STATE OF NEW YORK

2642--B

2017-2018 Regular Sessions

IN SENATE

January 13, 2017

Introduced by Sens. RANZENHOFER, FUNKE, LARKIN, SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a credit against income tax for the rehabilitation of distressed residential properties

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) Credit for rehabilitation of distressed residential properties. (1) For taxable years beginning on or after January first, two thousand eighteen, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified distressed residential property. Provided, however, the credit shall not exceed one hundred thousand dollars.

(2) Tax credits allowed pursuant to this subsection shall be allowed in the taxable year in which the property is deemed a certified rehabilitation.

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

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(3) If the amount of the credit allowable 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, and may be applied against the taxpayer's tax for such year or years.

(4) (A) The term "qualified rehabilitation expenditure" means, for purposes of this subsection, any amount properly chargeable to a capital account:

(i) in connection with the certified rehabilitation of a qualified distressed residential property, and

(ii) for property for which depreciation would be allowable under section 168 of the internal revenue code.

(B) Such term shall not include (i) the cost of acquiring any building or interest therein, (ii) any expenditure attributable to the enlargement of an existing building, or (iii) any expenditure made prior to January first, two thousand eighteen or after December thirty-first, two thousand twenty-three.

(5) The term "certified rehabilitation" means, for purposes of distressed residential property in this subsection, any rehabilitation of a certified distressed residential property which has been approved and certified by a local government as being completed, with a certificate of occupancy issued, and that the costs are consistent with the work completed. Such certification shall be acceptable as proof that the expenditures related to such rehabilitation qualify as qualified rehabilitation expenditures for purposes of the credit allowed under paragraph one of this subsection.

(6) (A) The term "qualified residential property" means, for purposes of this subsection, a distressed residential property located within New York state:

(i) which has been substantially rehabilitated,

(ii) which was constructed prior to January first, nineteen hundred sixty-two,

(iii) which is owned by the taxpayer, and

(iv) which is located within a distressed residential or mixed-use area, as identified by each locality through local law, that is deemed an area in need of community renewal due to dilapidation and vacancies.

(B) If the distressed residential property is rental property, such property shall have been vacant for at least six months while actively marketed for lease.

(C) A building shall be treated as having been "substantially rehabilitated" if the qualified rehabilitation expenditures in relation to such building total ten thousand dollars or more.

(7) (A) If the taxpayer disposes of such taxpayer's interest in the qualified distressed residential property, or such property ceases to be used as a residential property of the taxpayer within five years of receiving the credit under this subsection, the taxpayer's tax imposed by this article for the taxable year in which such disposition or cessation occurs shall be increased by the recapture portion of the credit allowed under this subsection for all prior taxable years with respect to such rehabilitation.

(B) For purposes of subparagraph (A) of this paragraph, the recapture portion shall be the product of the amount of credit claimed by the taxpayer multiplied by a ratio, the numerator of which is equal to sixty less the number of months the building is owned or used as residential property by the taxpayer and the denominator of which is sixty.

(8) Any expenditure for which a credit is claimed under this subsection shall not be eligible for any other credit under this chapter.

§ 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xliv) to read as follows:

(xliv) Credit for rehabilitation of distressed residential properties under subsection (ccc)	Amount of credit under subdivision fifty-three of section two hundred ten-B

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 53 to read as follows:

53. Credit for rehabilitation of distressed residential properties. (1) For taxable years beginning on or after January first, two thousand eighteen, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified distressed residential property. Provided, however, the credit shall not exceed one hundred thousand dollars.

(2) Tax credits allowed pursuant to this subdivision shall be allowed in the taxable year in which the property is deemed a certified rehabilitation.

(3) If the amount of the credit allowable under this subdivision 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, and may be applied against the taxpayer's tax for such year or years, but shall not exceed twenty-five thousand dollars.

(4) (A) The term "qualified rehabilitation expenditure" means, for purposes of this subdivision, any amount properly chargeable to a capital account:

(i) in connection with the certified rehabilitation of a qualified residential property, and

(ii) for property for which depreciation would be allowable under section 168 of the internal revenue code.

(B) Such term shall not include (i) the cost of acquiring any building or interest therein, (ii) any expenditure attributable to the enlargement of an existing building, or (iii) any expenditure made prior to January first, two thousand eighteen or after December thirty-first, two thousand twenty-three.

(5) The term "certified rehabilitation" means, for purposes of this subdivision, any rehabilitation of a certified distressed residential property which has been approved and certified by a local government as being completed, with a certificate of occupancy issued, and that the costs are consistent with the work completed. Such certification shall be acceptable as proof that the expenditures related to such rehabilitation qualify as qualified rehabilitation expenditures for purposes of the credit allowed under paragraph one of this subdivision.

(6) (A) The term "qualified residential property" means, for purposes of this subdivision, a distressed residential property located within New York state:

(i) which has been substantially rehabilitated,

(ii) which was constructed prior to January first, nineteen hundred sixty-two,

(iii) which is owned by the taxpayer, and

(iv) which is located within a distressed residential or mixed-use area, as identified by each locality through local law, that is deemed an area in need of community renewal due to dilapidation and vacancies.

(B) If the distressed residential property is rental property, such property shall have been vacant for at least six months while actively marketed for lease.

(C) A building shall be treated as having been "substantially rehabilitated" if the qualified rehabilitation expenditures in relation to such building total ten thousand dollars or more.

(7) (A) If the taxpayer disposes of such taxpayer's interest in the qualified distressed residential property, or such property ceases to be used as a residential property of the taxpayer within five years of receiving the credit under this subdivision, the taxpayer's tax imposed by this article for the taxable year in which such disposition or cessation occurs shall be increased by the recapture portion of the credit allowed under this subdivision for all prior taxable years with respect to such rehabilitation.

(B) For purposes of subparagraph (A) of this paragraph, the recapture portion shall be the product of the amount of credit claimed by the taxpayer multiplied by a ratio, the numerator of which is equal to sixty less the number of months the building is owned or used as residential property by the taxpayer and the denominator of which is sixty.

(8) Any expenditure for which a credit is claimed under this subdivision shall not be eligible for any other credit under this chapter.

§ 4. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2018.