

7398

I N S E N A T E

April 27, 2016

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the economic development law, the real property tax law and the tax law, in relation to the manufacturing development zone program and tax credits related thereto

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

1 Section 1. The economic development law is amended by adding a new  
2 article 23 to read as follows:

3 ARTICLE 23

4 MANUFACTURING DEVELOPMENT ZONE PROGRAM

5 SECTION 450. DEFINITIONS.

6 451. PURPOSE.

7 452. ELIGIBILITY AND APPLICATION PROCESS.

8 453. TAX CREDIT INCENTIVES.

9 S 450. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL  
10 HAVE THE FOLLOWING MEANINGS:

11 1. "AREA" MEANS A GEOGRAPHIC AREA IN ONE OR MORE POLITICAL SUBDIVI-  
12 SIONS IN THE STATE DESCRIBED BY A CLOSED PERIMETER BOUNDARY.

13 2. "BUSINESS ENTITY" MEANS A PERSON THAT OPERATES OR CONDUCTS A TRADE  
14 OR BUSINESS THAT IS ENGAGED IN HEAVY MANUFACTURING.

15 3. "HEAVY MANUFACTURING" MEANS A MANUFACTURING PROCESS THAT INVOLVES  
16 LARGE SCALE PROJECTS. IT INCLUDES CONSTRUCTION, MINING, AND METAL PROC-  
17 ESSING, BUT DOES NOT INCLUDE THE PROCESSING, FABRICATING, ASSEMBLY OR  
18 DISASSEMBLY OF APPAREL, DECORATIONS, ELECTRONIC DEVICES, FOOD, HOME  
19 ACCESSORIES, INSTRUMENTS, JEWELRY, LEATHER, PAPER, OR TEXTILES.

20 4. "MANUFACTURING DEVELOPMENT ZONE" MEANS AN AREA DESIGNATED AS A  
21 MANUFACTURING DEVELOPMENT ZONE BY THE COMMISSIONER UNDER SUBDIVISION  
22 FOUR OF SECTION FOUR HUNDRED FIFTY-TWO OF THIS ARTICLE.

23 5. "POLITICAL SUBDIVISION" MEANS A COUNTY OR MUNICIPAL CORPORATION.

24 6. "SUBMISSION DATE" MEANS APRIL FIFTEENTH OR OCTOBER FIFTEENTH.

25 S 451. PURPOSE. THE PURPOSE OF THE MANUFACTURING DEVELOPMENT ZONE  
26 PROGRAM IS TO ENCOURAGE BUSINESS ENTITIES ENGAGED IN MANUFACTURING

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

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1 OUTSIDE THE STATE TO INVEST IN MANUFACTURING FACILITIES IN MANUFACTURING  
2 DEVELOPMENT ZONES.

3 S 452. ELIGIBILITY AND APPLICATION PROCESS. 1. THE FOLLOWING POLITICAL  
4 SUBDIVISIONS MAY APPLY TO DESIGNATE A MANUFACTURING DEVELOPMENT ZONE:

5 (A) A POLITICAL SUBDIVISION FOR AN AREA WITHIN A POLITICAL SUBDIVI-  
6 SION;

7 (B) WITH THE PRIOR CONSENT OF THE MUNICIPAL CORPORATION, A COUNTY ON  
8 BEHALF OF A MUNICIPAL CORPORATION FOR AN AREA IN THE MUNICIPAL CORPO-  
9 RATION; OR

10 (C) TWO OR MORE POLITICAL SUBDIVISIONS JOINTLY FOR AN AREA ASTRIDE  
11 THEIR COMMON BOUNDARIES;

12 2. THE APPLICATION SHALL:

13 (A) BE IN THE FORM AND MANNER AND CONTAIN THE INFORMATION THAT THE  
14 COMMISSIONER REQUIRES BY REGULATION;

15 (B) BE SUBMITTED FOR A POLITICAL SUBDIVISION BY ITS CHIEF ELECTED  
16 OFFICER OR, IF NONE, ITS GOVERNING BODY;

17 (C) STATE WHETHER THE POLITICAL SUBDIVISION HAS EXAMINED THE FEASIBIL-  
18 ITY OF CREATING EDUCATIONAL OR TRAINING OPPORTUNITIES FOR EMPLOYERS AND  
19 EMPLOYEES OF BUSINESS ENTITIES LOCATED OR TO BE LOCATED IN THE PROPOSED  
20 MANUFACTURING DEVELOPMENT ZONE;

21 (D) STATE THE STANDARDS ESTABLISHED BY THE POLITICAL SUBDIVISION THAT  
22 A BUSINESS ENTITY SHALL MEET BEFORE RECEIVING THE INCENTIVES AND INITI-  
23 ATIVES UNDER SECTION FOUR HUNDRED FIFTY-THREE OF THIS ARTICLE; AND

24 (E) STATE THE METHODS THAT THE POLITICAL SUBDIVISIONS WILL USE TO  
25 TARGET AND ATTRACT BUSINESS ENTITIES.

26 3. (A) THE COMMISSIONER SHALL SUBMIT EACH APPLICATION TO THE DEPART-  
27 MENT.

28 (B) WITHIN THIRTY DAYS OF RECEIVING AN APPLICATION, THE DEPARTMENT  
29 SHALL APPROVE OR REJECT AN APPLICATION.

30 4. (A) WITHIN SIXTY DAYS AFTER A SUBMISSION DATE, THE COMMISSIONER MAY  
31 DESIGNATE ONE OR MORE MANUFACTURING DEVELOPMENT ZONES FROM AMONG THE  
32 AREAS DESCRIBED IN THE APPLICATIONS AND APPROVED BY THE DEPARTMENT UNDER  
33 SUBDIVISION THREE OF THIS SECTION.

34 (B) THE DESIGNATION OF AN AREA AS A MANUFACTURING DEVELOPMENT ZONE IS  
35 EFFECTIVE FOR TEN YEARS.

36 (C) THE COMMISSIONER MAY NOT DESIGNATE MORE THAN SIX MANUFACTURING  
37 DEVELOPMENT ZONES IN A CALENDAR YEAR.

38 (D) A COUNTY MAY NOT RECEIVE MORE THAN TWO MANUFACTURING DEVELOPMENT  
39 ZONES IN A CALENDAR YEAR.

40 5. THE DESIGNATION OF THE COMMISSIONER IS FINAL.

41 6. AT ANY TIME, A POLITICAL SUBDIVISION MAY REAPPLY TO THE COMMISSION-  
42 ER TO DESIGNATE AS A MANUFACTURING DEVELOPMENT ZONE AN AREA THAT IS NOT  
43 DESIGNATED.

44 7. (A) A POLITICAL SUBDIVISION MAY APPLY TO THE COMMISSIONER TO EXPAND  
45 AN EXISTING MANUFACTURING DEVELOPMENT ZONE IN THE SAME MANNER AS THE  
46 POLITICAL SUBDIVISION WOULD APPLY TO DESIGNATE A NEW MANUFACTURING  
47 DEVELOPMENT ZONE.

48 (B) THE COMMISSIONER MAY GRANT AN EXPANSION OF A MANUFACTURING DEVEL-  
49 OPMENT ZONE INTO AN AREA.

50 (C) FOR PURPOSES OF SUBDIVISIONS FOUR, FIVE AND SIX OF THIS SECTION,  
51 AN EXPANSION OF A MANUFACTURING DEVELOPMENT ZONE THAT DOES NOT EXCEED  
52 FIFTY PERCENT OF THE GEOGRAPHIC AREA OF THE EXISTING MANUFACTURING  
53 DEVELOPMENT ZONE DOES NOT COUNT TOWARDS THE LIMIT ON THE NUMBER OF THE  
54 MANUFACTURING DEVELOPMENT ZONES THAT THE COMMISSIONER MAY DESIGNATE IN A  
55 CALENDAR YEAR OR A COUNTY MAY RECEIVE IN A CALENDAR YEAR.

1 8. (A) THE COMMISSIONER MAY GRANT ONE EXTRAORDINARY EXPANSION OF A  
2 MANUFACTURING DEVELOPMENT ZONE IN THE STATE EACH CALENDAR YEAR FOR AN  
3 AREA THAT, IN THE DETERMINATION OF THE COMMISSIONER, HAS SUFFERED A  
4 SIGNIFICANT LOSS OF ECONOMIC BASE.

5 (B) FOR PURPOSES OF SUBDIVISIONS FOUR, FIVE AND SIX OF THIS SECTION,  
6 AN EXTRAORDINARY EXPANSION OF A MANUFACTURING DEVELOPMENT ZONE DOES NOT  
7 COUNT TOWARDS THE LIMIT ON THE NUMBER OF MANUFACTURING DEVELOPMENT ZONES  
8 THAT THE COMMISSIONER MAY DESIGNATE IN A CALENDAR YEAR OR A COUNTY MAY  
9 RECEIVE IN A CALENDAR YEAR.

10 S 453. TAX CREDIT INCENTIVES. 1. TO THE EXTENT PROVIDED FOR IN THIS  
11 SECTION, A BUSINESS ENTITY IS ENTITLED TO:

12 (A) THE PROPERTY TAX CREDIT PROVIDED FOR IN SECTION FOUR HUNDRED TWEN-  
13 TY-THREE-A OF THE REAL PROPERTY TAX LAW;

14 (B) THE INCOME TAX CREDIT PROVIDED FOR IN SUBSECTION (CCC) OF SECTION  
15 SIX HUNDRED SIX OF THE TAX LAW;

16 2. A BUSINESS ENTITY THAT MOVES INTO OR LOCATES IN A MANUFACTURING  
17 DEVELOPMENT ZONE ON OR AFTER THE DATE THAT THE MANUFACTURING DEVELOPMENT  
18 ZONE IS DESIGNATED UNDER SUBDIVISIONS FOUR, FIVE AND SIX OF SECTION FOUR  
19 HUNDRED FIFTY-TWO OF THIS ARTICLE MAY BENEFIT FROM THE INCENTIVE UNDER  
20 THIS SECTION IF:

21 (A) THE BUSINESS ENTITY MEETS THE STATUTORY REQUIREMENTS AND CONDI-  
22 TIONS APPLICABLE TO EACH INCENTIVE OR INITIATIVE;

23 (B) THE RESPECTIVE POLITICAL SUBDIVISION CERTIFIES THAT THE BUSINESS  
24 ENTITY HAS COMPLIED WITH THE STANDARDS THAT THE SUBDIVISIONS SUBMITTED  
25 UNDER PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED FIFTY-TWO  
26 OF THIS ARTICLE;

27 (C) THE BUSINESS ENTITY CREATES NEW OR ADDITIONAL JOBS OR MAKES A  
28 CAPITAL INVESTMENT TO QUALIFY FOR THE PROPERTY TAX CREDIT UNDER SECTION  
29 FOUR HUNDRED TWENTY-THREE-A OF THE REAL PROPERTY TAX LAW AND THE INCOME  
30 TAX CREDIT UNDER SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THE TAX  
31 LAW;

32 (D) THE BUSINESS ENTITY IS ENGAGED IN A MANUFACTURING TRADE OR BUSI-  
33 NESS ON REAL PROPERTY WITHIN THE MANUFACTURING DEVELOPMENT ZONE THAT THE  
34 BUSINESS ENTITY OWNS; AND

35 (E) THE COMMISSIONER DETERMINES THAT THE BUSINESS ENTITY DOES NOT HAVE  
36 AN ECONOMIC PRESENCE IN THE STATE PRIOR TO LOCATING IN THE MANUFACTURING  
37 DEVELOPMENT ZONE AND IS ENGAGED IN A MANUFACTURING TRADE OR BUSINESS.

38 3. THE INCENTIVES AND INITIATIVES PROVIDED FOR IN THIS SECTION ARE NOT  
39 AVAILABLE TO A BUSINESS ENTITY THAT WAS LOCATED IN A MANUFACTURING  
40 DEVELOPMENT ZONE BEFORE THE DATE THAT THE MANUFACTURING DEVELOPMENT ZONE  
41 IS DESIGNATED, EXCEPT FOR A CAPITAL INVESTMENT OR AN EXPANSION OF ITS  
42 LABOR FORCE THAT OCCURS ON OR AFTER THE MANUFACTURING DEVELOPMENT ZONE  
43 IS DESIGNATED.

44 4. (A) EXCEPT AS PROVIDED IN SECTION FOUR HUNDRED TWENTY-THREE-A OF  
45 THE REAL PROPERTY TAX LAW, THE INCENTIVES AND INITIATIVES SET FORTH IN  
46 THIS SECTION ARE AVAILABLE FOR TEN YEARS AFTER THE DATE THAT AN AREA IS  
47 DESIGNATED A MANUFACTURING DEVELOPMENT ZONE.

48 (B) A LAW ENACTED AFTER THE EFFECTIVE DATE OF THIS SECTION THAT ELIMI-  
49 NATES OR REDUCES THE BENEFITS AVAILABLE TO A BUSINESS ENTITY UNDER THIS  
50 SECTION DOES NOT APPLY TO A BUSINESS ENTITY THAT WAS IN A MANUFACTURING  
51 DEVELOPMENT ZONE BEFORE THE EFFECTIVE DATE OF THIS SECTION.

52 5. NOTWITHSTANDING SUBDIVISION FOUR OF THIS SECTION, A BUSINESS ENTITY  
53 LOCATED IN A MANUFACTURING DEVELOPMENT ZONE MAY NOT RECEIVE THE INCEN-  
54 TIVES AND INITIATIVES SET FORTH IN SUBDIVISION ONE OF THIS SECTION IF  
55 THE ENTITY IS LOCATED ON LAND OR WITHIN IMPROVEMENTS OWNED BY THE FEDER-  
56 AL GOVERNMENT, THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION UNLESS

1 THE BUSINESS ENTITY HAS FIRST UTILIZED ALL APPLICABLE PROPERTY TAX  
2 EXEMPTIONS UNDER THE REAL PROPERTY TAX LAW INCLUDING ENTERING INTO ANY  
3 AVAILABLE PAYMENT IN LIEU OF TAX AGREEMENT.

4 6. THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ASSESS EACH YEAR  
5 THE EFFECTIVENESS OF THE TAX CREDITS PROVIDED TO BUSINESS ENTITIES IN  
6 MANUFACTURING DEVELOPMENT ZONES, INCLUDING:

7 (A) THE NUMBER AND AMOUNTS OF CREDITS GRANTED EACH YEAR; AND  
8 (B) THE SUCCESS OF THE TAX CREDITS IN ATTRACTING AND RETAINING BUSI-  
9 NESS ENTITIES IN MANUFACTURING DEVELOPMENT ZONES.

10 7. ON OR BEFORE DECEMBER FIFTEENTH OF EACH YEAR, THE DEPARTMENT AND  
11 THE COMPTROLLER SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF  
12 THE SENATE AND THE SPEAKER OF THE ASSEMBLY, A REPORT OUTLINING THEIR  
13 FINDINGS AND ANY OTHER INFORMATION OF VALUE IN DETERMINING THE EFFEC-  
14 TIVENESS OF THE TAX CREDITS PROVIDED UNDER THIS SECTION.

15 S 2. The real property tax law is amended by adding a new section  
16 423-a to read as follows:

17 S 423-A. EXEMPTION FOR BUSINESS ENTITIES PARTICIPATING IN MANUFACTUR-  
18 ING DEVELOPMENT ZONE PROGRAM. 1. AS USED IN THIS SECTION, THE FOLLOWING  
19 WORDS SHALL HAVE THE FOLLOWING MEANINGS:

20 (A) "BASE YEAR" MEANS THE TAXABLE YEAR IMMEDIATELY BEFORE THE TAXABLE  
21 YEAR IN WHICH A PROPERTY TAX CREDIT UNDER THIS SECTION IS TO BE GRANTED.

22 (B) "BASE YEAR VALUE" MEANS THE VALUE OF THE PROPERTY USED TO DETER-  
23 MINE THE ASSESSMENT ON WHICH THE PROPERTY TAX ON REAL PROPERTY WAS  
24 IMPOSED FOR THE BASE YEAR. BASE YEAR VALUE DOES NOT INCLUDE ANY NEW  
25 REAL PROPERTY THAT WAS FIRST ASSESSED IN THE BASE YEAR.

26 (C) "BUSINESS ENTITY" MEANS A PERSON THAT OPERATES OR CONDUCTS A TRADE  
27 OR BUSINESS THAT IS ENGAGED IN MANUFACTURING.

28 (D) (I) "ELIGIBLE ASSESSMENT" MEANS THE DIFFERENCE BETWEEN THE BASE  
29 YEAR VALUE AND THE ACTUAL VALUE AS DETERMINED BY THE STATE BOARD FOR THE  
30 APPLICABLE TAXABLE YEAR IN WHICH THE TAX CREDIT UNDER THIS SECTION IS TO  
31 BE GRANTED.

32 (II) FOR A BUSINESS ENTITY THAT IS LOCATED ON LAND OR WITHIN IMPROVE-  
33 MENTS OWNED BY THE FEDERAL, STATE, COUNTY, OR MUNICIPAL GOVERNMENT,  
34 "ELIGIBLE ASSESSMENT" MEANS THE DIFFERENCE BETWEEN THE BASE YEAR VALUE  
35 AND THE ACTUAL VALUE REDUCED BY THE VALUE OF ANY PROPERTY ENTITLED TO AN  
36 EXEMPTION UNDER THIS CHAPTER AS DETERMINED BY THE STATE BOARD FOR THE  
37 APPLICABLE TAXABLE YEAR IN WHICH THE TAX CREDIT UNDER THIS SECTION IS TO  
38 BE GRANTED.

39 (E) "QUALIFIED PROPERTY" MEANS REAL PROPERTY THAT IS (I) NOT USED FOR  
40 RESIDENTIAL PURPOSES; (II) USED IN A MANUFACTURING TRADE OR BUSINESS BY  
41 A BUSINESS ENTITY; AND

42 (III) LOCATED IN A MANUFACTURING DEVELOPMENT ZONE THAT IS DESIGNATED  
43 UNDER ARTICLE TWENTY-THREE OF THE ECONOMIC DEVELOPMENT LAW.

44 2. THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION SHALL  
45 GRANT A TAX CREDIT UNDER THIS SECTION AGAINST THE PROPERTY TAX IMPOSED  
46 ON THE ELIGIBLE ASSESSMENT OF A QUALIFIED PROPERTY.

47 3. (A) THE APPROPRIATE GOVERNING BODY SHALL CALCULATE THE AMOUNT OF  
48 THE CREDIT UNDER THIS SECTION EQUAL TO ONE HUNDRED PERCENT OF THE AMOUNT  
49 OF PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESSMENT.

50 (B) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE CREDIT ALLOWED UNDER  
51 THIS SECTION, THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESS-  
52 MENT SHALL BE CALCULATED WITHOUT REDUCTION FOR ANY CREDITS ALLOWED UNDER  
53 THIS CHAPTER.

54 4. (A) A TAX CREDIT UNDER THIS SECTION IS AVAILABLE TO A QUALIFIED  
55 PROPERTY FOR NO MORE THAN TEN CONSECUTIVE YEARS BEGINNING WITH THE TAXA-

1 BLE YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE REAL PROPERTY INITIAL-  
2 LY BECOMES A QUALIFIED PROPERTY.

3 (B) IF THE DESIGNATION OF A MANUFACTURING DEVELOPMENT ZONE EXPIRES,  
4 THE TAX CREDIT UNDER THIS SECTION CONTINUES TO BE AVAILABLE TO A QUALI-  
5 FIED PROPERTY.

6 (C) STATE PROPERTY TAX IMPOSED ON REAL PROPERTY IS NOT AFFECTED BY  
7 THIS SECTION.

8 5. WHEN A MANUFACTURING DEVELOPMENT ZONE IS DESIGNATED BY THE COMMIS-  
9 SIONER OF ECONOMIC DEVELOPMENT, SUCH COMMISSIONER SHALL CERTIFY TO THE  
10 STATE BOARD:

11 (A) THE REAL PROPERTIES IN THE ZONE THAT ARE QUALIFIED PROPERTIES FOR  
12 EACH TAXABLE YEAR FOR WHICH THE PROPERTY TAX CREDIT UNDER THIS SECTION  
13 IS TO BE GRANTED; AND

14 (B) THE DATE THAT THE REAL PROPERTIES BECAME QUALIFIED PROPERTIES.

15 6. BEFORE PROPERTY TAX BILLS ARE SENT, THE STATE BOARD SHALL SUBMIT TO  
16 THE COMMISSIONER OF ECONOMIC DEVELOPMENT A LIST CONTAINING:

17 (A) THE LOCATION OF EACH QUALIFIED PROPERTY;

18 (B) THE AMOUNT OF THE BASE YEAR VALUE FOR EACH QUALIFIED PROPERTY; AND

19 (C) THE AMOUNT OF THE ELIGIBLE ASSESSMENT FOR EACH QUALIFIED PROPERTY.

20 S 3. Section 606 of the tax law is amended by adding a new subsection  
21 (ccc) to read as follows:

22 (CCC) MANUFACTURING DEVELOPMENT ZONE PROGRAM TAX CREDIT. (1) A BUSI-  
23 NESS ENTITY THAT IS LOCATED IN A MANUFACTURING DEVELOPMENT ZONE AND  
24 SATISFIES THE REQUIREMENTS OF SECTION FOUR HUNDRED FIFTY-THREE OF THE  
25 ECONOMIC DEVELOPMENT LAW MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX  
26 IN THE AMOUNT OF THE STATE INCOME TAX IMPOSED ON QUALIFIED INCOME.

27 (2) A BUSINESS ENTITY SHALL MEAN AN ENTITY THAT IS ENGAGED IN MANUFAC-  
28 TURING TRADE OR BUSINESS, OPERATES A MANUFACTURING FACILITY IN A MANU-  
29 FACTURING DEVELOPMENT ZONE AS DESIGNATED BY ARTICLE TWENTY-THREE OF THE  
30 ECONOMIC DEVELOPMENT LAW AND IS ELIGIBLE FOR THE PROPERTY TAX CREDIT  
31 UNDER SECTION FOUR HUNDRED TWENTY-THREE-A OF THE REAL PROPERTY TAX LAW.  
32 QUALIFIED INCOME MEANS INCOME ATTRIBUTABLE TO ACTIVITIES AT A MANUFAC-  
33 TURING FACILITY LOCATED IN A MANUFACTURING DEVELOPMENT ZONE.

34 (3) THE CREDIT ALLOWED UNDER THIS SUBSECTION MAY NOT BE CLAIMED FOR  
35 MORE THAN TEN CONSECUTIVE YEARS BEGINNING WITH THE TAXABLE YEAR FOLLOW-  
36 ING THE CALENDAR YEAR IN WHICH THE BUSINESS ENTITY BECOMES ELIGIBLE FOR  
37 THE PROPERTY TAX CREDIT UNDER SECTION FOUR HUNDRED TWENTY-THREE-A OF THE  
38 REAL PROPERTY TAX LAW.

39 S 4. This act shall take effect immediately.