

# STATE OF NEW YORK

161

2023-2024 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. WOERNER, FAHY, THIELE, COLTON, CARROLL, JONES, SMULLEN, LEMONDES, L. ROSENTHAL -- Multi-Sponsored by -- M. of A. SEAWRIGHT, STECK -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a forestry stewardship and habitat conservation credit for personal income and business franchise taxes

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

Section 1. Section 606 of the tax law is amended by adding a new subsection (ooo) to read as follows:

(ooo) Forestry stewardship and habitat conservation credit. (1) In the case of a taxpayer who owns land that is subject to an agreement with the department of environmental conservation, by which such land is committed to forestry stewardship, or habitat conservation, or both, there shall be allowed a credit for twenty-five percent of the real property taxes paid on such land. In no event shall the credit allowed under this subsection in combination with any other credit for such real property taxes under this section exceed the total amount of such taxes paid during the taxable year.

(2) For the purposes of this subsection:

(a) "Eligible tract" shall mean a tract of land of at least twenty-five contiguous acres that has been inspected by the department of environmental conservation, a wildlife biologist certified by The Wildlife Society, or a fisheries biologist certified by the American Fisheries Society, and based on such inspection is determined by the department of environmental conservation to be: valuable habitat for wildlife, fish, shellfish or crustacea; or safe and suitable for fish or wildlife-related recreation, including fishing, hunting, trapping and wildlife observation; or both. Land divided only by federal, state, county or town

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

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1 roads, easements or rights-of-way, or energy transmission corridors or  
2 similar facilities shall be considered contiguous for purposes of this  
3 section.

4 (b) "Agreement" shall mean a written agreement between the department  
5 of environmental conservation and the owner of an eligible tract,  
6 executed by both parties, by which the eligible tract is committed to  
7 habitat conservation, or forestry stewardship, or both, for a period of  
8 not less than five years.

9 (c) "Approved habitat conservation plan" shall mean a plan, approved  
10 by the department of environmental conservation, for the management of  
11 an eligible tract which shall contain requirements and standards with  
12 which the owner of the eligible tract must comply in order to conserve  
13 the value of the land as wildlife, fish, shellfish, or crustacea habi-  
14 tat.

15 (d) "Forestry stewardship" shall mean participation in a forest  
16 certification program (such as Forest Stewardship Council certification,  
17 Sustainable Forestry Initiative, American Tree Farm Program, etc.)  
18 recognized in the regulations of the department of environmental conser-  
19 vation.

20 (3) There is hereby created a New York state forestry stewardship and  
21 habitat conservation program for the purpose of providing forested lands  
22 in the state and conserving the value of land in the state as wildlife,  
23 fish, shellfish or crustacea habitat.

24 (4) A landowner may make application to the department of environ-  
25 mental conservation, on forms prescribed by such department, to have  
26 land included in the New York state habitat conservation and forestry  
27 stewardship program. If, based on an inspection of the land by the  
28 department of environmental conservation, or a wildlife biologist certi-  
29 fied by The Wildlife Society, or a fisheries biologist certified by the  
30 American Fisheries Society, the department of environmental conservation  
31 determines that such land is an eligible tract, it shall notify the  
32 landowner that the land is eligible for inclusion in the New York state  
33 habitat conservation and forestry stewardship program.

34 (5) The department of environmental conservation may, in its  
35 discretion, enter into agreements with owners of eligible tracts for  
36 purposes of forestry stewardship, or habitat conservation, or both. Such  
37 agreements shall be for a minimum duration of five years, and shall  
38 contain a description of the property that is the subject of the agree-  
39 ment, and such terms and conditions as the department deems appropriate,  
40 including, but not limited to:

41 (a) for forestry stewardship agreements, a description of the partic-  
42 ipation in a forest certification program for a period of not less than  
43 five years;

44 (b) for habitat conservation agreements, a requirement that the land-  
45 owner develop a habitat conservation plan and implement the plan for a  
46 period of not less than five years;

47 (c) for habitat conservation and forestry stewardship agreements, a  
48 requirement that the landowner develop a habitat conservation plan and  
49 implement the plan for a period of not less than five years; and a  
50 description of participation in a forest certification program for a  
51 period of not less than five years;

52 (d) a requirement that the landowner's obligations concerning the land  
53 under the terms of the agreement, as well as any benefits, shall pass to  
54 any successor in interest to such land for the duration of the term of  
55 the agreement; and

(e) a requirement that a copy of the agreement shall be duly recorded and indexed as such in the office of the recording officer for the county or counties where the land is situate in the manner prescribed by article nine of the real property law; and that any subsequent instrument of conveyance relating to the property encumbered by the agreement shall reference, by book and page number, the agreement; and that such instrument shall also specify that the property is subject to the restrictions contained in the agreement; and that an instrument for the purpose of creating, conveying, modifying or terminating the agreement shall not be effective unless recorded.

(6) The amount of the credit that may be claimed by a taxpayer pursuant to this subsection shall not exceed ten thousand dollars in any given year.

(7) If the amount of the credit under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 2. Paragraph 4 of subsection (n) of section 606 of the tax law, as amended by section 2 of part F of chapter 62 of the laws of 2006, is amended to read as follows:

(4) Qualified agricultural property. For purposes of this subsection, the term "qualified agricultural property" means land located in this state which is used in agricultural production, and land improvements, structures and buildings (excluding buildings used for the taxpayer's residential purpose) located on such land which are used or occupied to carry out such production. Qualified agricultural property also includes land set aside or retired under a federal supply management or soil conservation program or land that at the time it becomes subject to a conservation easement, as defined under subsection (kk) of this section, met the requirements under this paragraph, and land that at the time it becomes subject to an agreement as defined in subsection (ooo) of this section met the requirements under this paragraph.

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 59 to read as follows:

59. Forestry stewardship and habitat conservation credit. (1) In the case of a taxpayer who owns land that is subject to an agreement with the department of environmental conservation, by which such land is committed to forestry stewardship, or habitat conservation, or both, there shall be allowed a credit for twenty-five percent of the real property taxes paid on such land. In no event shall the credit allowed under this subdivision in combination with any other credit for such real property taxes under this section exceed the total amount of such taxes paid during the taxable year.

(2) For the purposes of this subdivision:

(a) "Eligible tract" shall mean a tract of land of at least twenty-five contiguous acres that has been inspected by the department of environmental conservation, a wildlife biologist certified by The Wildlife Society, or a fisheries biologist certified by the American Fisheries Society, and based on such inspection is determined by the department of environmental conservation to be: valuable habitat for wildlife, fish, shellfish or crustacea; or safe and suitable for fish or wildlife-related recreation, including fishing, hunting, trapping and wildlife observation; or both. Land divided only by federal, state, county or town roads, easements or rights-of-way, or energy transmission corridors or

1 similar facilities shall be considered contiguous for purposes of this  
2 section.

3 (b) "Agreement" shall mean a written agreement between the department  
4 of environmental conservation and the owner of an eligible tract,  
5 executed by both parties, by which the eligible tract is committed to  
6 habitat conservation, or forestry stewardship, or both, for a period of  
7 not less than five years.

8 (c) "Approved habitat conservation plan" shall mean a plan, approved  
9 by the department of environmental conservation, for the management of  
10 an eligible tract which shall contain requirements and standards with  
11 which the owner of the eligible tract must comply in order to conserve  
12 the value of the land as wildlife, fish, shellfish, or crustacea habi-  
13 tat.

14 (d) "Forestry stewardship" shall mean participation in a forest  
15 certification program (such as Forest Stewardship Council certification,  
16 Sustainable Forestry Initiative, American Tree Farm Program, etc.)  
17 recognized in the regulations of the department of environmental conser-  
18 vation.

19 (3) There is hereby created a New York state forestry stewardship and  
20 habitat conservation program for the purpose of providing forested lands  
21 in the state and conserving the value of land in the state as wildlife,  
22 fish, shellfish or crustacea habitat.

23 (4) A landowner may make application to the department of environ-  
24 mental conservation, on forms prescribed by such department, to have  
25 land included in the New York state habitat conservation and forestry  
26 stewardship program. If, based on an inspection of the land by the  
27 department of environmental conservation, or a wildlife biologist certi-  
28 fied by The Wildlife Society, or a fisheries biologist certified by the  
29 American Fisheries Society, the department of environmental conservation  
30 determines that such land is an eligible tract, it shall notify the  
31 landowner that the land is eligible for inclusion in the New York state  
32 habitat conservation and forestry stewardship program.

33 (5) The department of environmental conservation may, in its  
34 discretion, enter into agreements with owners of eligible tracts for  
35 purposes of habitat conservation, or forestry stewardship, or both. Such  
36 agreements shall be for a minimum duration of five years, and shall  
37 contain a description of the property that is the subject of the agree-  
38 ment, and such terms and conditions as the department deems appropriate,  
39 including, but not limited to:

40 (a) for forestry stewardship agreements, a description of the partic-  
41 ipation in a forest certification program for a period of not less than  
42 five years;

43 (b) for habitat conservation agreements, a requirement that the land-  
44 owner develop a habitat conservation plan and implement the plan for a  
45 period of not less than five years;

46 (c) for habitat conservation and forestry stewardship agreements, a  
47 requirement that the landowner develop a habitat conservation plan and  
48 implement the plan for a period of not less than five years; and a  
49 description of participation in a forest certification program for a  
50 period of not less than five years;

51 (d) a requirement that the landowner's obligations concerning the land  
52 under the terms of the agreement, as well as any benefits, shall pass to  
53 any successor in interest to such land for the duration of the term of  
54 the agreement; and

55 (e) a requirement that a copy of the agreement shall be duly recorded  
56 and indexed as such in the office of the recording officer for the coun-

ty or counties where the land is situate in the manner prescribed by article nine of the real property law; and that any subsequent instrument of conveyance relating to the property encumbered by the agreement shall reference, by book and page number, the agreement; and that such instrument shall also specify that the property is subject to the restrictions contained in the agreement; and that an instrument for the purpose of creating, conveying, modifying or terminating the agreement shall not be effective unless recorded.

(6) The amount of the credit that may be claimed by a taxpayer pursuant to this subdivision shall not exceed ten thousand dollars in any given year.

(7) If the amount of the credit under this subdivision for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter, provided, however, that no interest shall be paid thereon.

§ 4. Paragraph (d) of subdivision 11 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(d) Qualified agricultural property. For purposes of this subdivision, the term "qualified agricultural property" means land located in this state which is used in agricultural production, and land improvements, structures and buildings (excluding buildings used for the taxpayer's residential purpose) located on such land which are used or occupied to carry out such production. Qualified agricultural property also includes land set aside or retired under a federal supply management or soil conservation program ~~or~~, land that at the time it becomes subject to a conservation easement met the requirements under this paragraph and land that at the time it becomes subject to an agreement as defined under subdivision fifty-nine of this section, met the requirements under this paragraph.

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

<u>(xlx) Forest stewardship and</u>	<u>Amount of credit under</u>
<u>habitat conservation</u>	<u>subdivision fifty-nine of</u>
<u>credit under subsection (ooo)</u>	<u>section two hundred ten-B</u>

§ 6. This act shall take effect immediately.