

# STATE OF NEW YORK

5068

2019-2020 Regular Sessions

## IN ASSEMBLY

February 7, 2019

Introduced by M. of A. TITUS, COOK, PERRY, BLAKE, SIMON, JOYNER, ORTIZ  
-- Multi-Sponsored by -- M. of A. DAVILA, GLICK, RIVERA -- read once  
and referred to the Committee on Ways and Means

AN ACT to amend the labor law and the tax law, in relation to establishing the New York city housing authority work tax credit program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The labor law is amended by adding a new section 25-d to  
2 read as follows:

3 § 25-d. Power to administer the New York city housing authority work  
4 tax credit program. (a) The commissioner is authorized to establish and  
5 administer the New York city housing authority work tax credit program  
6 to provide tax incentives to employers for employing residents of New  
7 York city housing authority public housing in part-time and full-time  
8 jobs or internships. The commissioner is authorized to allocate up to  
9 twenty-five million dollars of tax credits.

10 (b) Definitions. (1) The term "qualified employer" means an employer  
11 in good standing:

12 (i) that is located within a reasonable commuting distance, as deter-  
13 mined by the commissioner, for residents of New York city housing  
14 authority public housing;

15 (ii) that has been certified by the commissioner and the superinten-  
16 dent of financial services to participate in the New York city housing  
17 authority tax credit program; and

18 (iii) employs one or more qualified employees.

19 (2) The term "qualified employee" means an individual:

20 (i) who resides in New York city housing authority public housing; and

21 (ii) who will be working for the qualified employer in a full-time or  
22 part-time job or internship that pays wages that are equivalent to the  
23 wages paid for similar jobs, with appropriate adjustments for experience  
24 and training, and for which no other employee has been terminated, or

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

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1 where the employer has not otherwise reduced its workforce by involun-  
2 tary terminations with the intention of filling the vacancy by creating  
3 a new hire.

4 (3) The term "community-based organization" means an organization  
5 located in a city with a population of one million or more whose  
6 services include, but are not limited to, employment, education, and  
7 business resources.

8 (c) A qualified employer shall be entitled to a tax credit equal to no  
9 more than five thousand dollars for each qualified employee the employer  
10 employs in a full-time job or internship of at least thirty-five hours  
11 per week or no more than two thousand five hundred dollars for each  
12 qualified employee the employer employs in a part-time job or internship  
13 of at least twenty to thirty-four hours per week. The tax credits shall  
14 be claimed by the qualified employer as specified in subdivision fifty-  
15 three of section two hundred ten-B and subsection (jjj) of section six  
16 hundred six of the tax law.

17 (d) To participate in the New York city housing authority work tax  
18 credit program, an employer must submit an application (in a form  
19 prescribed by the commissioner in consultation with the superintendent  
20 of financial services) to the commissioner and the superintendent of  
21 financial services after January first, two thousand twenty. The commis-  
22 sioner, in consultation with the superintendent of financial services,  
23 shall establish guidelines and criteria that specify requirements for  
24 employers to participate in the program including criteria for certify-  
25 ing qualified employees. Any regulations that the commissioner deter-  
26 mines are necessary may be adopted on an emergency basis notwithstanding  
27 anything to the contrary in section two hundred two of the state admin-  
28 istrative procedure act. Such requirements may include the types of  
29 industries that the employers are engaged in. The commissioner and  
30 superintendent of financial services may give preference to employers  
31 that are engaged in demand occupations or industries, or in regional  
32 growth sectors, including those identified by the regional economic  
33 development councils, such as clean energy, healthcare, advanced manu-  
34 facturing and conservation. In addition, the commissioner and super-  
35 intendent of financial services shall give preference to employers who  
36 offer advancement and employee benefit packages to the qualified indi-  
37 viduals.

38 (e) If, after reviewing the application submitted by an employer, the  
39 commissioner and superintendent of financial services determine that  
40 such employer is eligible to participate in the New York city housing  
41 authority work tax credit program, the commissioner shall issue the  
42 employer a certificate of eligibility that establishes the employer as a  
43 qualified employer. The certificate of eligibility shall specify the  
44 maximum amount of New York city housing authority work tax credit that  
45 the employer will be allowed to claim.

46 (f) The commissioner shall provide the names and any other information  
47 deemed necessary of qualified employers to community-based organiza-  
48 tions. Such community-based organizations shall refer qualified employ-  
49 ees to appropriate qualified employers. Qualified employers shall not  
50 ask referred qualified employees how they qualified for the New York  
51 city housing authority work tax credit program.

52 (g) The commissioner shall annually publish a report. Such report must  
53 contain the names and addresses of any employer issued a certificate of  
54 eligibility under this section, and the maximum amount of New York city  
55 housing authority work tax credit allowed to the employer as specified  
56 on such certificate of eligibility.

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

3 53. New York city housing authority work tax credit. (a) A taxpayer  
4 that has been certified by the commissioner of labor and superintendent  
5 of financial services as a qualified employer pursuant to section twen-  
6 ty-five-d of the labor law shall be allowed a credit against the tax  
7 imposed by this article equal to no more than five thousand dollars for  
8 each qualified employee the employer employs in a full-time job or  
9 internship of at least thirty-five hours per week or no more than two  
10 thousand five hundred dollars for each qualified employee the employer  
11 employs in a part-time job or internship of at least twenty to thirty-  
12 four hours per week. For purposes of this subdivision, the term "quali-  
13 fied employee" shall have the same meaning as set forth in subdivision  
14 (b) of section twenty-five-d of the labor law. The portion of the credit  
15 described in this paragraph shall be allowed for the taxable year in  
16 which the wages are paid to the qualified employee.

17 (b) The credit allowed under this subdivision for any taxable year may  
18 not reduce the tax due for that year to less than the amount prescribed  
19 in paragraph (d) of subdivision one of section two hundred ten of this  
20 article. However, if the amount of the credit allowed under this subdivi-  
21 vision for any taxable year reduces the tax to that amount or if the  
22 taxpayer otherwise pays tax based on the fixed dollar minimum amount,  
23 any amount of credit not deductible in that taxable year will be treated  
24 as an overpayment of tax to be credited or refunded in accordance with  
25 the provisions of section one thousand eighty-six of this chapter.  
26 Provided, however, no interest will be paid thereon.

27 (c) The taxpayer may be required to attach to its tax return its  
28 certificate of eligibility issued by the commissioner of labor pursuant  
29 to section twenty-five-d of the labor law. In no event shall the taxpay-  
30 er be allowed a credit greater than the amount of the credit listed on  
31 the certificate of eligibility. Notwithstanding any provision of this  
32 chapter to the contrary, the commissioner and the commissioner's desig-  
33 nees may release the names and addresses of any taxpayer claiming this  
34 credit and the amount of the credit earned by the taxpayer. Provided,  
35 however, if a taxpayer claims this credit because it is a member of a  
36 limited liability company or a partner in a partnership, only the amount  
37 of credit earned by the entity and not the amount of credit claimed by  
38 the taxpayer may be released.

39 § 3. Section 606 of the tax law is amended by adding a new subsection  
40 (jjj) to read as follows:

41 (jjj) New York city housing authority work tax credit. (1) A taxpayer  
42 that has been certified by the commissioner of labor and the superinten-  
43 dent of financial services as a qualified employer pursuant to section  
44 twenty-five-d of the labor law shall be allowed a credit against the tax  
45 imposed by this article equal to no more than five thousand dollars for  
46 each qualified employee the employer employs in a full-time job or  
47 internship of at least thirty-five hours per week or no more than two  
48 thousand five hundred dollars for each qualified employee the employer  
49 employs in a part-time job or internship of at least twenty to thirty-  
50 four hours per week. A taxpayer that is a partner in a partnership,  
51 member of a limited liability company or shareholder in an S corporation  
52 that has been certified by the commissioner of labor and the superinten-  
53 dent of financial services as a qualified employer pursuant to section  
54 twenty-five-d of the labor law shall be allowed its pro rata share of  
55 the credit earned by the partnership, limited liability company or S  
56 corporation. For purposes of this subsection, the term "qualified

1 employee" shall have the same meaning as set forth in subdivision (b) of  
2 section twenty-five-d of the labor law. The portion of the credit  
3 described in this paragraph shall be allowed for the taxable year in  
4 which the wages are paid to the qualified employee.

5 (2) If the amount of the credit allowed under this subsection exceeds  
6 the taxpayer's tax for the taxable year, any amount of credit not deduc-  
7 tible in that taxable year will be treated as an overpayment of tax to  
8 be credited or refunded in accordance with the provisions of section six  
9 hundred eighty-six of this article. Provided, however, no interest will  
10 be paid thereon.

11 (3) The taxpayer may be required to attach to its tax return its  
12 certificate of eligibility issued by the commissioner of labor pursuant  
13 to section twenty-five-d of the labor law. In no event shall the taxpay-  
14 er be allowed a credit greater than the amount of the credit listed on  
15 the certificate of eligibility. Notwithstanding any provision of this  
16 chapter to the contrary, the commissioner and the commissioner's desig-  
17 nees may release the names and addresses of any taxpayer claiming this  
18 credit and the amount of the credit earned by the taxpayer. Provided,  
19 however, if a taxpayer claims this credit because it is a member of a  
20 limited liability company, a partner in a partnership, or a shareholder  
21 in a subchapter S corporation, only the amount of credit earned by the  
22 entity and not the amount of credit claimed by the taxpayer may be  
23 released.

24 § 4. This act shall take effect immediately.