

# STATE OF NEW YORK

3645

2019-2020 Regular Sessions

## IN SENATE

February 11, 2019

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to the rehabilitation of historic properties tax credit

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

1 Section 1. Subparagraph (A) of paragraph 1 of subsection (oo) of  
2 section 606 of the tax law, as amended by section 1 of part RR of chap-  
3 ter 59 of the laws of 2018, is amended and two new paragraphs 6 and 7  
4 are added to read as follows:

5 (A) For taxable years beginning on or after January first, two thou-  
6 sand ten and before January first, two thousand twenty-five, a taxpayer  
7 shall be allowed a credit as hereinafter provided, against the tax  
8 imposed by this article, in an amount equal to one hundred percent of  
9 the amount of credit allowed the taxpayer with respect to a certified  
10 historic structure, and one hundred ten percent of the amount of credit  
11 allowed the taxpayer with respect to a certified historic structure that  
12 is a small project, under internal revenue code section 47(c)(3), deter-  
13 mined without regard to ratably allocating the credit over a five year  
14 period as required by subsection (a) of such section 47, with respect to  
15 a certified historic structure located within the state. Provided,  
16 however, the credit shall not exceed five million dollars. For taxable  
17 years beginning on or after January first, two thousand twenty-five, a  
18 taxpayer shall be allowed a credit as hereinafter provided, against the  
19 tax imposed by this article, in an amount equal to thirty percent of the  
20 amount of credit allowed the taxpayer with respect to a certified  
21 historic structure under internal revenue code section 47(c)(3), deter-  
22 mined without regard to ratably allocating the credit over a five year  
23 period as required by subsection (a) of such section 47, with respect to  
24 a certified historic structure located within the state; provided,  
25 however, the credit shall not exceed one hundred thousand dollars.

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

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1 (6) A taxpayer is permitted to transfer such credit allowed under this  
2 subsection, in whole or in part, to any individual or entity, without  
3 the requirement of transferring any ownership interest in the certified  
4 historic structure or any interest in the entity which owns the certi-  
5 fied historic structure; provided, however, that a taxpayer may only  
6 transfer such credit once. Such transfer shall not affect the time sche-  
7 dule for claiming the credit transferred. Any credit recaptured shall be  
8 the liability of the taxpayer who actually claimed the credit. The claim  
9 of a transferee shall be permitted in the same manner and subject to the  
10 same provisions of this subsection as applied to the taxpayer to whom  
11 the credit was originally allowed.

12 (7) For purposes of this subsection the term "small project" means  
13 qualified rehabilitation expenditures totaling five million dollars or  
14 less.

15 § 2. Subparagraph (A) of paragraph 5 of subsection (pp) of section 606  
16 of the tax law, as added by chapter 547 of the laws of 2006, clause (iv)  
17 as amended by chapter 239 of the laws of 2009, is amended to read as  
18 follows:

19 (A) The term "qualified historic home" means, for purposes of this  
20 subsection, a certified historic structure located within New York  
21 state:

22 (i) which has been substantially rehabilitated,  
23 (ii) which, or any portion of which, is owned, in whole or part, by  
24 the taxpayer,  
25 (iii) in which the taxpayer resides during the taxable year in which  
26 the taxpayer is allowed a credit under this subsection, and  
27 (iv) (1) which is in whole or in part a targeted area residence within  
28 the meaning of section 143(j) of the internal revenue code; or (2) is  
29 located within a census tract which is identified as being at or below  
30 one hundred percent of the state median family income in the most recent  
31 federal census; or (3) which is located in a city with a population of  
32 less than one million with a poverty rate greater than fifteen percent,  
33 rounded to the nearest whole number, in the two thousand seventeen Amer-  
34 ican community survey.

35 § 3. Subparagraph (i) of paragraph (a) of subdivision 26 of section  
36 210-B of the tax law, as amended by section 2 of part RR of chapter 59  
37 of the laws of 2018, is amended and a new paragraph (f) is added to read  
38 as follows:

39 (i) For taxable years beginning on or after January first, two thou-  
40 sand ten, and before January first, two thousand twenty-five, a taxpayer  
41 shall be allowed a credit as hereinafter provided, against the tax  
42 imposed by this article, in an amount equal to one hundred percent of  
43 the amount of credit allowed the taxpayer for the same taxable year with  
44 respect to a certified historic structure, and one hundred ten percent  
45 of the amount of credit allowed the taxpayer with respect to a certified  
46 historic structure that is a small project, under internal revenue code  
47 section 47(c)(3), determined without regard to ratably allocating the  
48 credit over a five year period as required by subsection (a) of such  
49 section 47, with respect to a certified historic structure located with-  
50 in the state. Provided, however, the credit shall not exceed five  
51 million dollars.

52 (f) For purposes of this subdivision "small project" means qualified  
53 rehabilitation expenditures totaling five million dollars or less.

54 § 4. Subparagraph (A) of paragraph 1 of subdivision (y) of section  
55 1511 of the tax law, as amended by section 3 of part RR of chapter 59 of

1 the laws of 2018, is amended and a new paragraph 6 is added to read as  
2 follows:

3 (A) For taxable years beginning on or after January first, two thou-  
4 sand ten and before January first, two thousand twenty-five, a taxpayer  
5 shall be allowed a credit as hereinafter provided, against the tax  
6 imposed by this article, in an amount equal to one hundred percent of  
7 the amount of credit allowed the taxpayer with respect to a certified  
8 historic structure, and one hundred ten percent of the amount of credit  
9 allowed the taxpayer with respect to a certified historic structure that  
10 is a small project, under internal revenue code section 47(c)(3), deter-  
11 mined without regard to ratably allocating the credit over a five year  
12 period as required by subsection (a) of such section 47, with respect to  
13 a certified historic structure located within the state. Provided,  
14 however, the credit shall not exceed five million dollars. For taxable  
15 years beginning on or after January first, two thousand twenty-five, a  
16 taxpayer shall be allowed a credit as hereinafter provided, against the  
17 tax imposed by this article, in an amount equal to thirty percent of the  
18 amount of credit allowed the taxpayer with respect to a certified  
19 historic structure under internal revenue code section 47(c)(3), deter-  
20 mined without regard to ratably allocating the credit over a five year  
21 period as required by subsection (a) of such section 47 with respect to  
22 a certified historic structure located within the state. Provided,  
23 however, the credit shall not exceed one hundred thousand dollars.

24 (6) For purposes of this subdivision "small project" means qualified  
25 rehabilitation expenditures totaling five million dollars or less.

26 § 5. This act shall take effect immediately.