT WHICH
 36 IF NOT USED BY THE TAXPAYER IN TAX YEAR ONE CAN BE USED IN TAX YEAR TWO.
 37 NO ADDITIONAL TIME MAY BE ADDED TO PERIOD OF USE.

38 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 39 of the tax law is amended by adding a new clause (xli) to read as
 40 follows:

41 (XLI) GREEN ZONE TAX REDUCTION	AMOUNT OF CREDIT UNDER
42 CREDIT UNDER SUBSECTION	SUBDIVISION FIFTY OF
43 (CCC)	SECTION TWO HUNDRED TEN

44 S 5. Section 606 of the tax law is amended by adding a new subsection
 45 (ccc) to read as follows:

46 (CCC) GREEN ZONE TAX REDUCTION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED
 47 A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX
 48 IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER IS A QUALIFIED GREEN BUSI-
 49 NESS WITHIN A GREEN ZONE, OR A SOLE PROPRIETOR OF A QUALIFIED GREEN
 50 BUSINESS WITHIN A GREEN ZONE OR A MEMBER OF A PARTNERSHIP WHICH IS A
 51 QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE.

52 (2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS
 53 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, SHALL BE
 54 COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND ONE
 55 HUNDRED PERCENT OF NEW CONSTRUCTION RELATED TO THE BUSINESS OPERATION
 56 SITE OF THE QUALIFYING COMPANY AND/OR IMPROVEMENTS EQUAL TO OR GREATER

1 THAN TWENTY PERCENT OF THE TAXABLE ASSESSED VALUE OF THE PROPERTY FOR
2 EXISTING SITES BEING IMPROVED. THIS CREDIT MAY ONLY BE TAKEN BY THE
3 TAXPAYER IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

4 S 6. Section 1456 of the tax law is amended by adding a new subsection
5 (aa) to read as follows:

6 (AA) GREEN ZONE TAX REDUCTION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED
7 A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX
8 IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER IS A QUALIFIED GREEN BUSI-
9 NESS WITHIN A GREEN ZONE, OR A SOLE PROPRIETOR OF A QUALIFIED GREEN
10 BUSINESS WITHIN A GREEN ZONE OR A MEMBER OF A PARTNERSHIP WHICH IS A
11 QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE.

12 (2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS
13 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, SHALL BE
14 COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND ONE
15 HUNDRED PERCENT OF NEW CONSTRUCTION RELATED TO THE BUSINESS OPERATION
16 SITE OF THE QUALIFYING COMPANY AND/OR IMPROVEMENTS EQUAL TO OR GREATER
17 THAN TWENTY PERCENT OF THE TAXABLE ASSESSED VALUE OF THE PROPERTY FOR
18 EXISTING SITES BEING IMPROVED. THIS CREDIT MAY ONLY BE TAKEN BY THE
19 TAXPAYER IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

20 S 7. Section 1511 of the tax law is amended by adding a new subdivi-
21 sion (dd) to read as follows:

22 (DD) GREEN ZONE TAX REDUCTION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED
23 A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX
24 IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER IS A QUALIFIED GREEN BUSI-
25 NESS WITHIN A GREEN ZONE, OR A SOLE PROPRIETOR OF A QUALIFIED GREEN
26 BUSINESS WITHIN A GREEN ZONE OR A MEMBER OF A PARTNERSHIP WHICH IS A
27 QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE.

28 (2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS
29 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, SHALL BE
30 COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND ONE
31 HUNDRED PERCENT OF NEW CONSTRUCTION RELATED TO THE BUSINESS OPERATION
32 SITE OF THE QUALIFYING COMPANY AND/OR IMPROVEMENTS EQUAL TO OR GREATER
33 THAN TWENTY PERCENT OF THE TAXABLE ASSESSED VALUE OF THE PROPERTY FOR
34 EXISTING SITES BEING IMPROVED. THIS CREDIT MAY ONLY BE TAKEN BY THE
35 TAXPAYER IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

36 S 8. This act shall take effect immediately, provided, however, that
37 the amendments made to section 1456 of the tax law made by section six
38 of this act shall not affect the repeal of such article and shall be
39 deemed repealed therewith.