STATE OF NEW YORK

5630

2021-2022 Regular Sessions

IN ASSEMBLY

February 22, 2021

Introduced by M. of A. FITZPATRICK, DeSTEFANO -- read once and referred to the Committee on Housing

AN ACT to amend the public housing law, in relation to expanding the New York state low income housing tax credit program to certain one to four family residences

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

Section 1. Subdivisions 6 and 7 of section 21 of the public housing law, as added by section 1 of part CC of chapter 63 of the laws of 2000, are amended and four new subdivisions 8, 9, 10 and 11 are added to read as follows:

6. "Qualified basis" of an eligible low-income building means the qualified basis of such building determined under section 42(c) of the internal revenue code, or which would be determined under such section if the 40-90 test specified in paragraph (b) of subdivision five of this section applied under such section 42 to determine if such building were part of a qualified low-income housing project **or in the case of a qualified residence, means its adjusted basis (excluding land) immediately before the sale of such residence**.

7. References in this article to [~~section~~] **sections 5,** 42 **and 143** of the internal revenue code shall mean such section as amended from time to time.

8. "Qualified residence" means any residence

(a) which is located:

(i) in a census tract in which seventy percent of the families have a median gross income that is less than ninety percent of the greater of area or statewide median gross income,

(ii) in a rural area (defined under section 520 of the federal housing act of 1949),

(iii) on a reservation for a federally recognized Indian tribe, or

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

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(iv) in an area of chronic economic distress, as defined by section 143 of the internal revenue code; and

(b) which is purchased by a qualified buyer.

9. "Residence" means

(a) a single-family home containing one to four housing units, or

(b) a condominium unit, or stock in a cooperative housing corporation.

10. "Qualified buyer" means a person or persons of low or moderate income as defined in subdivision fourteen of section twenty-four hundred two of the public authorities law.

11. "Substantially rehabilitates" means rehabilitation expenditures paid or incurred with respect to a qualified residence that are at least fifteen thousand dollars.

§ 2. Subdivisions 1, 2, 3 and 5 of section 22 of the public housing law, subdivision 1 as amended by section 1 of part PP of chapter 59 of the laws of 2018 and subdivisions 2, 3 and 5 as added by section 1 of part CC of chapter 63 of the laws of 2000, are amended to read as follows:

1. A taxpayer subject to tax under article nine-A, twenty-two, or thirty-three of the tax law which owns an interest in one or more eligible low-income buildings, or a transferee of such a taxpayer as described in subdivision eight of this section, or a taxpayer who substantially rehabilitates or constructs a qualified residence shall be allowed a credit against such tax for the amount of low-income housing credit allocated by the commissioner to each such building. Except as provided in subdivision two of this section, the credit amount so allocated shall be allowed as a credit against the tax for the ten taxable years in the credit period.

2. Adjustment of first-year credit allowed in eleventh year. The credit allowable for the first taxable year of the credit period with respect to any building or qualified residence shall be adjusted using the rules of section 42(f)(2) of the internal revenue code (relating to first-year adjustment of qualified basis by the weighted average of low-income to total residential units), and any reduction in first-year credit by reason of such adjustment shall be allowable for the first taxable year following the credit period.

3. Amount of credit. Except as provided in subdivisions four and five of this section, the amount of low-income housing credit shall be the applicable percentage of the qualified basis of each eligible low-income building or qualified residence.

5. Building limitation. The dollar amount of credit allocated to any building shall not exceed the amount the commissioner determines is necessary for the financial feasibility of the project and the viability of the building as an eligible low-income building or as a qualified residence throughout the credit period. In allocating a dollar amount of credit to any building, the commissioner shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this article with respect to such building. The applicable percentage and the maximum qualified basis with respect to a building shall not exceed the amounts determined in subdivisions one and six, respectively, of section twenty-one of this article.

§ 3. Subdivision 4 of section 22 of the public housing law, as amended by section 5 of part H of chapter 60 of the laws of 2016, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be one hundred four million dollars. The aggregate

dollar amount of credit which the commissioner may allocate to eligible qualified residents shall be six million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

§ 4. Section 23 of the public housing law, as amended by section 5 of part PP of chapter 59 of the laws of 2018, is amended to read as follows:

§ 23. Project monitoring. The commissioner shall establish such procedures deemed necessary for monitoring compliance of an eligible low-income building **or qualified residence** with the provisions of this article, and for notifying the commissioner of taxation and finance of any such noncompliance.

§ 5. This act shall take effect immediately.