

2571

2015-2016 Regular Sessions

I N   S E N A T E

January 26, 2015

---

Introduced by Sen. PARKER -- 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 tax credit for developers utilizing renewable energy sources in affordable housing units

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

1     Section 1. The tax law is amended by adding a new section 42 to read  
2     as follows:  
3     S 42. CREDIT FOR UTILIZING RENEWABLE ENERGY SOURCES. (A) GENERAL. A  
4     TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAP-  
5     TER, WHO IS A DEVELOPER WHO USES RENEWABLE SOURCES OF ENERGY, AS SUCH  
6     TERM IS DEFINED IN SUBDIVISION TWELVE OF SECTION 1-103 OF THE ENERGY  
7     LAW, DURING THE CONSTRUCTION OF AN AFFORDABLE HOUSING FACILITY, SHALL BE  
8     ALLOWED A CREDIT AGAINST SUCH TAXES IN AN AMOUNT OF TWO THOUSAND DOLLARS  
9     PER QUALIFIED UNIT AND PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVI-  
10    SION (C) OF THIS SECTION.  
11    (B) DEFINITIONS. (1) "AFFORDABLE HOUSING FACILITY" SHALL MEAN A BUILD-  
12    ING CONTAINING TEN OR MORE UNITS, NINETY PERCENT OF WHICH ARE QUALIFIED  
13    UNITS.  
14    (2) "QUALIFIED UNIT" SHALL MEAN ANY UNIT WITHIN AN AFFORDABLE HOUSING  
15    FACILITY THAT USES RENEWABLE SOURCES OF ENERGY AND IS OCCUPIED BY ONE OR  
16    MORE PEOPLE WHOSE TOTAL INCOME IS LESS THAN ONE HUNDRED PERCENT OF THE  
17    AREA MEDIAN INCOME.  
18    (C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN  
19    THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:  
20    (1) ARTICLE 9-A: SECTION 210-B, SUBDIVISION 49.  
21    (2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (CCC).  
22    S 2. Section 210-B of the tax law is amended by adding a new subdivi-  
23    sion 49 to read as follows:

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

LBD06999-02-5

1 49. CREDIT FOR UTILIZING RENEWABLE ENERGY SOURCES. A TAXPAYER SHALL BE  
2 ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF  
3 THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IN NO EVENT SHALL  
4 THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCE  
5 THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARA-  
6 GRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE.  
7 HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY  
8 TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS  
9 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT  
10 OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF  
11 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE  
12 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF  
13 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

16 (CCC) CREDIT FOR UTILIZING RENEWABLE ENERGY SOURCES. A TAXPAYER SHALL  
17 BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED FOR IN SECTION FORTY-TWO  
18 OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF THE AMOUNT  
19 OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL  
20 EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS  
21 AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE  
22 PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED,  
23 HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

24 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
25 of the tax law is amended by adding a new clause (xli) to read as  
26 follows:

27 (XLI) CREDIT FOR UTILIZING RENEWABLE	AMOUNT OF CREDIT UNDER
28 ENERGY SOURCES UNDER SUBSECTION (CCC)	SUBDIVISION FORTY-NINE
29	OF SECTION TWO HUNDRED
30	TEN-B

31 S 5. This act shall take effect immediately.