

3992

2013-2014 Regular Sessions

I N A S S E M B L Y

January 30, 2013

Introduced by M. of A. FITZPATRICK, FINCH, RABBITT, REILICH, RA, MONTES-
ANO -- Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, CURRAN, GIGLIO,
GOODELL, KOLB, McDONOUGH, RAIA, TEDISCO, TENNEY, 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 and providing for the repeal of certain
provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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,

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

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1 (II) IN A RURAL AREA (DEFINED UNDER SECTION 520 OF THE FEDERAL HOUSING
2 ACT OF 1949),

3 (III) ON A RESERVATION FOR A FEDERALLY RECOGNIZED INDIAN TRIBE, OR

4 (IV) IN AN AREA OF CHRONIC ECONOMIC DISTRESS, AS DEFINED BY SECTION
5 143 OF THE INTERNAL REVENUE CODE; AND

6 (B) WHICH IS PURCHASED BY A QUALIFIED BUYER.

7 9. "RESIDENCE" MEANS

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

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

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

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

16 S 2. Subdivisions 1, 2, 3 and 5 of section 22 of the public housing
17 law, as added by section 1 of part CC of chapter 63 of the laws of 2000,
18 are amended to read as follows:

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

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

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

39 5. Building limitation. The dollar amount of credit allocated to any
40 building shall not exceed the amount the commissioner determines is
41 necessary for the financial feasibility of the project and the viability
42 of the building as an eligible low-income building OR AS A QUALIFIED
43 RESIDENCE throughout the credit period. In allocating a dollar amount of
44 credit to any building, the commissioner shall specify the applicable
45 percentage and the maximum qualified basis which may be taken into
46 account under this article with respect to such building. The applicable
47 percentage and the maximum qualified basis with respect to a building
48 shall not exceed the amounts determined in subdivisions one and six,
49 respectively, of section twenty-one of this article.

50 S 3. Subdivision 4 of section 22 of the public housing law, as amended
51 by section 1 of part J of chapter 59 of the laws of 2012, is amended to
52 read as follows:

53 4. Statewide limitation. The aggregate dollar amount of credit which
54 the commissioner may allocate to eligible low-income buildings under
55 this article shall be forty million dollars. THE AGGREGATE DOLLAR
56 AMOUNT OF CREDIT WHICH THE COMMISSIONER MAY ALLOCATE TO ELIGIBLE QUALI-

1 FIED RESIDENTS SHALL BE SIX MILLION DOLLARS. The limitation provided by
2 this subdivision applies only to allocation of the aggregate dollar
3 amount of credit by the commissioner, and does not apply to allowance to
4 a taxpayer of the credit with respect to an eligible low-income building
5 for each year of the credit period.

6 S 3-a. Subdivision 4 of section 22 of the public housing law, as
7 amended by section 2 of part J of chapter 59 of the laws of 2012, is
8 amended to read as follows:

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

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

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

26 S 5. This act shall take effect immediately; provided, however, that
27 section three of this act shall expire and be deemed repealed on the
28 same date section 2 of part J of chapter 59 of the laws of 2012 takes
29 effect when upon such date section three-a of this act shall take
30 effect.