

1293

2015-2016 Regular Sessions

I N S E N A T E

January 9, 2015

Introduced by Sens. RANZENHOFER, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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

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

- 1 Section 1. Section 606 of the tax law is amended by adding a new  
2 subsection (ccc) to read as follows:  
3 (CCC) CREDIT FOR REHABILITATION OF DISTRESSED RESIDENTIAL PROPERTIES.  
4 (1) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
5 FIFTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED,  
6 AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY  
7 PERCENT OF THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE TAXPAY-  
8 ER WITH RESPECT TO A QUALIFIED DISTRESSED RESIDENTIAL PROPERTY.  
9 PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND  
10 DOLLARS.  
11 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED  
12 IN THE TAXABLE YEAR IN WHICH THE PROPERTY IS DEEMED A CERTIFIED REHABIL-  
13 ITATION.  
14 (3) IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR  
15 ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE  
16 EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE  
17 APPLIED AGAINST THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS, BUT SHALL NOT  
18 EXCEED TWENTY-FIVE THOUSAND DOLLARS.  
19 (4) (A) THE TERM "QUALIFIED REHABILITATION EXPENDITURE" MEANS, FOR  
20 PURPOSES OF THIS SUBSECTION, ANY AMOUNT PROPERLY CHARGEABLE TO A CAPITAL  
21 ACCOUNT:  
22 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED  
23 DISTRESSED RESIDENTIAL PROPERTY, AND

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

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

3 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING  
4 OR INTEREST THEREIN, (II) ANY EXPENDITURE ATTRIBUTABLE TO THE ENLARGE-  
5 MENT OF AN EXISTING BUILDING, OR (III) ANY EXPENDITURE MADE PRIOR TO  
6 JANUARY FIRST, TWO THOUSAND FIFTEEN OR AFTER DECEMBER THIRTY-FIRST, TWO  
7 THOUSAND TWENTY.

8 (5) THE TERM "CERTIFIED REHABILITATION" MEANS, FOR PURPOSES OF  
9 DISTRESSED RESIDENTIAL PROPERTY IN THIS SUBSECTION, ANY REHABILITATION  
10 OF A CERTIFIED DISTRESSED RESIDENTIAL PROPERTY WHICH HAS BEEN APPROVED  
11 AND CERTIFIED BY A LOCAL GOVERNMENT AS BEING COMPLETED, WITH A CERTIF-  
12 ICATE OF OCCUPANCY ISSUED, AND THAT THE COSTS ARE CONSISTENT WITH THE  
13 WORK COMPLETED. SUCH CERTIFICATION SHALL BE ACCEPTABLE AS PROOF THAT THE  
14 EXPENDITURES RELATED TO SUCH REHABILITATION QUALIFY AS QUALIFIED REHA-  
15 BILITATION EXPENDITURES FOR PURPOSES OF THE CREDIT ALLOWED UNDER PARA-  
16 GRAPH ONE OF THIS SUBSECTION.

17 (6) (A) THE TERM "QUALIFIED RESIDENTIAL PROPERTY" MEANS, FOR PURPOSES  
18 OF THIS SUBSECTION, A DISTRESSED RESIDENTIAL PROPERTY LOCATED WITHIN NEW  
19 YORK STATE:

20 (I) WHICH HAS BEEN SUBSTANTIALLY REHABILITATED,

21 (II) WHICH WAS CONSTRUCTED PRIOR TO JANUARY FIRST, NINETEEN HUNDRED  
22 SIXTY-TWO,

23 (III) WHICH IS OWNED BY THE TAXPAYER, AND

24 (IV) WHICH IS LOCATED WITHIN A DISTRESSED RESIDENTIAL OR MIXED-USE  
25 AREA, AS IDENTIFIED BY EACH LOCALITY THROUGH LOCAL LAW, THAT IS DEEMED  
26 AN AREA IN NEED OF COMMUNITY RENEWAL DUE TO DILAPIDATION AND VACANCIES.

27 (B) IF THE DISTRESSED RESIDENTIAL PROPERTY IS RENTAL PROPERTY, SUCH  
28 PROPERTY SHALL HAVE BEEN VACANT FOR AT LEAST SIX MONTHS WHILE ACTIVELY  
29 MARKETED FOR LEASE.

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

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

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

46 (8) ANY EXPENDITURE FOR WHICH A CREDIT IS CLAIMED UNDER THIS  
47 SUBSECTION SHALL NOT BE ELIGIBLE FOR ANY OTHER CREDIT UNDER THIS CHAP-  
48 TER.

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

52 (XLI) CREDIT FOR REHABILITATION	AMOUNT OF CREDIT
53 OF DISTRESSED RESIDENTIAL	UNDER SUBDIVISION FORTY-NINE
54 PROPERTIES UNDER SUBSECTION (CCC)	OF SECTION TWO HUNDRED TEN-B

1 S 3. Section 210-b of the tax law is amended by adding a new subdivi-  
2 sion 49 to read as follows:

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

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

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

19 (4) (A) THE TERM "QUALIFIED REHABILITATION EXPENDITURE" MEANS, FOR  
20 PURPOSES OF THIS SUBDIVISION, ANY AMOUNT PROPERLY CHARGEABLE TO A CAPI-  
21 TAL ACCOUNT:

22 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED  
23 RESIDENTIAL PROPERTY, AND

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

26 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING  
27 OR INTEREST THEREIN, (II) ANY EXPENDITURE ATTRIBUTABLE TO THE ENLARGE-  
28 MENT OF AN EXISTING BUILDING, OR (III) ANY EXPENDITURE MADE PRIOR TO  
29 JANUARY FIRST, TWO THOUSAND FIFTEEN OR AFTER DECEMBER THIRTY-FIRST, TWO  
30 THOUSAND TWENTY.

31 (5) THE TERM "CERTIFIED REHABILITATION" MEANS, FOR PURPOSES OF THIS  
32 SUBDIVISION, ANY REHABILITATION OF A CERTIFIED DISTRESSED RESIDENTIAL  
33 PROPERTY WHICH HAS BEEN APPROVED AND CERTIFIED BY A LOCAL GOVERNMENT AS  
34 BEING COMPLETED, WITH A CERTIFICATE OF OCCUPANCY ISSUED, AND THAT THE  
35 COSTS ARE CONSISTENT WITH THE WORK COMPLETED. SUCH CERTIFICATION SHALL  
36 BE ACCEPTABLE AS PROOF THAT THE EXPENDITURES RELATED TO SUCH REHABILI-  
37 TATION QUALIFY AS QUALIFIED REHABILITATION EXPENDITURES FOR PURPOSES OF  
38 THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBDIVISION.

39 (6) (A) THE TERM "QUALIFIED RESIDENTIAL PROPERTY" MEANS, FOR PURPOSES  
40 OF THIS SUBDIVISION, A DISTRESSED RESIDENTIAL PROPERTY LOCATED WITHIN  
41 NEW YORK STATE:

42 (I) WHICH HAS BEEN SUBSTANTIALLY REHABILITATED,

43 (II) WHICH WAS CONSTRUCTED PRIOR TO JANUARY FIRST, NINETEEN HUNDRED  
44 SIXTY-TWO,

45 (III) WHICH IS OWNED BY THE TAXPAYER, AND

46 (IV) WHICH IS LOCATED WITHIN A DISTRESSED RESIDENTIAL OR MIXED-USE  
47 AREA, AS IDENTIFIED BY EACH LOCALITY THROUGH LOCAL LAW, THAT IS DEEMED  
48 AN AREA IN NEED OF COMMUNITY RENEWAL DUE TO DILAPIDATION AND VACANCIES.

49 (B) IF THE DISTRESSED RESIDENTIAL PROPERTY IS RENTAL PROPERTY, SUCH  
50 PROPERTY SHALL HAVE BEEN VACANT FOR AT LEAST SIX MONTHS WHILE ACTIVELY  
51 MARKETED FOR LEASE.

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

55 (7) (A) IF THE TAXPAYER DISPOSES OF SUCH TAXPAYER'S INTEREST IN THE  
56 QUALIFIED DISTRESSED RESIDENTIAL PROPERTY, OR SUCH PROPERTY CEASES TO BE

1 USED AS A RESIDENTIAL PROPERTY OF THE TAXPAYER WITHIN FIVE YEARS OF  
2 RECEIVING THE CREDIT UNDER THIS SUBDIVISION, THE TAXPAYER'S TAX IMPOSED  
3 BY THIS ARTICLE FOR THE TAXABLE YEAR IN WHICH SUCH DISPOSITION OR CESSA-  
4 TION OCCURS SHALL BE INCREASED BY THE RECAPTURE PORTION OF THE CREDIT  
5 ALLOWED UNDER THIS SUBDIVISION FOR ALL PRIOR TAXABLE YEARS WITH RESPECT  
6 TO SUCH REHABILITATION.

7 (B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE RECAPTURE  
8 PORTION SHALL BE THE PRODUCT OF THE AMOUNT OF CREDIT CLAIMED BY THE  
9 TAXPAYER MULTIPLIED BY A RATIO, THE NUMERATOR OF WHICH IS EQUAL TO SIXTY  
10 LESS THE NUMBER OF MONTHS THE BUILDING IS OWNED OR USED AS RESIDENTIAL  
11 PROPERTY BY THE TAXPAYER AND THE DENOMINATOR OF WHICH IS SIXTY.

12 (8) ANY EXPENDITURE FOR WHICH A CREDIT IS CLAIMED UNDER THIS SUBDIVI-  
13 SION SHALL NOT BE ELIGIBLE FOR ANY OTHER CREDIT UNDER THIS CHAPTER.

14 S 4. This act shall take effect immediately and shall apply to taxable  
15 years beginning on or after January 1, 2015.