

# STATE OF NEW YORK

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2642--B

2017-2018 Regular Sessions

## IN SENATE

January 13, 2017

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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:

1 Section 1. Section 606 of the tax law is amended by adding a new  
2 subsection (ccc) to read as follows:

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

11 (2) Tax credits allowed pursuant to this subsection shall be allowed  
12 in the taxable year in which the property is deemed a certified rehabil-  
13 itation.

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

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1     (3) If the amount of the credit allowable under this subsection for  
2 any taxable year shall exceed the taxpayer's tax for such year, the  
3 excess may be carried over to the following year or years, and may be  
4 applied against the taxpayer's tax for such year or years.

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

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

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

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

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

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

29    (i) which has been substantially rehabilitated,

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

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

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

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

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

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

50    (B) For purposes of subparagraph (A) of this paragraph, the recapture  
51 portion shall be the product of the amount of credit claimed by the  
52 taxpayer multiplied by a ratio, the numerator of which is equal to sixty  
53 less the number of months the building is owned or used as residential  
54 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:

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

§ 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

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

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

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

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

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

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

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