STATE OF NEW YORK

899

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. WOERNER, HUNTER, FAHY, MAGNARELLI -- read once and referred to the Committee on Ways and Means

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

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

Section 1. Subsection (oo) of section 606 of the tax law, is amended by adding a new paragraph 6 to read as follows:

(6)(a) A taxpayer allowed a credit pursuant to this subsection may transfer the credit, in whole or in part, to another person or entity, who shall be referred to as the transferee, with respect to the rehabilitated historic building may be allocated and notwithstanding that such other person or entity owns no interest in the rehabilitated historic building or in an entity with an ownership interest in the rehabilitated historic building. Transferees shall be entitled to apply transferred credit to a tax imposed under article nine-A, twenty-two or thirty-three of this chapter, provided all requirements for claiming the credit are met. A transferee may not transfer any credit, or portion thereof, acquired by transfer.

(b) A taxpayer allowed a credit pursuant to this article must enter into a transfer contract with the transferee. The transfer contract must specify (i) the building identification numbers for rehabilitated historic buildings in the project; (ii) the date such rehabilitated historic building was placed into service; (iii) the five year compliance period for the project; (iv) the schedule of years for which the transfer credit may be claimed and the amount of credit previously claimed; (v) the amount of consideration received by the taxpayer for the transfer credit; and (vi) the amount of credit being transferred.

(c) No transfer shall be effective unless the taxpayer allowed a credit pursuant to this subsection and seeking to transfer the credit files

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

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a transfer statement with the commissioner of parks, recreation and historic preservation prior to the transfer and he or she approves such transfer. The transfer statement shall provide the name and federal identification numbers of the filing transferor and the taxpayer to whom the filing transferor transferred the credit, and the amount of credit transferred to each such person or entity. A copy of the transfer contract shall be attached to the transfer statement. The statement shall also contain such other information as the commissioner of parks, recreation and historic preservation may require. After reviewing the transfer contract and the transfer statement, the commissioner of parks, recreation and historic preservation shall approve or deny the transfer as provided in this subsection. If the commissioner of parks, recreation and historic preservation approves the transfer, he or she shall issue an approval statement that provides the name of the transferor and transferee, the amount of credit being transferred and such other information as the commissioner of parks, recreation and historic preservation and the commissioner deem necessary. A copy of the statement approved by the commissioner of parks, recreation and historic preservation must be attached to the transferee's tax return. If the commissioner of parks, recreation and historic preservation denies the transfer, he or she shall provide the taxpayer a written determination for such denial. The commissioner of parks, recreation and historic preservation, in consultation with the commissioner, may establish such other procedures and standards deemed necessary for the transferability of the rehabilitation tax credit.

(d) The commissioner of parks, recreation and historic preservation shall forward copies of all transfer statements and attachments thereto and approval statements to the department within thirty days after the transfer is approved by the commissioner of parks, recreation and historic preservation.

(e) The taxpayer that originally received the credit shall remain solely liable for all obligations and liabilities imposed on the taxpayer with respect to the credit, none of which shall apply to a party to whom the credit has been subsequently transferred.

§ 2. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2022.