S T A T E O F N E W Y O R K

3945--A

Cal. No. 357

2015-2016 Regular Sessions

I N S E N A T E

February 24, 2015

Introduced by Sens. AVELLA, PANEPINTO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged and said bill committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the tax law, in relation to establishing the green building credit

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

Section 1. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(CCC) GREEN BUILDING CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE PROVIDED THAT SUCH TAXPAYER CONSTRUCTS OR REHABILITATES QUALIFYING RESIDENTIAL REAL PROPERTY IN CONFORMITY WITH ENERGY EFFICIENCY STANDARDS ESTABLISHED BY THE NATIONAL ASSOCIATION OF HOME BUILDERS OR THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN RATING SYSTEM DEVELOPED BY THE UNITED STATES GREEN BUILDING COUNCIL AND FASHIONS PROOF THEREOF IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN CONJUNCTION WITH THE COMMISSIONER.

(2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE ALLOWABLE COSTS PAID OR INCURRED BY THE TAXPAYER, IF THE OWNER, FOR EITHER THE CONSTRUCTION OR REHABILITATION OF QUALIFYING RESIDENTIAL REAL PROPERTY IN CONFORMITY WITH ENERGY EFFICIENCY STANDARDS ESTABLISHED BY THE NATIONAL ASSOCIATION OF HOME BUILDERS OR THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN RATING SYSTEM DEVELOPED BY THE UNITED STATES GREEN BUILDING COUNCIL; PROVIDED, HOWEVER, THAT SUCH CREDIT SHALL NOT EXCEED TEN THOUSAND DOLLARS AND SHALL NOT BE AWARDED MORE THAN ONCE IN A PERIOD OF TEN YEARS.

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

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(3) FOR THE PURPOSE OF THIS SUBSECTION, "ALLOWABLE COSTS" MEANS AMOUNTS PROPERLY CHARGEABLE TO AN ACCOUNT (OTHER THAN FOR LAND), WHICH ARE PAID OR INCURRED ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, FOR: CONSTRUCTION OR REHABILITATION; COMMISSIONING COSTS; INTEREST PAID OR INCURRED DURING THE CONSTRUCTION OR REHABILITATION PERIOD; LEGAL, ARCHITECTURAL, ENGINEERING AND OTHER PROFESSIONAL FEES ALLOCABLE TO CONSTRUCTION OR REHABILITATION; CLOSING COSTS FOR CONSTRUCTION, REHABILITATION OR MORTGAGE LOANS; RECORDING TAXES AND FILING FEES INCURRED WITH RESPECT TO CONSTRUCTION OR REHABILITATION; SITE COSTS (SUCH AS TEMPORARY ELECTRIC WIRING, SCAFFOLDING, DEMOLITION COSTS, AND FENCING AND SECURITY FACILITIES); AND COSTS OF FURNITURE, CARPETING, PARTITIONS, WALLS AND WALL COVERINGS, CEILINGS, DRAPES, BLINDS, LIGHTING, PLUMBING, ELECTRICAL WIRING AND VENTILATION; PROVIDED THAT SUCH COSTS SHALL NOT INCLUDE THE COST OF TELEPHONE SYSTEMS AND COMPUTERS (OTHER THAN ELECTRICAL WIRING COSTS) AND SHALL NOT INCLUDE THE COST OF FUEL CELLS OR PHOTOVOLTAIC MODULES (INCLUDING INSTALLATION) OR THE COST OF NEW AIR CONDITIONING EQUIPMENT USING AN EPA-APPROVED NON-OZONE DEPLETING REFRIGERANT OR OTHER EPA-APPROVED REFRIGERANT APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION (EXCLUDING INSTALLATION).

(4) FOR THE PURPOSES OF THIS SUBSECTION "QUALIFYING RESIDENTIAL REAL PROPERTY" SHALL MEAN THE PRINCIPAL PLACE OF RESIDENCE OF AN INDIVIDUAL TAXPAYER WHO CLAIMS A CREDIT PURSUANT TO THIS SUBSECTION. IN THE EVENT THAT SUCH PLACE OF RESIDENCE IS A MULTIPLE DWELLING, AS DEFINED BY SUBDIVISION SEVEN OF SECTION FOUR OF THE MULTIPLE DWELLING LAW, ALLOWABLE COSTS SHALL ONLY CONSTITUTE THOSE COSTS INCURRED DUE TO CONSTRUCTION OR REHABILITATION UNDERTAKEN ON THE PORTION OF THE DWELLING THAT CONSTITUTES AN INDIVIDUAL TAXPAYER'S UNIT.

(5) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS FOR UP TO FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(6) THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, IN CONJUNCTION WITH THE COMMISSIONER, SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY FOR THE DISTRIBUTION OF THE CREDIT ESTABLISHED BY THIS SUBSECTION.

S 2. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2015.