

# STATE OF NEW YORK

10366

## IN ASSEMBLY

March 2, 2026

Introduced by M. of A. HUNTER, WOERNER -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the tax law and the parks, recreation and historic preservation law, in relation to establishing the large projects historic rehabilitation tax credit and the "white elephant" housing historic rehabilitation projects tax credit program

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

1 Section 1. Subsection (oo) of section 606 of the tax law, as amended  
2 by section 2 of part E of chapter 59 of the laws of 2025, is amended to  
3 read as follows:  
4 (oo) Credit for rehabilitation of historic properties. (1) (A) For  
5 taxable years beginning on or after January first, two thousand ten and  
6 before January first, two thousand [~~thirty~~] thirty-seven, a taxpayer, or  
7 a transferee of such a taxpayer as described in paragraph seven of this  
8 subsection, shall be allowed a credit as hereinafter provided, against  
9 the tax imposed by this article, in an amount equal to:  
10 (i) one hundred percent of the amount of credit allowed the taxpayer  
11 with respect to a certified historic structure, and one hundred fifty  
12 percent of the amount of credit allowed the taxpayer with respect to a  
13 certified historic structure that is a small project, under internal  
14 revenue code section 47(c)(3), determined without regard to ratably  
15 allocating the credit over a five year period as required by subsection  
16 (a) of such section 47; and  
17 (ii) one hundred percent of the amount of credit allowed the taxpayer  
18 with respect to a certified historic structure that is a white elephant  
19 project, under internal revenue code section 47(c)(3), with respect to a  
20 certified historic structure located within the state. Provided, howev-  
21 er, the credit shall not exceed five million dollars, unless such credit  
22 is allowed with respect to a certified historic structure that is a  
23 white elephant project, in which case, the credit shall not exceed  
24 fifteen million dollars. Provided, further, that whenever the commis-  
25 sioner of parks, recreation and historic preservation receives an appli-  
26 cation for a white elephant project from an applicant for which such

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

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1 commissioner has previously certified credit for an eligible white  
2 elephant project, the commissioner of parks, recreation and historic  
3 preservation may deem such subsequent application to be phase II of the  
4 original eligible project if such commissioner determines that the two  
5 projects are reasonably related, as determined by such commissioner; the  
6 previous project qualified as an eligible white elephant project with  
7 seventy-five million dollars or less of qualified rehabilitation expend-  
8 itures; and the phase II application has been submitted within five  
9 years of such commissioner's previous certification of credit for the  
10 previously eligible white elephant project.

11 (B) For taxable years beginning on or after January first, two thou-  
12 sand [~~thirty~~] thirty-seven, a taxpayer, or a transferee of such a  
13 taxpayer as described in paragraph seven of this subsection, shall be  
14 allowed a credit as hereinafter provided, against the tax imposed by  
15 this article, in an amount equal to thirty percent of the amount of  
16 credit allowed the taxpayer with respect to a certified historic struc-  
17 ture under internal revenue code section 47(c)(3), determined without  
18 regard to ratably allocating the credit over a five year period as  
19 required by subsection (a) of such section 47, with respect to a certi-  
20 fied historic structure located within the state; provided, however, the  
21 credit shall not exceed one hundred thousand dollars, unless such credit  
22 is allowed with respect to a certified historic structure that is a  
23 white elephant project, in which case, the credit shall not exceed three  
24 hundred thousand dollars.

25 [~~(B)~~] (C) If the taxpayer or transferee is a partner in a partnership  
26 or a shareholder of a New York S corporation, then the credit cap  
27 imposed in [~~subparagraph~~] subparagraphs (A) and (B) of this paragraph  
28 shall be applied at the entity level, so that the aggregate credit  
29 allowed to all the partners or shareholders of each such entity in the  
30 taxable year does not exceed the credit cap that is applicable in that  
31 taxable year.

32 (2) Tax credits allowed pursuant to this subsection shall be allowed  
33 in the taxable year that the qualified rehabilitation is placed in  
34 service under section 167 of the federal internal revenue code.

35 (3) If the taxpayer is allowed a credit pursuant to section 47 of the  
36 internal revenue code with respect to a qualified rehabilitation that is  
37 also the subject of the credit allowed by this subsection and that cred-  
38 it pursuant to such section 47 is recaptured pursuant to subsection (a)  
39 of section 50 of the internal revenue code, a portion of the credit  
40 allowed under this subsection must be added back by the taxpayer or  
41 transferee in the same taxable year and in the same proportion as the  
42 federal recapture.

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

48 (5) To be eligible for the credit allowable under this subsection the  
49 rehabilitation project shall be in whole or in part located within a  
50 census tract which is identified as being at or below one hundred  
51 percent of the state median family income as calculated as of April  
52 first of each year using the most recent five year estimate from the  
53 American community survey published by the United States Census bureau.  
54 If there is a change in the most recent five year estimate, a census  
55 tract that qualified for eligibility under this program before informa-  
56 tion about the change was released will remain eligible for a credit

1 under this subsection for an additional two calendar years. The eligi-  
2 bility restrictions set forth in this paragraph shall not be applicable  
3 if:

4 (A) a qualified rehabilitation project is undertaken within a state  
5 park, state historic site, or other land owned by the state, that is  
6 under the jurisdiction of the office of parks, recreation and historic  
7 preservation; ~~[or]~~

8 (B) a qualified rehabilitation project is undertaken for the provision  
9 of affordable housing and the taxpayer has entered into a regulatory  
10 agreement with any state or federal agency or authority, or any other  
11 government entity that is authorized to engage in the financing,  
12 construction or oversight of affordable housing within such entity's  
13 jurisdiction, and where such regulatory agreement sets forth affordabil-  
14 ity requirements applicable for a period of not less than thirty years  
15 and that is binding on all successors of the taxpayer; or

16 (C) a qualified white elephant rehabilitation project is undertaken  
17 that is also a qualified low-income housing project under article two-A  
18 of the public housing law.

19 (6) ~~[For purposes of this subsection the term "small]~~ As used in this  
20 subsection, the following terms shall have the following meanings:

21 (A) "Small project" means qualified rehabilitation expenditures total-  
22 ing two million five hundred thousand dollars or less[-];

23 (B) "White elephant project" means qualified rehabilitation expendi-  
24 tures totaling fifty million dollars or more with respect to a certified  
25 historic structure that has been vacant, as determined by local code  
26 enforcement or other reasonable means, for at least ten of fifteen  
27 consecutive years preceding the date of the taxpayer's application for  
28 the rehabilitation credit; and

29 (C) "Phase II housing project" means a white elephant housing project  
30 which the commissioner determines (i) is reasonably related to a prior  
31 eligible white elephant project or eligible white elephant housing  
32 project by the same applicant, (ii) such prior project qualified as  
33 eligible with seventy-five million dollars or less of qualified rehabil-  
34 itation expenditures, and (iii) the phase II application has been  
35 submitted within five years of the commissioner's previous allowance of  
36 credit for the prior eligible white elephant project or eligible white  
37 elephant housing project.

38 (7)(A) A taxpayer allowed a credit pursuant to this subsection may  
39 transfer the credit, in whole or in part, to another person or entity,  
40 who shall be referred to as the transferee, without regard to how any  
41 tax credit authorized pursuant to section forty-seven of the internal  
42 revenue code with respect to a qualified rehabilitation project may be  
43 allocated and notwithstanding that such other person or entity owns no  
44 interest in the qualified rehabilitation project or in an entity with an  
45 ownership interest in the qualified rehabilitation project. A transferee  
46 may not transfer any credit, or portion thereof, acquired by transfer.

47 (B) A taxpayer seeking to transfer a credit allowed pursuant to this  
48 subsection must enter into a transfer contract with the transferee. The  
49 transfer contract must specify:

50 (i) the building identification numbers for all buildings in the  
51 project;

52 (ii) the date each building was placed into service;

53 (iii) the schedule of years for which the transfer credit may be  
54 claimed and the amount of credit previously claimed;

55 (iv) the amount of consideration received by the taxpayer for the  
56 transfer credit; and

1 (v) the amount of credit being transferred.

2 (C) No transfer shall be effective unless the taxpayer allowed a cred-  
3 it pursuant to this subsection and seeking to transfer the credit files  
4 a transfer application with the commissioner of parks, recreation and  
5 historic preservation prior to the transfer and such transfer applica-  
6 tion is approved. The transfer application shall include the name and  
7 federal identification numbers of the taxpayer and each proposed trans-  
8 feree, the amount of credit proposed to be transferred to each proposed  
9 transferee, a copy of the transfer contract, and such other information  
10 as the commissioner or the commissioner of parks, recreation and histor-  
11 ic preservation may require. The commissioner of parks, recreation and  
12 historic preservation shall approve or deny each transfer application  
13 and, if an application is denied, shall issue a written determination to  
14 the taxpayer. If the transfer is approved, the commissioner of parks,  
15 recreation and historic preservation shall issue a transfer approval  
16 certificate that provides the name of the transferor and all transfer-  
17 ees, the amount of credit being transferred and such other information  
18 as the commissioner of parks, recreation and historic preservation and  
19 the commissioner deem necessary. A copy of the transfer approval certif-  
20 icate must be attached to each transferee's tax return. The commission-  
21 er of parks, recreation and historic preservation, in consultation with  
22 the commissioner, may establish such other procedures and standards  
23 deemed necessary for the transferability of credits allowed under this  
24 subsection.

25 (D) The commissioner of parks, recreation and historic preservation  
26 shall forward copies of all transfer applications and attachments there-  
27 to and approval certificates to the commissioner within thirty days  
28 after the transfer is approved.

29 (E) A taxpayer allowed a credit pursuant to section forty-seven of the  
30 internal revenue code with respect to a qualified rehabilitation that is  
31 also the subject of the credit allowed by this subsection shall remain  
32 solely liable for all obligations and liabilities imposed on the taxpay-  
33 er with respect to the credit allowed by this subsection, none of which  
34 shall apply to a party to whom the credit has been subsequently trans-  
35 ferred.

36 (8) The allocation of the credit established by this subsection may be  
37 made without regard to and in a separate manner from any federal reha-  
38 ilitation credit that may be allocated with respect to a qualified  
39 white elephant project.

40 (9) The commissioner shall report annually, on or before the first day  
41 of November, on the aggregate amount of credits claimed and awarded  
42 pursuant to this subsection on returns filed during the preceding calen-  
43 dar year. Such report shall be provided to the governor, temporary pres-  
44 ident of the senate, speaker of the assembly, chair of the senate  
45 finance committee and chair of the assembly ways and means committee and  
46 shall be made publicly available on the department's website.

47 § 2. Subdivision 26 of section 210-B of the tax law, as amended by  
48 section 1 of part E of chapter 59 of the laws of 2025, is amended to  
49 read as follows:

50 26. Credit for rehabilitation of historic properties. (a) Application  
51 of credit. (i) For taxable years beginning on or after January first,  
52 two thousand ten, and before January first, two thousand [~~thirty~~ thir-  
53 ty-seven, a taxpayer, or a transferee of such a taxpayer as described in  
54 paragraph (g) of this subdivision, shall be allowed a credit as herein-  
55 after provided, against the tax imposed by this article, in an amount  
56 equal to:

1 (A) one hundred percent of the amount of credit allowed the taxpayer  
2 for the same taxable year with respect to a certified historic struc-  
3 ture, and one hundred fifty percent of the amount of credit allowed the  
4 taxpayer with respect to a certified historic structure that is a small  
5 project, under internal revenue code section 47(c)(3), determined with-  
6 out regard to ratably allocating the credit over a five year period as  
7 required by subsection (a) of such section 47; and

8 (B) one hundred percent of the amount of credit allowed the taxpayer  
9 with respect to a certified historic structure that is a white elephant  
10 project, under internal revenue code section 47(c)(3), with respect to a  
11 certified historic structure located within the state. Provided, howev-  
12 er, the credit shall not exceed five million dollars, unless such credit  
13 is allowed with respect to a certified historic structure that is a  
14 white elephant project, in which case, the credit shall not exceed  
15 fifteen million dollars. Provided, further, that whenever the commis-  
16 sioner of parks, recreation and historic preservation receives an appli-  
17 cation for a white elephant project from an applicant for which such  
18 commissioner has previously certified credit for an eligible white  
19 elephant project, the commissioner of parks, recreation and historic  
20 preservation may deem such subsequent application to be phase II of the  
21 original eligible project if such commissioner determines that the two  
22 projects are reasonably related, as determined by such commissioner; the  
23 previous project qualified as an eligible white elephant project with  
24 seventy-five million dollars or less of qualified rehabilitation expend-  
25 itures; and the phase II application has been submitted within five  
26 years of such commissioner's previous certification of credit for the  
27 previously eligible white elephant project.

28 (ii) For taxable years beginning on or after January first, two thou-  
29 sand [~~thirty~~] thirty-seven, a taxpayer, or a transferee of such a  
30 taxpayer as described in paragraph (g) of this subdivision, shall be  
31 allowed a credit as hereinafter provided, against the tax imposed by  
32 this article, in an amount equal to thirty percent of the amount of  
33 credit allowed the taxpayer for the same taxable year determined without  
34 regard to ratably allocating the credit over a five year period as  
35 required by subsection (a) of section 47 of the internal revenue code,  
36 with respect to a certified historic structure under subsection (c)(3)  
37 of section 47 of the internal revenue code with respect to a certified  
38 historic structure located within the state. Provided, however, the  
39 credit shall not exceed one hundred thousand dollars, unless such credit  
40 is allowed with respect to a certified historic structure that is a  
41 white elephant project, in which case, the credit shall not exceed three  
42 hundred thousand dollars.

43 [~~(a-1)~~] (iii) If the taxpayer or transferee is a partner in a partner-  
44 ship or a shareholder in a New York S corporation, then the credit caps  
45 imposed in [~~paragraph (a)~~] subparagraphs (i) and (ii) of this [~~subdivi-~~  
46 ~~sion~~] paragraph shall be applied at the entity level, so that the aggre-  
47 gate credit allowed to all the partners or shareholders of each such  
48 entity in the taxable year does not exceed the credit cap that is appli-  
49 cable in that taxable year.

50 (b) Tax credits allowed pursuant to this subdivision shall be allowed  
51 in the taxable year that the qualified rehabilitation is placed in  
52 service under section 167 of the federal internal revenue code.

53 (c) If the taxpayer is allowed a credit pursuant to section 47 of the  
54 internal revenue code with respect to a qualified rehabilitation that is  
55 also the subject of the credit allowed by this subdivision and that  
56 credit pursuant to such section 47 is recaptured pursuant to subsection

1 (a) of section 50 of the internal revenue code, a portion of the credit  
2 allowed under this subdivision must be added back by the taxpayer or  
3 transferee in the same taxable year and in the same proportion as the  
4 federal credit.

5 (d) The credit allowed under this subdivision for any taxable year  
6 shall not reduce the tax due for such year to less than the amount  
7 prescribed in paragraph (d) of subdivision one of section two hundred  
8 ten of this article. However, if the amount of the credit allowed under  
9 this subdivision for any taxable year reduces the tax to such amount or  
10 if the taxpayer otherwise pays tax based on the fixed dollar minimum  
11 amount, any amount of credit thus not deductible in such taxable year  
12 shall be treated as an overpayment of tax to be recredited or refunded  
13 in accordance with the provisions of section one thousand eighty-six of  
14 this chapter. Provided, however, the provisions of subsection (c) of  
15 section one thousand eighty-eight of this chapter notwithstanding, no  
16 interest shall be paid thereon.

17 (e) To be eligible for the credit allowable under this subdivision,  
18 the rehabilitation project shall be in whole or in part located within a  
19 census tract which is identified as being at or below one hundred  
20 percent of the state median family income as calculated as of April  
21 first of each year using the most recent five year estimate from the  
22 American community survey published by the United States Census bureau.  
23 If there is a change in the most recent five year estimate, a census  
24 tract that qualified for eligibility under this program before informa-  
25 tion about the change was released will remain eligible for a credit  
26 under this subdivision for an additional two calendar years. The eligi-  
27 bility restrictions set forth in this paragraph shall not be applicable  
28 if:

29 (i) a qualified rehabilitation project is undertaken within a state  
30 park, state historic site, or other land owned by the state, that is  
31 under the jurisdiction of the office of parks, recreation and historic  
32 preservation; ~~or~~

33 (ii) a qualified rehabilitation project is undertaken for the  
34 provision of affordable housing and the taxpayer has entered into a  
35 regulatory agreement with any state or federal agency or authority, or  
36 any other government entity that is authorized to engage in the financ-  
37 ing, construction or oversight of affordable housing within such enti-  
38 ty's jurisdiction, and where such regulatory agreement sets forth  
39 affordability requirements applicable for a period of not less than  
40 thirty years and that is binding on all successors of the taxpayer; or

41 (iii) a qualified white elephant rehabilitation project is undertaken  
42 that is also a qualified low-income housing project under article two-A  
43 of the public housing law.

44 (f) ~~[For purposes of this subdivision "small]~~ Definitions. As used in  
45 this subdivision, the following terms shall have the following meanings:

46 (i) "Small project" means qualified rehabilitation expenditures total-  
47 ing two million five hundred thousand dollars or less[+];

48 (ii) "White elephant project" means qualified rehabilitation expendi-  
49 tures totaling fifty million dollars or more with respect to a certified  
50 historic structure that has been vacant, as determined by local code  
51 enforcement or other reasonable means, for at least ten of fifteen  
52 consecutive years preceding the date of the taxpayer's application for  
53 the rehabilitation credit; and

54 (iii) "Phase II housing project" means a white elephant housing  
55 project which the commissioner determines (A) is reasonably related to a  
56 prior eligible white elephant project or eligible white elephant housing

1 project by the same applicant, (B) such prior project qualified as  
2 eligible with seventy-five million dollars or less of qualified rehabil-  
3 itation expenditures, and (C) the phase II application has been submit-  
4 ted within five years of the commissioner's previous allowance of credit  
5 for the prior eligible white elephant project or eligible white elephant  
6 housing project.

7 (g)(i) A taxpayer allowed a credit pursuant to this subdivision may  
8 transfer the credit, in whole or in part, to another person or entity,  
9 who shall be referred to as the transferee, without regard to how any  
10 tax credit authorized pursuant to section forty-seven of the internal  
11 revenue code with respect to a qualified rehabilitation project may be  
12 allocated and notwithstanding that such other person or entity owns no  
13 interest in the qualified rehabilitation project or in an entity with an  
14 ownership interest in the qualified rehabilitation project. A transferee  
15 may not transfer any credit, or portion thereof, acquired by transfer.

16 (ii) A taxpayer seeking to transfer a credit allowed pursuant to this  
17 subdivision must enter into a transfer contract with the transferee. The  
18 transfer contract must specify:

19 (A) the building identification numbers for all buildings in the  
20 project;

21 (B) the date each building was placed into service;

22 (C) the schedule of years for which the transfer credit may be claimed  
23 and the amount of credit previously claimed;

24 (D) the amount of consideration received by the taxpayer for the  
25 transfer credit; and

26 (E) the amount of credit being transferred.

27 (iii) No transfer shall be effective unless the taxpayer allowed a  
28 credit pursuant to this subdivision and seeking to transfer the credit  
29 files a transfer application with the commissioner of parks, recreation  
30 and historic preservation prior to the transfer and such transfer appli-  
31 cation is approved. The transfer application shall include the name and  
32 federal identification numbers of the taxpayer and each proposed trans-  
33 feree, the amount of credit proposed to be transferred to each proposed  
34 transferee, a copy of the transfer contract, and such other information  
35 as the commissioner or the commissioner of parks, recreation and histor-  
36 ic preservation may require. The commissioner of parks, recreation and  
37 historic preservation shall approve or deny each transfer application  
38 and, if an application is denied, shall issue a written determination to  
39 the taxpayer. If the transfer is approved, the commissioner of parks,  
40 recreation and historic preservation shall issue a transfer approval  
41 certificate that provides the name of the transferor and all transfer-  
42 ees, the amount of credit being transferred and such other information  
43 as the commissioner of parks, recreation and historic preservation and  
44 the commissioner deem necessary. A copy of the transfer approval certif-  
45 icate must be attached to each transferee's tax return. The commission-  
46 er of parks, recreation and historic preservation, in consultation with  
47 the commissioner, may establish such other procedures and standards  
48 deemed necessary for the transferability of credits allowed under this  
49 subdivision.

50 (iv) The commissioner of parks, recreation and historic preservation  
51 shall forward copies of all transfer applications and attachments there-  
52 to and approval certificates to the commissioner within thirty days  
53 after the transfer is approved.

54 (v) A taxpayer allowed a credit pursuant to section forty-seven of the  
55 internal revenue code with respect to a qualified rehabilitation that is  
56 also the subject of the credit allowed by this subdivision shall remain

1 solely liable for all obligations and liabilities imposed on the taxpay-  
2 er with respect to the credit allowed by this subdivision, none of which  
3 shall apply to a party to whom the credit has been subsequently trans-  
4 ferred.

5 (h) The allocation of the credit established by this subdivision may  
6 be made without regard to and in a separate manner from any federal  
7 rehabilitation credit that may be allocated with respect to a qualified  
8 white elephant project.

9 (i) The commissioner shall report annually, on or before the first day  
10 of November, on the aggregate amount of credits claimed and awarded  
11 pursuant to this subdivision on returns filed during the preceding  
12 calendar year. Such report shall be provided to the governor, temporary  
13 president of the senate, speaker of the assembly, chair of the senate  
14 finance committee and chair of the assembly ways and means committee and  
15 shall be made publicly available on the department's website.

16 § 3. Subdivision (y) of section 1511 of the tax law, as amended by  
17 section 3 of part E of chapter 59 of the laws of 2025, is amended to  
18 read as follows:

19 (y) Credit for rehabilitation of historic properties. (1) (A) For  
20 taxable years beginning on or after January first, two thousand ten and  
21 before January first, two thousand [~~thirty~~] thirty-seven, a taxpayer, or  
22 a transferee of such a taxpayer as described in paragraph seven of this  
23 subdivision, shall be allowed a credit as hereinafter provided, against  
24 the tax imposed by this article, in an amount equal to:

25 (i) one hundred percent of the amount of credit allowed the taxpayer  
26 with respect to a certified historic structure, and one hundred fifty  
27 percent of the amount of credit allowed the taxpayer with respect to a  
28 certified historic structure that is a small project, under internal  
29 revenue code section 47(c)(3), determined without regard to ratably  
30 allocating the credit over a five year period as required by subsection  
31 (a) of such section 47; and

32 (ii) one hundred percent of the amount of credit allowed the taxpayer  
33 with respect to a certified historic structure that is a white elephant  
34 project, under internal revenue code section 47(c)(3), with respect to a  
35 certified historic structure located within the state. Provided, howev-  
36 er, the credit shall not exceed five million dollars, unless such credit  
37 is allowed with respect to a certified historic structure that is a  
38 white elephant project, in which case, the credit shall not exceed  
39 fifteen million dollars. Provided, further, that whenever the commis-  
40 sioner of parks, recreation and historic preservation receives an appli-  
41 cation for a white elephant project from an applicant for which such  
42 commissioner has previously certified credit for an eligible white  
43 elephant project, the commissioner of parks, recreation and historic  
44 preservation may deem such subsequent application to be phase II of the  
45 original eligible project if such commissioner determines that the two  
46 projects are reasonably related, as determined by such commissioner; the  
47 previous project qualified as an eligible white elephant project with  
48 seventy-five million dollars or less of qualified rehabilitation expend-  
49 itures; and the phase II application has been submitted within five  
50 years of such commissioner's previous certification of credit for the  
51 previously eligible white elephant project.

52 (B) For taxable years beginning on or after January first, two thou-  
53 sand [~~thirty~~] thirty-seven, a taxpayer, or a transferee of such a  
54 taxpayer as described in paragraph seven of this subdivision, shall be  
55 allowed a credit as hereinafter provided, against the tax imposed by  
56 this article, in an amount equal to thirty percent of the amount of

1 credit allowed the taxpayer with respect to a certified historic struc-  
2 ture under internal revenue code section 47(c)(3), determined without  
3 regard to ratably allocating the credit over a five year period as  
4 required by subsection (a) of such section 47 with respect to a certi-  
5 fied historic structure located within the state. Provided, however, the  
6 credit shall not exceed one hundred thousand dollars, unless such credit  
7 is allowed with respect to a certified historic structure that is a  
8 white elephant project, in which case, the credit shall not exceed three  
9 hundred thousand dollars.

10 [~~(B)~~] (C) If the taxpayer or transferee is a partner in a partnership,  
11 then the cap imposed in [~~subparagraph~~] subparagraphs (A) and (B) of this  
12 paragraph shall be applied at the entity level, so that the aggregate  
13 credit allowed to all the partners of such partnership in the taxable  
14 year does not exceed the credit cap that is applicable in that taxable  
15 year.

16 (2) Tax credits allowed pursuant to this subsection shall be allowed  
17 in the taxable year that the qualified rehabilitation is placed in  
18 service under section 167 of the federal internal revenue code.

19 (3) If the taxpayer is allowed a credit pursuant to section 47 of the  
20 internal revenue code with respect to a qualified rehabilitation that is  
21 also the subject of the credit allowed by this subdivision and that  
22 credit pursuant to such section 47 is recaptured pursuant to subsection  
23 (a) of section 50 of the internal revenue code, a portion of the credit  
24 allowed under this subdivision in the taxable year the credit was  
25 claimed must be added back by the taxpayer or transferee in the same  
26 taxable year and in the same proportion as the federal recapture.

27 (4) The credit allowed under this subdivision for any taxable year  
28 shall not reduce the tax due for such year to less than the minimum  
29 fixed by paragraph four of subdivision (a) of section fifteen hundred  
30 two or section fifteen hundred two-a of this article, whichever is  
31 applicable. However, if the amount of credits allowed under this subdivi-  
32 sion for any taxable year reduces the tax to such amount, any amount  
33 of credit thus not deductible in such taxable year shall be treated as  
34 an overpayment of tax to be credited or refunded in accordance with the  
35 provisions of section one thousand eighty-six of this chapter. Provided,  
36 however, the provisions of subsection (c) of section one thousand eight-  
37 y-eight of this chapter notwithstanding, no interest shall be paid ther-  
38 eon.

39 (5) To be eligible for the credit allowable under this subdivision,  
40 the rehabilitation project shall be in whole or in part located within a  
41 census tract which is identified as being at or below one hundred  
42 percent of the state median family income as calculated as of April  
43 first of each year using the most recent five year estimate from the  
44 American community survey published by the United States Census bureau.  
45 If there is a change in the most recent five year estimate, a census  
46 tract that qualified for eligibility under this program before informa-  
47 tion about the change was released will remain eligible for a credit  
48 under this subdivision for an additional two calendar years. The eligi-  
49 bility restrictions set forth in this paragraph shall not be applicable  
50 if:

51 (A) a qualified rehabilitation project is undertaken within a state  
52 park, state historic site, or other land owned by the state, that is  
53 under the jurisdiction of the office of parks, recreation and historic  
54 preservation; [~~or~~]

55 (B) a qualified rehabilitation project is undertaken for the provision  
56 of affordable housing and the taxpayer has entered into a regulatory

1 agreement with any state or federal agency or authority, or any other  
2 government entity that is authorized to engage in the financing,  
3 construction or oversight of affordable housing within such entity's  
4 jurisdiction, and where such regulatory agreement sets forth affordabil-  
5 ity requirements applicable for a period of not less than thirty years  
6 and that is binding on all successors of the taxpayer; or

7 (C) a qualified white elephant rehabilitation project is undertaken  
8 that is also a qualified low-income housing project under article two-A  
9 of the public housing law.

10 (6) [~~For purposes of this subdivision "small~~] As used in this  
11 subdivision, the following terms shall have the following meanings:

12 (A) "Small project" means qualified rehabilitation expenditures total-  
13 ing two million five hundred thousand dollars or less[-];

14 (B) "White elephant project" means qualified rehabilitation expendi-  
15 tures totaling fifty million dollars or more with respect to a certified  
16 historic structure that has been vacant, as determined by local code  
17 enforcement or other reasonable means, for at least ten of fifteen  
18 consecutive years preceding the date of the taxpayer's application for  
19 the rehabilitation credit; and

20 (C) "Phase II housing project" means a white elephant housing project  
21 which the commissioner determines (I) is reasonably related to a prior  
22 eligible white elephant project or eligible white elephant housing  
23 project by the same applicant, (II) such prior project qualified as  
24 eligible with seventy-five million dollars or less of qualified rehabil-  
25 itation expenditures, and (III) the phase II application has been  
26 submitted within five years of the commissioner's previous allowance of  
27 credit for the prior eligible white elephant project or eligible white  
28 elephant housing project.

29 (7)(A) A taxpayer allowed a credit pursuant to this subdivision may  
30 transfer the credit, in whole or in part, to another person or entity,  
31 who shall be referred to as the transferee, without regard to how any  
32 tax credit authorized pursuant to section forty-seven of the internal  
33 revenue code with respect to a qualified rehabilitation project may be  
34 allocated and notwithstanding that such other person or entity owns no  
35 interest in the qualified rehabilitation project or in an entity with an  
36 ownership interest in the qualified rehabilitation project. A transferee  
37 may not transfer any credit, or portion thereof, acquired by transfer.

38 (B) A taxpayer seeking to transfer a credit allowed pursuant to this  
39 subdivision must enter into a transfer contract with the transferee. The  
40 transfer contract must specify:

41 (i) the building identification numbers for all buildings in the  
42 project;

43 (ii) the date each building was placed into service;

44 (iii) the schedule of years for which the transfer credit may be  
45 claimed and the amount of credit previously claimed;

46 (iv) the amount of consideration received by the taxpayer for the  
47 transfer credit; and

48 (v) the amount of credit being transferred.

49 (C) No transfer shall be effective unless the taxpayer allowed a cred-  
50 it pursuant to this subdivision and seeking to transfer the credit files  
51 a transfer application with the commissioner of parks, recreation and  
52 historic preservation prior to the transfer and such transfer applica-  
53 tion is approved. The transfer application shall include the name and  
54 federal identification numbers of the taxpayer and each proposed trans-  
55 feree, the amount of credit proposed to be transferred to each proposed  
56 transferee, a copy of the transfer contract, and such other information

1 as the commissioner or the commissioner of parks, recreation and histor-  
 2 ic preservation may require. The commissioner of parks, recreation and  
 3 historic preservation shall approve or deny each transfer application  
 4 and, if an application is denied, shall issue a written determination to  
 5 the taxpayer. If the transfer is approved, the commissioner of parks,  
 6 recreation and historic preservation shall issue a transfer approval  
 7 certificate that provides the name of the transferor and all transfer-  
 8 ees, the amount of credit being transferred and such other information  
 9 as the commissioner of parks, recreation and historic preservation and  
 10 the commissioner deem necessary. A copy of the transfer approval certif-  
 11 icate must be attached to each transferee's tax return. The commission-  
 12 er of parks, recreation and historic preservation, in consultation with  
 13 the commissioner, may establish such other procedures and standards  
 14 deemed necessary for the transferability of credits allowed under this  
 15 subdivision.

16 (D) The commissioner of parks, recreation and historic preservation  
 17 shall forward copies of all transfer applications and attachments there-  
 18 to and approval certificates to the commissioner within thirty days  
 19 after the transfer is approved.

20 (E) A taxpayer allowed a credit pursuant to section forty-seven of the  
 21 internal revenue code with respect to a qualified rehabilitation that is  
 22 also the subject of the credit allowed by this subdivision shall remain  
 23 solely liable for all obligations and liabilities imposed on the taxpay-  
 24 er with respect to the credit allowed by this subdivision, none of which  
 25 shall apply to a party to whom the credit has been subsequently trans-  
 26 ferred.

27 (8) The allocation of the credit established by this subdivision  
 28 may be made without regard to and in a separate manner from any  
 29 federal rehabilitation credit that may be allocated with respect to  
 30 a qualified white elephant project.

31 (9) The commissioner shall report annually, on or before the first day  
 32 of November, on the aggregate amount of credits claimed and awarded  
 33 pursuant to this subdivision on returns filed during the preceding  
 34 calendar year. Such report shall be provided to the governor, temporary  
 35 president of the senate, speaker of the assembly, chair of the senate  
 36 finance committee and chair of the assembly ways and means committee and  
 37 shall be made publicly available on the department's website.

38 § 4. The parks, recreation and historic preservation law is amended by  
 39 adding a new article 14-A to read as follows:

40 ARTICLE 14-A

41 WHITE ELEPHANT HOUSING HISTORIC REHABILITATION PROJECTS TAX  
 42 CREDIT PROGRAM

43 Section 14.15 Definitions.

44 14.16 Allowance of credit, amount and limitations.

45 14.17 Project monitoring.

46 14.18 Regulations, coordination with federal rehabilitation  
 47 credit provisions.

48 § 14.15 Definitions. As used in this article, the following terms  
 49 shall have the following meanings:

50 1. "Eligibility statement" means a statement issued by the commission-  
 51 er, in consultation with the commissioner of the division of community  
 52 housing and renewal, certifying that a white elephant housing project is  
 53 eligible for white elephant housing project historic rehabilitation  
 54 credits under this article and low-income housing tax credits under  
 55 article two-A of the public housing law. Such statement shall set forth  
 56 the taxable year in which the building is placed in service, the dollar

1 amount of rehabilitation credit certified by the commissioner to such  
2 building as provided in section 14.16 of this article, the dollar amount  
3 of low-income housing tax credit allocated by the commissioner of commu-  
4 nity housing and renewal to such building as provided in section twen-  
5 ty-two of the public housing law, sufficient information to identify  
6 each such building and the taxpayer or taxpayers with respect to each  
7 such building, whether the project is a phase II housing project, and  
8 such other information as the commissioner, in consultation with the  
9 commissioner of taxation and finance and commissioner of community hous-  
10 ing and renewal, shall prescribe. Such eligibility statement shall be  
11 first issued following the close of the first taxable year, and there-  
12 after, to the extent required by the commissioner of taxation and  
13 finance, following the close of each of the following four taxable  
14 years.

15 2. "Eligible white elephant project" means a white elephant project as  
16 defined in section two hundred ten-B, six hundred six or one thousand  
17 five hundred eleven of the tax law that qualifies for historic rehabili-  
18 tation tax credit.

19 3. "Eligible white elephant housing project" means an eligible white  
20 elephant project as defined in this section that also qualifies for  
21 low-income housing tax credit under article two-A of the public housing  
22 law.

23 4. "Phase II housing project" means a white elephant housing project  
24 which the commissioner determines (a) is reasonably related to a prior  
25 eligible white elephant project or eligible white elephant housing  
26 project by the same applicant, (b) such prior project qualified as  
27 eligible with less than seventy-five million dollars of qualified reha-  
28 bilitation expenditures, and (c) the phase II application has been  
29 submitted within five years of the commissioner's previous allowance of  
30 credit for the prior eligible white elephant project or eligible white  
31 elephant housing project.

32 5. "Qualified rehabilitation expenditures" shall have the same meaning  
33 as in section 47 of the internal revenue code.

34 6. "White elephant project" means a project as defined in section two  
35 hundred ten-B, six hundred six or one thousand five hundred eleven of  
36 the tax law.

37 7. "White elephant housing project" means a white elephant project as  
38 defined in section two hundred ten-B, six hundred six or one thousand  
39 five hundred eleven of the tax law that is also a housing project.

40 8. References in this article to section 47 of the internal revenue  
41 code shall mean such section as amended from time to time.

42 § 14.16 Allowance of credit, amount and limitations. 1. A taxpayer  
43 subject to tax under article nine-A, twenty-two, or thirty-three of the  
44 tax law which owns an interest in one or more eligible white elephant  
45 housing projects, or a transferee of such a taxpayer as described in  
46 subdivision two of this section, shall be allowed a credit against such  
47 tax for the amount of white elephant housing project historic rehabili-  
48 tation credit certified by the commissioner to each such structure.

49 2. (a) A taxpayer allowed a credit pursuant to this article may trans-  
50 fer the credit, in whole or in part, to another person or entity, who  
51 shall be referred to as the transferee, notwithstanding that such other  
52 person or entity owns no interest in the eligible white elephant housing  
53 project or in an entity with an ownership interest in the eligible white  
54 elephant housing project. Transferees shall be entitled to apply trans-  
55 ferred credit to a tax imposed under article nine-A, twenty-two or thir-  
56 ty-three of the tax law, provided all requirements for claiming the

1 credit are met. A transferee may not transfer any credit, or portion  
2 thereof, acquired by transfer.

3 (b) A taxpayer allowed a credit pursuant to this article must enter  
4 into a transfer contract with the transferee. The transfer contract must  
5 specify:

6 (i) the building identification numbers for all buildings in the white  
7 elephant housing project;

8 (ii) the date each building was placed into service;

9 (iii) the five year ownership period for the project;

10 (iv) the schedule of years for which the transfer credit may be  
11 claimed and the amount of credit previously claimed;

12 (v) the amount of consideration received by the taxpayer for the  
13 transfer credit; and

14 (vi) the amount of credit being transferred.

15 (c) No transfer shall be effective unless the taxpayer allowed a cred-  
16 it pursuant to this article and seeking to transfer the credit files a  
17 transfer statement with the commissioner prior to the transfer and the  
18 commissioner approves such transfer. The transfer statement shall  
19 provide the name and federal identification numbers of the filing  
20 transferor and the taxpayer to whom the filing transferor transferred  
21 the credit, and the amount of credit transferred to each such person or  
22 entity. A copy of the transfer contract shall be attached to the trans-  
23 fer statement. The statement shall also contain such other information  
24 as the commissioner may require. After reviewing the transfer contract  
25 and the transfer statement, the commissioner shall approve or deny the  
26 transfer as provided in this subdivision. If the commissioner approves  
27 the transfer, the commissioner shall issue an approval statement that  
28 provides the name of the transferor and transferee, the amount of credit  
29 being transferred and such other information as the commissioner and the  
30 commissioner of taxation and finance deem necessary. A copy of the  
31 commissioner's approval statement must be attached to the transferee's  
32 tax return. If the commissioner denies the transfer, the commissioner  
33 shall provide the taxpayer a written determination for such denial. The  
34 commissioner, in consultation with the commissioner of taxation and  
35 finance, may establish such other procedures and standards deemed neces-  
36 sary for the transferability of the white elephant housing project  
37 historic rehabilitation credit.

38 (d) The commissioner shall forward copies of all transfer statements  
39 and attachments thereto and approval statements to the department of  
40 taxation and finance within thirty days after the transfer is approved  
41 by the commissioner.

42 § 14.17 Project monitoring. The commissioner shall establish such  
43 procedures deemed necessary for monitoring compliance of an eligible  
44 white elephant housing project with the provisions of this article, and  
45 for notifying the commissioner of taxation and finance of any such  
46 noncompliance.

47 § 14.18 Regulations, coordination with federal rehabilitation credit  
48 provisions. 1. The commissioner shall promulgate rules and regulations  
49 necessary to administer the provisions of this article.

50 2. The provisions of section 47 of the internal revenue code shall  
51 apply to the credit under this article, provided however, to the extent  
52 such provisions are inconsistent with this article, the provisions of  
53 this article shall control.

54 3. The allocation of the credit established by this article may be  
55 made without regard to and in a separate manner from any federal reha-

1 bilitation credit that may be allocated with respect to an eligible  
2 white elephant housing project.

3 § 5. Paragraph 2 of subsection (pp) of section 606 of the tax law, as  
4 amended by section 4 of part RR of chapter 59 of the laws of 2018, is  
5 amended and a new paragraph 13 is added to read as follows:

6 (2) (A) With respect to any particular residence of a taxpayer, the  
7 credit allowed under paragraph one of this subsection shall not exceed  
8 fifty thousand dollars for taxable years beginning on or after January  
9 first, two thousand ten and before January first, two thousand [~~twenty-~~  
10 ~~five~~] thirty-seven and twenty-five thousand dollars for taxable years  
11 beginning on or after January first, two thousand [~~twenty-five~~] thirty-  
12 seven. In the case of a [~~husband and wife~~] married couple, the amount of  
13 the credit shall be divided between them equally or in such other manner  
14 as they may both elect. If a taxpayer incurs qualified rehabilitation  
15 expenditures in relation to more than one residence in the same year,  
16 the total amount of credit allowed under paragraph one of this  
17 subsection for all such expenditures shall not exceed fifty thousand  
18 dollars for taxable years beginning on or after January first, two thou-  
19 sand ten and before January first, two thousand [~~twenty-five~~] thirty-  
20 seven and twenty-five thousand dollars for taxable years beginning on or  
21 after January first, two thousand [~~twenty-five~~] thirty-seven.

22 (B) For taxable years beginning on or after January first, two thou-  
23 sand ten and before January first, two thousand [~~twenty-five~~] thirty-  
24 seven, if the amount of credit allowable under this subsection shall  
25 exceed the taxpayer's tax for such year, and the taxpayer's New York  
26 adjusted gross income for such year does not exceed sixty thousand  
27 dollars, the excess shall be treated as an overpayment of tax to be  
28 credited or refunded in accordance with the provisions of section six  
29 hundred eighty-six of this article, provided, however, that no interest  
30 shall be paid thereon. If the taxpayer's New York adjusted gross income  
31 for such year exceeds sixty thousand dollars, the excess credit that may  
32 be carried over to the following year or years and may be deducted from  
33 the taxpayer's tax for such year or years. For taxable years beginning  
34 on or after January first, two thousand [~~twenty-five~~] thirty-seven, if  
35 the amount of credit allowable under this subsection shall exceed the  
36 taxpayer's tax for such year, the excess may be carried over to the  
37 following year or years and may be deducted from the taxpayer's tax for  
38 such year or years.

39 (13) The commissioner shall report annually, on or before the first  
40 day of November, on the aggregate amount of credits claimed and awarded  
41 pursuant to this subdivision on returns filed during the preceding  
42 calendar year. Such report shall be provided to the governor, temporary  
43 president of the senate, speaker of the assembly, chair of the senate  
44 finance committee and chair of the assembly ways and means committee,  
45 and shall be made publicly available on the department's website.

46 § 6. Section 14.05 of the parks, recreation and historic preservation  
47 law is amended by adding a new subdivision 5 to read as follows:

48 5. (a) The commissioner shall report annually, on or before the first  
49 day of November, on the tax credit projects applied for in accordance  
50 with subdivision twenty-six of section two hundred ten-B, subsection  
51 (oo) of section six hundred six, and subdivision (y) of section fifteen  
52 hundred eleven of the tax law on returns filed during the preceding  
53 calendar year. Such report shall be provided to the governor, temporary  
54 president of the senate, speaker of the assembly, chair of the senate  
55 finance committee and chair of the assembly ways and means committee,

1 shall be made publicly available on the department's website and shall  
2 include the following information:

3 (i) the number and value of tax credit projects applied for during the  
4 state fiscal year, organized by municipality and county, and project  
5 size;

6 (ii) the number and value of tax credit projects certified by the  
7 national park service during the state fiscal year, organized by munici-  
8 pality and county, and project size;

9 (iii) the total value of credits certified annually for each of the  
10 taxable years beginning on or after January first, two thousand seven to  
11 the present, by municipality and county;

12 (iv) the number of housing units before and after rehabilitation;

13 (v) the number of low-moderate housing units before and after rehabil-  
14 itation; and

15 (vi) the number of projects certified for both federal and state cred-  
16 its, and the number of projects certified for federal credits only.

17 (b) The commissioner shall report annually, on or before the first day  
18 of November, on the tax credit projects applied for pursuant to  
19 subsection (pp) of section six hundred six of the tax law on returns  
20 filed during the preceding calendar year. Such report shall be provided  
21 to the governor, temporary president of the senate, speaker of the  
22 assembly, chair of the senate finance committee and chair of the assem-  
23 bly ways and means committee, shall be made publicly available on the  
24 office's website and shall include the following information:

25 (i) the number and value of tax credit projects applied for during the  
26 state fiscal year, organized by municipality and county, and project  
27 size;

28 (ii) the number and value of tax credit projects certified by the  
29 office during the state fiscal year, organized by municipality and coun-  
30 ty, and project size;

31 (iii) the total value of credits certified annually for each of the  
32 taxable years beginning on or after January first, two thousand seven to  
33 the present, by municipality and county;

34 (iv) the number of housing units before and after rehabilitation; and

35 (v) the number of projects certified for state credits by the office.

36 § 7. This act shall take effect immediately and shall apply to taxable  
37 years beginning on or after January 1, 2026.