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

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I N A S S E M B L Y

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Introduced by M. of A. TITUS, CLARK, COOK, PERRY, SILVER, BLAKE, SIMON, JOYNER, ORTIZ -- Multi-Sponsored by -- M. of A. DAVILA, GLICK, MARKEY, RIVERA -- read once and referred to the Committee on Ways and Means

AN ACT to amend the labor law and the tax law, in relation to establishing the New York city housing authority work tax credit program

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

Section 1. The labor law is amended by adding a new section 25-c to read as follows:

S 25-C. POWER TO ADMINISTER THE NEW YORK CITY HOUSING AUTHORITY WORK TAX CREDIT PROGRAM. (A) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH AND ADMINISTER THE NEW YORK CITY HOUSING AUTHORITY WORK TAX CREDIT PROGRAM TO PROVIDE TAX INCENTIVES TO EMPLOYERS FOR EMPLOYING RESIDENTS OF NEW YORK CITY HOUSING AUTHORITY PUBLIC HOUSING IN PART-TIME AND FULL-TIME JOBS OR INTERNSHIPS. THE COMMISSIONER IS AUTHORIZED TO ALLOCATE UP TO TWENTY-FIVE MILLION DOLLARS OF TAX CREDITS.

(B) DEFINITIONS. (1) THE TERM "QUALIFIED EMPLOYER" MEANS AN EMPLOYER IN GOOD STANDING:

(I) THAT IS LOCATED WITHIN A REASONABLE COMMUTING DISTANCE, AS DETERMINED BY THE COMMISSIONER, FOR RESIDENTS OF NEW YORK CITY HOUSING AUTHORITY PUBLIC HOUSING;

(II) THAT HAS BEEN CERTIFIED BY THE COMMISSIONER AND THE SUPERINTENDENT OF FINANCIAL SERVICES TO PARTICIPATE IN THE NEW YORK CITY HOUSING AUTHORITY TAX CREDIT PROGRAM; AND

(III) EMPLOYS ONE OR MORE QUALIFIED EMPLOYEES.

(2) THE TERM "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL:

(I) WHO RESIDES IN NEW YORK CITY HOUSING AUTHORITY PUBLIC HOUSING; AND

(II) WHO WILL BE WORKING FOR THE QUALIFIED EMPLOYER IN A FULL-TIME OR PART-TIME JOB OR INTERNSHIP THAT PAYS WAGES THAT ARE EQUIVALENT TO THE WAGES PAID FOR SIMILAR JOBS, WITH APPROPRIATE ADJUSTMENTS FOR EXPERIENCE AND TRAINING, AND FOR WHICH NO OTHER EMPLOYEE HAS BEEN TERMINATED, OR

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

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WHERE THE EMPLOYER HAS NOT OTHERWISE REDUCED ITS WORKFORCE BY INVOLUNTARY TERMINATIONS WITH THE INTENTION OF FILLING THE VACANCY BY CREATING A NEW HIRE.

(3) THE TERM "COMMUNITY-BASED ORGANIZATION" MEANS AN ORGANIZATION LOCATED IN A CITY WITH A POPULATION OF ONE MILLION OR MORE WHOSE SERVICES INCLUDE, BUT ARE NOT LIMITED TO, EMPLOYMENT, EDUCATION, AND BUSINESS RESOURCES.

(C) A QUALIFIED EMPLOYER SHALL BE ENTITLED TO A TAX CREDIT EQUAL TO NO MORE THAN FIVE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A FULL-TIME JOB OR INTERNSHIP OF AT LEAST THIRTY-FIVE HOURS PER WEEK OR NO MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A PART-TIME JOB OR INTERNSHIP OF AT LEAST TWENTY TO THIRTY-FOUR HOURS PER WEEK. THE TAX CREDITS SHALL BE CLAIMED BY THE QUALIFIED EMPLOYER AS SPECIFIED IN SUBDIVISION FORTY-NINE OF SECTION TWO HUNDRED TEN-B AND SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THE TAX LAW.

(D) TO PARTICIPATE IN THE NEW YORK CITY HOUSING AUTHORITY WORK TAX CREDIT PROGRAM, AN EMPLOYER MUST SUBMIT AN APPLICATION (IN A FORM PRESCRIBED BY THE COMMISSIONER IN CONSULTATION WITH THE SUPERINTENDENT OF FINANCIAL SERVICES) TO THE COMMISSIONER AND THE SUPERINTENDENT OF FINANCIAL SERVICES AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN. THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF FINANCIAL SERVICES, SHALL ESTABLISH GUIDELINES AND CRITERIA THAT SPECIFY REQUIREMENTS FOR EMPLOYERS TO PARTICIPATE IN THE PROGRAM INCLUDING CRITERIA FOR CERTIFYING QUALIFIED EMPLOYEES. ANY REGULATIONS THAT THE COMMISSIONER DETERMINES ARE NECESSARY MAY BE ADOPTED ON AN EMERGENCY BASIS NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT. SUCH REQUIREMENTS MAY INCLUDE THE TYPES OF INDUSTRIES THAT THE EMPLOYERS ARE ENGAGED IN. THE COMMISSIONER AND SUPERINTENDENT OF FINANCIAL SERVICES MAY GIVE PREFERENCE TO EMPLOYERS THAT ARE ENGAGED IN DEMAND OCCUPATIONS OR INDUSTRIES, OR IN REGIONAL GROWTH SECTORS, INCLUDING THOSE IDENTIFIED BY THE REGIONAL ECONOMIC DEVELOPMENT COUNCILS, SUCH AS CLEAN ENERGY, HEALTHCARE, ADVANCED MANUFACTURING AND CONSERVATION. IN ADDITION, THE COMMISSIONER AND SUPERINTENDENT OF FINANCIAL SERVICES SHALL GIVE PREFERENCE TO EMPLOYERS WHO OFFER ADVANCEMENT AND EMPLOYEE BENEFIT PACKAGES TO THE QUALIFIED INDIVIDUALS.

(E) IF, AFTER REVIEWING THE APPLICATION SUBMITTED BY AN EMPLOYER, THE COMMISSIONER AND SUPERINTENDENT OF FINANCIAL SERVICES DETERMINE THAT SUCH EMPLOYER IS ELIGIBLE TO PARTICIPATE IN THE NEW YORK CITY HOUSING AUTHORITY WORK TAX CREDIT PROGRAM, THE COMMISSIONER SHALL ISSUE THE EMPLOYER A CERTIFICATE OF ELIGIBILITY THAT ESTABLISHES THE EMPLOYER AS A QUALIFIED EMPLOYER. THE CERTIFICATE OF ELIGIBILITY SHALL SPECIFY THE MAXIMUM AMOUNT OF NEW YORK CITY HOUSING AUTHORITY WORK TAX CREDIT THAT THE EMPLOYER WILL BE ALLOWED TO CLAIM.

(F) THE COMMISSIONER SHALL PROVIDE THE NAMES AND ANY OTHER INFORMATION DEEMED NECESSARY OF QUALIFIED EMPLOYERS TO COMMUNITY-BASED ORGANIZATIONS. SUCH COMMUNITY-BASED ORGANIZATIONS SHALL REFER QUALIFIED EMPLOYEES TO APPROPRIATE QUALIFIED EMPLOYERS. QUALIFIED EMPLOYERS SHALL NOT ASK REFERRED QUALIFIED EMPLOYEES HOW THEY QUALIFIED FOR THE NEW YORK CITY HOUSING AUTHORITY WORK TAX CREDIT PROGRAM.

(G) THE COMMISSIONER SHALL ANNUALLY PUBLISH A REPORT. SUCH REPORT MUST CONTAIN THE NAMES AND ADDRESSES OF ANY EMPLOYER ISSUED A CERTIFICATE OF ELIGIBILITY UNDER THIS SECTION, AND THE MAXIMUM AMOUNT OF NEW YORK CITY HOUSING AUTHORITY WORK TAX CREDIT ALLOWED TO THE EMPLOYER AS SPECIFIED ON SUCH CERTIFICATE OF ELIGIBILITY.

S 2. Section 210-B of the tax law is amended by adding a new subdivision 49 to read as follows:

49. NEW YORK CITY HOUSING AUTHORITY WORK TAX CREDIT. (A) A TAXPAYER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER OF LABOR AND SUPERINTENDENT OF FINANCIAL SERVICES AS A QUALIFIED EMPLOYER PURSUANT TO SECTION TWENTY-FIVE-C OF THE LABOR LAW SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO NO MORE THAN FIVE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A FULL-TIME JOB OR INTERNSHIP OF AT LEAST THIRTY-FIVE HOURS PER WEEK OR NO MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A PART-TIME JOB OR INTERNSHIP OF AT LEAST TWENTY TO THIRTY-FOUR HOURS PER WEEK. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "QUALIFIED EMPLOYEE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION (B) OF SECTION TWENTY-FIVE-C OF THE LABOR LAW. THE PORTION OF THE CREDIT DESCRIBED IN THIS PARAGRAPH SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE WAGES ARE PAID TO THE QUALIFIED EMPLOYEE.

(B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO THAT AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN THAT TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, NO INTEREST WILL BE PAID THEREON.

(C) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS CERTIFICATE OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION TWENTY-FIVE-C OF THE LABOR LAW. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED ON THE CERTIFICATE OF ELIGIBILITY. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER'S DESIGNEES MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER. PROVIDED, HOWEVER, IF A TAXPAYER CLAIMS THIS CREDIT BECAUSE IT IS A MEMBER OF A LIMITED LIABILITY COMPANY OR A PARTNER IN A PARTNERSHIP, ONLY THE AMOUNT OF CREDIT EARNED BY THE ENTITY AND NOT THE AMOUNT OF CREDIT CLAIMED BY THE TAXPAYER MAY BE RELEASED.

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

(CCC) NEW YORK CITY HOUSING AUTHORITY WORK TAX CREDIT. (1) A TAXPAYER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER OF LABOR AND THE SUPERINTENDENT OF FINANCIAL SERVICES AS A QUALIFIED EMPLOYER PURSUANT TO SECTION TWENTY-FIVE-C OF THE LABOR LAW SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO NO MORE THAN FIVE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A FULL-TIME JOB OR INTERNSHIP OF AT LEAST THIRTY-FIVE HOURS PER WEEK OR NO MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A PART-TIME JOB OR INTERNSHIP OF AT LEAST TWENTY TO THIRTY-FOUR HOURS PER WEEK. A TAXPAYER THAT IS A PARTNER IN A PARTNERSHIP, MEMBER OF A LIMITED LIABILITY COMPANY OR SHAREHOLDER IN AN S CORPORATION THAT HAS BEEN CERTIFIED BY THE COMMISSIONER OF LABOR AND THE SUPERINTENDENT OF FINANCIAL SERVICES AS A QUALIFIED EMPLOYER PURSUANT TO SECTION TWENTY-FIVE-C OF THE LABOR LAW SHALL BE ALLOWED ITS PRO RATA SHARE OF THE CREDIT EARNED BY THE PARTNERSHIP, LIMITED LIABILITY COMPANY OR S CORPORATION. FOR PURPOSES OF THIS SUBSECTION, THE TERM "QUALIFIED

EMPLOYEE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION (B) OF SECTION TWENTY-FIVE-C OF THE LABOR LAW. THE PORTION OF THE CREDIT DESCRIBED IN THIS PARAGRAPH SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE WAGES ARE PAID TO THE QUALIFIED EMPLOYEE.

(2) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION EXCEEDS THE TAXPAYER'S TAX FOR THE TAXABLE YEAR, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN THAT TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE. PROVIDED, HOWEVER, NO INTEREST WILL BE PAID THEREON.

(3) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS CERTIFICATE OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION TWENTY-FIVE-C OF THE LABOR LAW. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED ON THE CERTIFICATE OF ELIGIBILITY. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER'S DESIGNEES MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER. PROVIDED, HOWEVER, IF A TAXPAYER CLAIMS THIS CREDIT BECAUSE IT IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP, OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, ONLY THE AMOUNT OF CREDIT EARNED BY THE ENTITY AND NOT THE AMOUNT OF CREDIT CLAIMED BY THE TAXPAYER MAY BE RELEASED.

S 4. This act shall take effect immediately.