

# STATE OF NEW YORK

5868--A

2023-2024 Regular Sessions

## IN SENATE

March 20, 2023

Introduced by Sens. HARCKHAM, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee and committed to the Committee on Finance -- 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.  
17 § 2. Paragraphs (c) and (d) of subdivision 8 of section 27-1407 of the  
18 environmental conservation law, as amended by section 3 of part A of  
19 chapter 577 of the laws of 2004, are amended and a new paragraph (e) is  
20 added to read as follows:

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

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

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

6 (e) the person requesting participation does not require construction  
7 workers on a site performing remedial activities as defined in paragraph  
8 (c), (d), or (f) of subdivision five of section 27-1405 of this title to  
9 be paid the prevailing rate of wages set forth by section two hundred  
10 twenty of the labor law, unless such site is an affordable housing  
11 project as defined in subdivision twenty-nine of section 27-1405 of this  
12 title.

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

16 5. One authorizing the department to terminate a brownfield site  
17 cleanup agreement at any time during the implementation of such agree-  
18 ment if the applicant implementing such agreement fails to substantially  
19 comply with such agreement's terms and conditions, including the  
20 requirement that remedial activities as defined in paragraph (c), (d),  
21 or (f) of subdivision five of section 27-1405 of this title to be  
22 performed by construction workers on a site shall be paid the prevailing  
23 rate of wages set forth by section two hundred twenty of the labor law,  
24 unless the site is an affordable housing project as defined in subdivi-  
25 sion twenty-nine of section 27-1405 of this title. The prevailing rate  
26 of wages for the performance of remedial activities as defined in para-  
27 graph (c), (d), or (f) of subdivision five of section 27-1405 of this  
28 title shall be subject to enforcement under sections two hundred twenty,  
29 two hundred twenty-a, two hundred twenty-b, two hundred twenty-three and  
30 two hundred twenty-four-b of the labor law and within the jurisdiction  
31 of the fiscal officer as defined therein; provided, however, nothing  
32 contained in this subdivision shall be deemed to construe any remedial  
33 site as otherwise being considered public work pursuant to article thir-  
34 ty-one of the labor law;

35 § 4. This act shall take effect immediately and shall apply to all  
36 state contracting opportunities advertised on or after such date and  
37 shall exclude contracts entered into, or for which an invitation for  
38 bid, request for proposal, or similar solicitation has been issued,  
39 prior to such effective date.