

# STATE OF NEW YORK

2643--A

Cal. No. 751

2017-2018 Regular Sessions

## IN SENATE

January 13, 2017

Introduced by Sens. RANZENHOFER, FELDER, FUNKE, LARKIN, RITCHIE, 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

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

4 (1) For taxable years beginning on or after January first, two thousand  
5 seventeen, 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 commercial property. Provided,  
9 however, the credit shall not exceed one hundred thousand dollars.

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

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

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

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

LBD06136-02-7

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

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

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

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

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

- 21 (i) which has been substantially rehabilitated,
- 22 (ii) which is owned by the taxpayer, and
- 23 (iii) which is located within a distressed commercial area, as identi-  
24 fied by each locality through local law, that is deemed an area in need  
25 of community renewal due to dilapidation and vacancies.

26 (B) If the distressed commercial property is rental property, such  
27 property shall have been more than thirty percent vacant for twelve  
28 months while actively marketed for lease.

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

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

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

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

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

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

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

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

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

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

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

19 (i) in connection with the certified rehabilitation of a qualified  
20 commercial property, and

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

23 (B) Such term shall not include (i) the cost of acquiring any building  
24 or interest therein, (ii) any expenditure attributable to the enlarge-  
25 ment of an existing building, or (iii) any expenditure made prior to  
26 January first, two thousand seventeen or after December thirty-first,  
27 two thousand twenty-two.

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

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

39 (i) which has been substantially rehabilitated,

40 (ii) which is owned by the taxpayer, and

41 (iii) which is located within a distressed commercial area, as identi-  
42 fied by each locality through local law, that is deemed an area in need  
43 of community renewal due to dilapidation and vacancies.

44 (B) If the distressed commercial property is rental property, such  
45 property shall have been more than thirty percent vacant for twelve  
46 months while actively marketed for lease.

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

50 (7) (A) If the taxpayer disposes of such taxpayer's interest in the  
51 qualified distressed commercial property, or such property ceases to be  
52 used as a commercial property of the taxpayer within five years of  
53 receiving the credit under this subdivision, the taxpayer's tax imposed  
54 by this article for the taxable year in which such disposition or cessa-  
55 tion occurs shall be increased by the recapture portion of the credit

1 allowed under this subdivision for all prior taxable years with respect  
2 to such rehabilitation.

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

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

10 § 4. This act shall take effect immediately and shall apply to taxable  
11 years beginning on or after January 1, 2017.