

STATE OF NEW YORK

7491--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. BRONSON, CARROLL, SHRESTHA, LUNSFORD, WOERNER, REYES, GUNTHER, AUBRY, SEAWRIGHT, BICHOTTE HERMELYN, WILLIAMS, RAMOS, BURDICK, EPSTEIN, BRABENEC, K. BROWN, GONZALEZ-ROJAS, MAHER, SIMONE, MAMDANI, COLTON, McMAHON, KELLES, CLARK, GALLAGHER, BURGOS, DAVILA -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to imposing certain brownfield remediation site work requirements to be eligible for the tangible property tax credit associated with brownfield redevelopment

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

1 Section 1. The closing paragraph of subdivision 1-a of section 27-1407
2 of the environmental conservation law, as added by section 3 of part BB
3 of chapter 56 of the laws of 2015, is amended to read as follows:
4 Sites are not eligible for tangible property tax credits if: (a) the
5 contamination from ground water or soil vapor is solely emanating from
6 property other than the site subject to the present application; or (b)
7 the department has determined that the property has previously been
8 remediated pursuant to titles nine, thirteen and fourteen of this arti-
9 cle, title five of article fifty-six of this chapter and article twelve
10 of the navigation law such that it may be developed for its then
11 intended use; or (c) remedial activities as defined in paragraph (c),
12 (d), or (f) of subdivision five of section 27-1405 of this title are
13 performed by construction workers on a site who are paid less than the
14 prevailing rate of wages set forth by section two hundred twenty of the
15 labor law, unless such site is an affordable housing project as defined
16 in subdivision twenty-nine of section 27-1405 of this title.

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

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1 § 2. Paragraphs (c) and (d) of subdivision 8 of section 27-1407 of the
2 environmental conservation law, as amended by section 3 of part A of
3 chapter 577 of the laws of 2004, are amended and a new paragraph (e) is
4 added to read as follows:

5 (c) there is an order providing for the investigation, removal, or
6 remediation of contamination relating to the brownfield site against the
7 person who is requesting participation; [~~or~~]

8 (d) [~~The~~] the person requesting participation is subject to an
9 outstanding claim as provided in subdivision four of this section[~~or~~]; or

10 (e) the person requesting participation is also seeking a determi-
11 nation that the site is eligible for the tangible property credit compo-
12 nent of the brownfield redevelopment tax credit pursuant to paragraph
13 three of subdivision (a) of section twenty-one of the tax law and does
14 not require construction workers on a site performing remedial activ-
15 ities as defined in paragraph (c), (d), or (f) of subdivision five of
16 section 27-1405 of this title to be paid the prevailing rate of wages
17 set forth by section two hundred twenty of the labor law, unless such
18 site is an affordable housing project as defined in subdivision twenty-
19 nine of section 27-1405 of this title.

20 § 3. Subdivision 5 of section 27-1409 of the environmental conserva-
21 tion law, as amended by section 4 of part A of chapter 577 of the laws
22 of 2004, is amended to read as follows:

23 5. One authorizing the department to terminate a brownfield site
24 cleanup agreement at any time during the implementation of such agree-
25 ment if the applicant implementing such agreement fails to substantially
26 comply with such agreement's terms and conditions, including the
27 requirement that remedial activities as defined in paragraph (c), (d),
28 or (f) of subdivision five of section 27-1405 of this title to be
29 performed by construction workers on a site that is seeking or has
30 received a determination that the site is eligible for the tangible
31 property credit component of the brownfield redevelopment tax credit
32 pursuant to paragraph three of subdivision (a) of section twenty-one of
33 the tax law shall be paid the prevailing rate of wages set forth by
34 section two hundred twenty of the labor law, unless the site is an
35 affordable housing project as defined in subdivision twenty-nine of
36 section 27-1405 of this title. The prevailing rate of wages for the
37 performance of remedial activities as defined in paragraph (c), (d), or
38 (f) of subdivision five of section 27-1405 of this title shall be
39 subject to enforcement under sections two hundred twenty, two hundred
40 twenty-a, two hundred twenty-b, two hundred twenty-three and two hundred
41 twenty-four-b of the labor law and within the jurisdiction of the fiscal
42 officer as defined therein; provided, however, nothing contained in this
43 subdivision shall be deemed to construe any remedial site as otherwise
44 being considered public work pursuant to article eight of the labor law;

45 § 4. This act shall take effect on the first of January next succeed-
46 ing the date on which it shall have become a law and shall apply to all
47 requests for participation received pursuant to section 27-1407 of the
48 environmental conservation law received on or after such date.