

1109

2015-2016 Regular Sessions

I N A S S E M B L Y

January 8, 2015

Introduced by M. of A. MAGEE, GUNTHER, RUSSELL, MORELLE, McDONALD, BARRETT, STIRPE, PALMESANO, SCARBOROUGH, SANTABARBARA, BRONSON, GANTT, STEC, FAHY, CAHILL, QUART, SKOUFIS -- Multi-Sponsored by -- M. of A. LUPARDO, ROBINSON -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state technology law and the tax law, in relation to a refundable tax credit provided to broadband deployment to residences and small businesses located in rural, unserved areas

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

1 Section 1. This act shall be known and may be cited as the "credit for
2 rural broadband act of 2015".
3 S 2. Section 104 of the state technology law is amended by adding a
4 new subdivision 3 to read as follows:
5 3. THE OFFICE OF INFORMATION TECHNOLOGY SERVICES, IN CONJUNCTION WITH
6 INPUT FROM THE ADVISORY COUNCIL, IS HEREBY AUTHORIZED AND DIRECTED TO
7 PROMULGATE RULES AND REGULATIONS NECESSARY FOR VERIFYING AN "UNSERVED"
8 AREA UNDER THE CREDIT FOR RURAL BROADBAND ACT OF TWO THOUSAND FIFTEEN,
9 USING BROADBAND MAPPING DATA AT THE TIME A PROJECT IS PROPOSED.
10 S 3. Section 210-B of the tax law is amended by adding a new subdivi-
11 sion 49 to read as follows:
12 49. CREDIT FOR RURAL BROADBAND DEPLOYMENT. (A) ALLOWANCE OF CREDIT.
13 A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED
14 BY THIS ARTICLE EQUAL TO ANY QUALIFIED CUSTOMER CONTRIBUTION IN AID OF
15 CONSTRUCTION RESULTING FROM NEW NETWORK CONSTRUCTION TO DELIVER BROAD-
16 BAND SERVICE TO THE INDIVIDUAL'S RESIDENCE OR PLACE OF BUSINESS LOCATED
17 IN AN UNSERVED AREA. THE CREDIT ALLOWED BY THIS SUBDIVISION SHALL BE
18 CLAIMED ANNUALLY OVER A FIVE-YEAR PERIOD EQUAL TO ONE-FIFTH OF THE CRED-
19 IT AMOUNT. IF THE CREDIT ALLOWED UNDER THIS SUBDIVISION IS GREATER THAN
20 THE TAX DUE IN ANY TAXABLE YEAR, THE AMOUNT BY WHICH SUCH CREDIT EXCEEDS
21 SUCH TAX DUE IS TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN

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

LBD02115-01-5

1 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
2 THIS CHAPTER.

3 (B) FOR PURPOSES OF THIS SUBDIVISION, THE FOLLOWING DEFINITIONS SHALL
4 APPLY:

5 (1) "QUALIFIED CONSTRUCTION EXPENSES" EQUAL THE TOTAL COST OF
6 CONSTRUCTION OF NEW NETWORKS IN THE PROPOSED UNSERVED SERVICE AREA, AS
7 CERTIFIED BY THE BROADBAND SERVICE PROVIDER, BUT NOT TO EXCEED A REASON-
8 ABLE COST BASED UPON THE AVERAGE COST PER MILE OF BROADBAND NETWORK
9 CONSTRUCTION AS DETERMINED BY THE COMMISSIONER IN CONSULTATION WITH THE
10 PUBLIC SERVICE COMMISSION AND BROADBAND SERVICE PROVIDERS.

11 (2) "QUALIFIED CUSTOMER CONTRIBUTION IN AID OF CONSTRUCTION" IS DETER-
12 MINED IN ACCORDANCE WITH THE FOLLOWING FORMULA: $(QCE/TC) - (ACM/35) =$
13 QC , WHERE QCE EQUALS THE QUALIFIED CONSTRUCTION EXPENSES; ACM EQUALS THE
14 AVERAGE COST OF CONSTRUCTION PER MILE IN THE PROPOSED UNSERVED SERVICE
15 AREA, AS CERTIFIED BY THE BROADBAND SERVICE PROVIDER, BUT NOT TO EXCEED
16 A REASONABLE COST BASED UPON THE AVERAGE COST PER MILE OF BROADBAND
17 NETWORK CONSTRUCTION AS DETERMINED BY THE COMMISSIONER IN CONSULTATION
18 WITH THE PUBLIC SERVICE COMMISSION AND BROADBAND SERVICE PROVIDERS; TC
19 EQUALS THE NUMBER OF RESIDENTS AND SMALL BUSINESS CUSTOMERS IN THE
20 PROPOSED UNSERVED SERVICE AREA MAKING A QUALIFIED CUSTOMER CONTRIBUTION
21 IN AID TO CONSTRUCTION AND CONTRACTING FOR SERVICES OVER THE NETWORK;
22 AND QC EQUALS THE QUALIFIED CUSTOMER CONTRIBUTION IN AID OF
23 CONSTRUCTION.

24 (3) "REQUIRED PROVIDER CONTRIBUTION IN AID TO CONSTRUCTION" SHALL
25 EQUAL THE QUALIFIED CONSTRUCTION EXPENSES, LESS THE SUM OF ALL THE QUAL-
26 IFIED CUSTOMER CONTRIBUTIONS IN AID TO CONSTRUCTION IN THE PROPOSED
27 UNSERVED SERVICE AREA.

28 (4) "BROADBAND SERVICE" MEANS INTERNET ACCESS SERVICE WITH TRANS-
29 MISSION SPEEDS THAT ARE EQUAL TO OR GREATER THAN COMBINED ADVERTISED
30 DOWNLOAD SPEEDS OF AT LEAST 4 MEGABITS PER SECOND (MBPS) AND UPLOAD
31 SPEEDS OF AT LEAST 1 MBPS PER SECOND OVER THE PROVIDER'S NETWORK.

32 (5) "UNSERVED AREA" MEANS AN AREA COMPOSED OF ONE OR MORE CONTIGUOUS
33 CENSUS BLOCKS WHERE AT LEAST NINETY PERCENT OF HOUSEHOLDS LACK ACCESS TO
34 FACILITIES-BASED TERRESTRIAL BROADBAND SERVICE. A HOUSEHOLD HAS ACCESS
35 TO A BROADBAND SERVICE IF THE HOUSEHOLD CAN READILY SUBSCRIBE TO THAT
36 SERVICE UPON REQUEST.

37 (6) "QUALIFIED TAXPAYER" MEANS A TAXPAYER WHICH IS A SMALL BUSINESS
38 CORPORATION AS DEFINED IN PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
39 TWELVE HUNDRED FORTY-FOUR OF THE INTERNAL REVENUE CODE (WITHOUT REGARD
40 TO THE SECOND SENTENCE OF SUBPARAGRAPH (A) THEREOF) AS OF THE LAST DAY
41 OF THE TAXABLE YEAR.

42 S 4. Section 606 of the tax law is amended by adding a new subsection
43 (ccc) to read as follows:

44 (CCC) CREDIT FOR RURAL BROADBAND DEPLOYMENT. (A) ALLOWANCE OF CREDIT.
45 A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED
46 BY THIS ARTICLE EQUAL TO ANY QUALIFIED CUSTOMER CONTRIBUTION IN AID OF
47 CONSTRUCTION RESULTING FROM NEW NETWORK CONSTRUCTION TO DELIVER BROAD-
48 BAND SERVICE TO THE INDIVIDUAL'S RESIDENCE OR PLACE OF BUSINESS LOCATED
49 IN AN UNSERVED AREA. THE CREDIT ALLOWED BY THIS SUBSECTION SHALL BE
50 CLAIMED ANNUALLY OVER A FIVE-YEAR PERIOD EQUAL TO ONE-FIFTH OF THE CRED-
51 IT AMOUNT. IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IS GREATER THAN
52 THE TAX DUE IN ANY TAXABLE YEAR, THE AMOUNT BY WHICH SUCH CREDIT EXCEEDS
53 SUCH TAX DUE IS TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN
54 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
55 THIS CHAPTER.

(B) FOR PURPOSES OF THIS SUBSECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "QUALIFIED CONSTRUCTION EXPENSES" EQUAL THE TOTAL COST OF CONSTRUCTION OF NEW NETWORKS IN THE PROPOSED UNSERVED SERVICE AREA, AS CERTIFIED BY THE BROADBAND SERVICE PROVIDER, BUT NOT TO EXCEED A REASONABLE COST BASED UPON THE AVERAGE COST PER MILE OF BROADBAND NETWORK CONSTRUCTION AS DETERMINED BY THE COMMISSIONER IN CONSULTATION WITH THE PUBLIC SERVICE COMMISSION AND BROADBAND SERVICE PROVIDERS.

(2) "QUALIFIED CUSTOMER CONTRIBUTION IN AID OF CONSTRUCTION" IS DETERMINED IN ACCORDANCE WITH THE FOLLOWING FORMULA: $(QCE/TC) - (ACM/35) = QC$, WHERE QCE EQUALS THE QUALIFIED CONSTRUCTION EXPENSES; ACM EQUALS THE AVERAGE COST OF CONSTRUCTION PER MILE IN THE PROPOSED UNSERVED SERVICE AREA, AS CERTIFIED BY THE BROADBAND SERVICE PROVIDER, BUT NOT TO EXCEED A REASONABLE COST BASED UPON THE AVERAGE COST PER MILE OF BROADBAND NETWORK CONSTRUCTION AS DETERMINED BY THE COMMISSIONER IN CONSULTATION WITH THE PUBLIC SERVICE COMMISSION AND BROADBAND SERVICE PROVIDERS; TC EQUALS THE NUMBER OF RESIDENTS AND SMALL BUSINESS CUSTOMERS IN THE PROPOSED UNSERVED SERVICE AREA MAKING A QUALIFIED CUSTOMER CONTRIBUTION IN AID TO CONSTRUCTION AND CONTRACTING FOR SERVICES OVER THE NETWORK; AND QC EQUALS THE QUALIFIED CUSTOMER CONTRIBUTION IN AID OF CONSTRUCTION.

(3) "REQUIRED PROVIDER CONTRIBUTION IN AID TO CONSTRUCTION" SHALL EQUAL THE QUALIFIED CONSTRUCTION EXPENSES, LESS THE SUM OF ALL THE QUALIFIED CUSTOMER CONTRIBUTIONS IN AID TO CONSTRUCTION IN THE PROPOSED UNSERVED SERVICE AREA.

(4) "BROADBAND SERVICE" MEANS INTERNET ACCESS SERVICE WITH TRANSMISSION SPEEDS THAT ARE EQUAL TO OR GREATER THAN COMBINED ADVERTISED DOWNLOAD SPEEDS OF AT LEAST 4 MEGABITS PER SECOND (MBPS) AND UPLOAD SPEEDS OF AT LEAST 1 MBPS PER SECOND OVER THE PROVIDER'S NETWORK.

(5) "UNSERVED AREA" MEANS AN AREA COMPOSED OF ONE OR MORE CONTIGUOUS CENSUS BLOCKS WHERE AT LEAST NINETY PERCENT OF HOUSEHOLDS LACK ACCESS TO FACILITIES-BASED TERRESTRIAL BROADBAND SERVICE. A HOUSEHOLD HAS ACCESS TO A BROADBAND SERVICE IF THE HOUSEHOLD CAN READILY SUBSCRIBE TO THAT SERVICE UPON REQUEST.

(6) "QUALIFIED TAXPAYER" MEANS ANY INDIVIDUAL WITH NEW YORK ADJUSTED GROSS INCOME OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS.

S 5. This act shall take effect immediately and shall apply to tax years beginning on or after January 1, 2016.