STATE OF NEW YORK

3077

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. BYRNES, DeSTEFANO, MORINELLO, TAGUE -- read once and referred to the Committee on Economic Development

AN ACT to amend the economic development law, the tax law and part V of chapter 61 of the laws of 2011, amending the economic development law, the tax law and the real property tax law relating to establishing the economic transformation and facility redevelopment program and providing tax benefits under that program, in relation to the economic transformation and facility redevelopment program and the effectiveness thereof

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

Section 1. Subdivision 11 of section 400 of the economic development law, as amended by section 3 of part QQ of chapter 60 of the laws of 2016, paragraph (a) as amended by section 2 of part JJ of chapter 59 of the laws of 2021, is amended to read as follows:

11. "Closed facility" means:

(a) a correctional facility, as defined in paragraph (a) of subdivision four of section two of the correction law, that has been selected by the governor of the state of New York for closure after April first, two thousand eleven but no later than March thirty-first, two thousand twenty-six; or

(b) **a correctional facility, as defined in paragraph (a) of subdivision four of section two of the correction law, that has been selected by the governor of the state of New York for closure after April first, two thousand nineteen but no later than March thirty-first, two thousand twenty-seven; or**

(c) a facility operated by the office of children and family services under article nineteen-G of the executive law that is closed pursuant to authority granted to such office in a chapter of the laws of two thousand eleven; or

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

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[~~(c)~~] **(d)** which has been closed provided that the commissioner of correctional services or the commissioner of the office of children and family services has notified the commissioner of such closure; or

[~~(d)~~] **(e)** a facility previously owned by the state, and when operated, was operated as a psychiatric facility pursuant to section 7.17 of the mental hygiene law, and located within the metropolitan commuter transportation district but outside New York city.

§ 2. Subdivision 1 of section 402 of the economic development law, as amended by section 4 of part QQ of chapter 60 of the laws of 2016, is amended to read as follows:

1. A business entity must submit a completed application as prescribed by the commissioner by the later of (a) the date that is three years after the date of the closure of the closed facility located in the economic transformation area in which the business entity would operate or (b) January first, two thousand fifteen. Provided however, in the case of a closed facility described in paragraph [~~(d)~~] **(e)** of subdivision eleven of section four hundred of this article, a business entity must submit a completed application as prescribed by the commissioner by September first, two thousand sixteen. **Notwithstanding the foregoing, in the case of a closed facility, as described pursuant to paragraph (b) of subdivision eleven of section four hundred of this article, a business entity shall submit a completed application as prescribed by the commissioner by September first, two thousand twenty-four.**

§ 3. Paragraph 1 of subdivision (h) of section 35 of the tax law, as amended by section 5 of part QQ of chapter 60 of the laws of 2016, is amended to read as follows:

(1) A taxpayer which meets the requirements in this section shall be eligible to claim a credit on qualified investments with respect to the project for which the certificate of eligibility is issued. The credit shall be equal to ten percent of the cost or other basis for federal income tax purposes of the qualified investment at a closed facility. Provided however, for purposes of this credit only, a taxpayer that is the owner of a closed facility described in paragraph [~~(d)~~] **(e)** of subdivision eleven of section four hundred of the economic development law, shall be allowed to include in its cost or other basis of the qualified investment at the closed facility, any demolition costs incurred at such closed facility. Those demolition costs shall be limited to the following costs: (i) asbestos removal costs, (ii) rental of demolition equipment, (iii) personnel costs to operate the demolition equipment, (iv) costs to remove and dispose of demolition debris, (v) the costs of any permits, licenses and insurance necessary for the demolition. The total amount of investment tax credit allowed for all eligible participants under this subdivision for qualified investments located at each closed facility shall not exceed eight million dollars. The credit shall be equal to six percent of the cost or other basis for federal income tax purposes for all other qualified investments, but the credit allowed to a taxpayer may not exceed four million dollars.

§ 4. Section 12 of part V of chapter 61 of the laws of 2011, amending the economic development law, the tax law and the real property tax law relating to establishing the economic transformation and facility redevelopment program and providing tax benefits under that program, as amended by section 1 of part JJ of chapter 59 of the laws of 2021, is amended to read as follows:

§ 12. This act shall take effect immediately and shall expire and be deemed repealed December 31, [~~2026~~] **2028**.

§ 5. This act shall take effect immediately; provided, that the amendments to article 18 of the economic development law made by sections one and two of this act shall not affect the repeal of such article and shall be deemed repealed therewith; provided, further that the amendments to section 35 of the tax law made by section three of this act shall not affect the repeal of such section and shall be deemed repealed therewith.