

# STATE OF NEW YORK

4415--B

2017-2018 Regular Sessions

## IN ASSEMBLY

February 2, 2017

Introduced by M. of A. SCHIMMINGER, MAGNARELLI, COLTON, CROUCH --  
Multi-Sponsored by -- M. of A. CYMBROWITZ, McDONALD, WALTER -- read  
once and referred to the Committee on Ways and Means -- committee  
discharged, bill amended, ordered reprinted as amended and recommitted  
to said committee -- recommitted to the Committee on Ways and Means in  
accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill  
amended, ordered reprinted as amended and recommitted to said commit-  
tee

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 Assem-  
bly, 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 taxpay-  
er 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 rehabil-  
itation.

(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.

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

LBD06135-05-8

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

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

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

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

13     (5) The term "certified rehabilitation" means, for purposes of  
14 distressed residential property in this subsection, any rehabilitation  
15 of a certified distressed residential property which has been approved  
16 and certified by a local government as being completed, with a certif-  
17 icate of occupancy issued, and that the costs are consistent with the  
18 work completed. Such certification shall be acceptable as proof that the  
19 expenditures related to such rehabilitation qualify as qualified reha-  
20 bilitation expenditures for purposes of the credit allowed under para-  
21 graph one of this subsection.

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

25     (i) which has been substantially rehabilitated,

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

28     (iii) which is owned by the taxpayer, and

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

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

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

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

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

51     (8) Any expenditure for which a credit is claimed under this  
52 subsection shall not be eligible for any other credit under this chap-  
53 ter.

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

1	<u>(xliv) Credit for rehabilitation</u>	<u>Amount of credit</u>
2	<u>of distressed residential</u>	<u>under subdivision fifty-three</u>
3	<u>properties under subsection (ccc)</u>	<u>of section two hundred ten-B</u>

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

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

14    (2) Tax credits allowed pursuant to this subdivision shall be allowed  
15    in the taxable year in which the property is deemed a certified rehabil-  
16    itation.

17    (3) If the amount of the credit allowable under this subdivision for  
18    any taxable year shall exceed the taxpayer's tax for such year, the  
19    excess may be carried over to the following year or years, and may be  
20    applied against the taxpayer's tax for such year or years, but shall not  
21    exceed twenty-five thousand dollars.

22    (4) (A) The term "qualified rehabilitation expenditure" means, for  
23    purposes of this subdivision, any amount properly chargeable to a capi-  
24    tal account:

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

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

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

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

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

45    (i) which has been substantially rehabilitated,

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

48    (iii) which is owned by the taxpayer, and

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

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

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

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

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

17 (8) Any expenditure for which a credit is claimed under this subdivi-  
18 sion shall not be eligible for any other credit under this chapter.

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