

2762--A

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sens. RANZENHOFER, FELDER, LANZA, LARKIN, LATIMER, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

1 Section 1. Subsections (yy) and (zz) of section 606 of the tax law, as  
2 relettered by section 5 of part H of chapter 1 of the laws of 2003, are  
3 relettered subsections (yyy) and (zzz) and a new subsection (xx) is  
4 added to read as follows:  
5 (XX) CREDIT FOR REHABILITATION OF DISTRESSED COMMERCIAL PROPERTIES.  
6 (1) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
7 FOURTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED,  
8 AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY  
9 PERCENT OF THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE TAXPAY-  
10 ER WITH RESPECT TO A QUALIFIED DISTRESSED COMMERCIAL PROPERTY. PROVIDED,  
11 HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.  
12 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED  
13 IN THE TAXABLE YEAR IN WHICH THE PROPERTY IS DEEMED A CERTIFIED REHABIL-  
14 ITATION.  
15 (3) IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR  
16 ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE  
17 EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE  
18 APPLIED AGAINST THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS, BUT SHALL NOT  
19 EXCEED TWENTY-FIVE THOUSAND DOLLARS.

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

LBD05241-04-4

1 (4) (A) THE TERM "QUALIFIED REHABILITATION EXPENDITURE" MEANS, FOR  
2 PURPOSES OF THIS SUBSECTION, ANY AMOUNT PROPERLY CHARGEABLE TO A CAPITAL  
3 ACCOUNT:

4 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED  
5 DISTRESSED COMMERCIAL PROPERTY, AND

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

8 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING  
9 OR INTEREST THEREIN, (II) ANY EXPENDITURE ATTRIBUTABLE TO THE ENLARGE-  
10 MENT OF AN EXISTING BUILDING, OR (III) ANY EXPENDITURE MADE PRIOR TO  
11 JANUARY FIRST, TWO THOUSAND FOURTEEN OR AFTER DECEMBER THIRTY-FIRST, TWO  
12 THOUSAND NINETEEN.

13 (5) THE TERM "CERTIFIED REHABILITATION" MEANS, FOR PURPOSES OF THIS  
14 SUBSECTION, ANY REHABILITATION OF A CERTIFIED DISTRESSED COMMERCIAL  
15 PROPERTY WHICH HAS BEEN APPROVED AND CERTIFIED BY A LOCAL GOVERNMENT AS  
16 BEING COMPLETED, WITH A CERTIFICATE OF OCCUPANCY ISSUED, AND THAT THE  
17 COSTS ARE CONSISTENT WITH THE WORK COMPLETED. SUCH CERTIFICATION SHALL  
18 BE ACCEPTABLE AS PROOF THAT THE EXPENDITURES RELATED TO SUCH REHABILI-  
19 TATION QUALIFY AS QUALIFIED REHABILITATION EXPENDITURES FOR PURPOSES OF  
20 THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION.

21 (6) (A) THE TERM "QUALIFIED DISTRESSED COMMERCIAL PROPERTY" MEANS, FOR  
22 PURPOSES OF THIS SUBSECTION, A DISTRESSED COMMERCIAL PROPERTY LOCATED  
23 WITHIN NEW YORK STATE:

24 (I) WHICH HAS BEEN SUBSTANTIALLY REHABILITATED,

25 (II) WHICH IS OWNED BY THE TAXPAYER, AND

26 (III) WHICH IS LOCATED WITHIN A DISTRESSED COMMERCIAL AREA, AS IDENTI-  
27 FIED BY EACH LOCALITY THROUGH LOCAL LAW, THAT IS DEEMED AN AREA IN NEED  
28 OF COMMUNITY RENEWAL DUE TO DILAPIDATION AND VACANCIES.

29 (B) IF THE DISTRESSED COMMERCIAL PROPERTY IS RENTAL PROPERTY, SUCH  
30 PROPERTY SHALL HAVE BEEN MORE THAN THIRTY PERCENT VACANT FOR TWELVE  
31 MONTHS WHILE ACTIVELY MARKETED FOR LEASE.

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

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

43 (B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE RECAPTURE  
44 PORTION SHALL BE THE PRODUCT OF THE AMOUNT OF CREDIT CLAIMED BY THE  
45 TAXPAYER MULTIPLIED BY A RATIO, THE NUMERATOR OF WHICH IS EQUAL TO SIXTY  
46 LESS THE NUMBER OF MONTHS THE BUILDING IS OWNED OR USED AS COMMERCIAL  
47 PROPERTY BY THE TAXPAYER AND THE DENOMINATOR OF WHICH IS SIXTY.

48 S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
49 of the tax law is amended by adding a new clause (xxxvii) to read as  
50 follows:

51 (XXXVII) CREDIT FOR REHABILITATION AMOUNT OF CREDIT UNDER  
52 OF DISTRESSED COMMERCIAL PROPERTIES SUBDIVISION FORTY-EIGHT  
53 UNDER SUBSECTION (XX) OF SECTION TWO HUNDRED TEN

54 S 3. Section 210 of the tax law is amended by adding a new subdivision  
55 48 to read as follows:

1 48. CREDIT FOR REHABILITATION OF DISTRESSED COMMERCIAL PROPERTIES. (1)  
2 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
3 FOURTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED,  
4 AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY  
5 PERCENT OF THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE TAXPAY-  
6 ER WITH RESPECT TO A QUALIFIED DISTRESSED COMMERCIAL PROPERTY. PROVIDED,  
7 HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

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

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

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17 PURPOSES OF THIS SUBDIVISION, ANY AMOUNT PROPERLY CHARGEABLE TO A CAPI-  
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19 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED  
20 COMMERCIAL PROPERTY, AND

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23 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING  
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25 MENT OF AN EXISTING BUILDING, OR (III) ANY EXPENDITURE MADE PRIOR TO  
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30 PROPERTY WHICH HAS BEEN APPROVED AND CERTIFIED BY A LOCAL GOVERNMENT AS  
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32 COSTS ARE CONSISTENT WITH THE WORK COMPLETED. SUCH CERTIFICATION SHALL  
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35 THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBDIVISION.

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43 OF COMMUNITY RENEWAL DUE TO DILAPIDATION AND VACANCIES.

44 (B) IF THE DISTRESSED COMMERCIAL PROPERTY IS RENTAL PROPERTY, SUCH  
45 PROPERTY SHALL HAVE BEEN MORE THAN THIRTY PERCENT VACANT FOR TWELVE  
46 MONTHS WHILE ACTIVELY MARKETED FOR LEASE.

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6 LESS THE NUMBER OF MONTHS THE BUILDING IS OWNED OR USED AS COMMERCIAL  
7 PROPERTY BY THE TAXPAYER AND THE DENOMINATOR OF WHICH IS SIXTY.

8 S 4. This act shall take effect immediately and shall apply to taxable  
9 years beginning on or after January 1, 2014.