

STATE OF NEW YORK

2711--B

2025-2026 Regular Sessions

IN ASSEMBLY

January 22, 2025

Introduced by M. of A. WOERNER, CLARK, ROSENTHAL, McDONALD, KAY, SHIM-SKY, DeSTEFANO, ZACCARO, DAVILA -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the parks, recreation and historic preservation law and the tax law, in relation to establishing the historic preservation tax credit transfer program

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

1 Section 1. The parks, recreation and historic preservation law is
2 amended by adding a new article 14-A to read as follows:

ARTICLE 14-A

HISTORIC PRESERVATION TAX CREDIT TRANSFER PROGRAM

3 Section 14.15 Short title.

4 14.16 Statement of legislative findings and declaration.

5 14.17 Definitions.

6 14.18 Eligibility criteria.

7 14.19 Allowance of credit, amount and limitations.

8 14.20 Historic preservation tax credit transfer.

9 14.21 Powers and duties of the commissioner.

10 § 14.15 Short title. This article shall be known and may be cited as
11 the "historic preservation tax credit transfer program".

12 § 14.16 Statement of legislative findings and declaration. It is here-
13 by found and declared that New York state needs, as a matter of public
14 policy, to provide flexibility and incentives for businesses which reha-
15 bilitate historic properties to further promote the development of
16 affordable housing.

17 § 14.17 Definitions. For the purposes of this article:
18

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

LBD05714-05-5

1 1. "Transfer approval certificate" means the document issued by the
2 department to an eligible transferee and eligible transferor, as appro-
3 priate. The certificate shall specify the exact amount of the tax credit
4 under this article that an eligible transferee may claim and the
5 percentage of the total credit that an eligible transferor has forfeited
6 pursuant to this article.

7 2. "Commissioner" shall mean commissioner of parks, recreation and
8 historic preservation.

9 3. "Department" shall mean the department of parks, recreation and
10 historic preservation.

11 4. "Eligible housing rehabilitation project" shall mean a building or
12 collection of buildings allowed rehabilitation credit and low-income
13 housing tax credit, as determined by the department and division of
14 community housing and renewal, respectively, and for which an eligible
15 transferor may transfer a rehabilitation credit.

16 5. "Eligible transferee" shall mean a taxpayer which meets the eligi-
17 bility criteria set forth in section 14.18 of this article.

18 6. "Eligible transferor" shall mean the taxpayer subject to tax under
19 article nine-A, twenty-two, or thirty-three of the tax law or any elect-
20 ing partnership or electing S corporation which, for purposes of this
21 article, shall have the same meanings as used in article twenty-four-A
22 of the tax law, which is allowed a rehabilitation credit in accordance
23 with this chapter and meets the eligibility criteria set forth in
24 section 14.18 of this article.

25 7. "Federal rehabilitation credit" means the federal tax credit that
26 may be allocated with respect to a certified historic structure under
27 section forty-seven of the internal revenue code.

28 8. "Historic preservation tax credit transfer" shall mean a transfer
29 of the rehabilitation credit allowed for a certified historic rehabili-
30 tation project.

31 9. "Qualified rehabilitation expenditures" shall have the same meaning
32 as in section forty-seven of the internal revenue code.

33 10. "Rehabilitation credit" or "historic preservation tax credit"
34 shall mean the credit provided for under subdivision twenty-six of
35 section two hundred ten-B, subsection (oo) of section six hundred six or
36 subdivision (y) of section fifteen hundred eleven of the tax law.

37 11. "Taxpayer" means a person or entity subject to tax imposed under
38 article nine-A, twenty-two, twenty-four-A, or thirty-three of the tax
39 law.

40 12. References in this article to section forty-seven of the internal
41 revenue code shall mean such section as amended from time to time.

42 § 14.18 Eligibility criteria. 1. To be eligible to make a transfer of
43 a rehabilitation credit under this section, a transferor shall:

44 (a) be the taxpayer to which the rehabilitation credit is allowed;

45 (b) have received certification of such award from the commissioner
46 for an eligible housing rehabilitation project;

47 (c) identify the amount of the rehabilitation credit allowed that may
48 otherwise be claimed for the taxable year;

49 (d) not file or have filed the certificated rehabilitation credit as
50 part of such business entity's own tax return or information return for
51 any tax year; and

52 (e) not transfer a certificated rehabilitation credit for an eligible
53 project if such credit was received through a transfer contract from a
54 transferor.

55 2. To be eligible to accept a transfer of a rehabilitation credit for
56 an eligible housing rehabilitation project under this section, a trans-

1 feree must be a taxpayer, provided that such taxpayer need not own an
2 interest in the eligible housing rehabilitation project or in an entity
3 with an ownership interest in the eligible housing rehabilitation
4 project to be eligible to accept such a transfer.

5 3. (a) An eligible transferor may transfer the rehabilitation credit,
6 in whole or in part, to an eligible transferee with the same effect as
7 if such eligible transferee had incurred the qualified rehabilitation
8 expenditures, provided that no partial transfer may be for less than
9 twenty-five percent of the full rehabilitation credit that may otherwise
10 be claimed by the transferor.

11 (b) An eligible transferor may (i) transfer the rehabilitation credit
12 allowed for an eligible housing rehabilitation project to an eligible
13 transferee together with a federal rehabilitation credit allowed for the
14 same eligible housing rehabilitation project, (ii) transfer such reha-
15 bilitation credit, in whole or in part, to one or more eligible trans-
16 ferees and the federal rehabilitation credit for the same eligible hous-
17 ing rehabilitation project to a different eligible transferee or
18 transferees, (iii) retain the rehabilitation credit even while trans-
19 ferring the federal rehabilitation credit allocated for the same eligi-
20 ble housing rehabilitation project to an eligible transferee or (iv)
21 retain or transfer a rehabilitation credit for an eligible housing reha-
22 bilitation project for which no federal rehabilitation credit has been
23 allowed.

24 4. (a) An eligible transferee which has accepted a transfer of any
25 rehabilitation credit, in whole or in part, shall use or report such
26 credit in the taxable year for which it is allowed and may not transfer
27 any credit, or portion thereof, acquired by a transfer pursuant to this
28 article.

29 (b) An eligible transferee need not agree to accept a transfer of both
30 the eligible transferor's rehabilitation credit and federal rehabili-
31 tation credit for the same eligible housing rehabilitation project.

32 § 14.19 Allowance of credit, amount and transfer limitations. 1. An
33 eligible transferor, or an eligible transferee which has entered into a
34 transfer contract in accordance with this section, shall be allowed a
35 credit against tax for the amount of rehabilitation credit certified by
36 the commissioner for an eligible housing rehabilitation project.

37 2. (a) No transfer of allowed credit shall be effective pursuant to
38 this article unless the eligible transferor enters into a transfer
39 contract with an eligible transferee, submits a transfer application
40 including such transfer contract to the commissioner for approval and
41 the commissioner issues a transfer approval certificate to the eligible
42 transferee.

43 (b) The transfer contract must specify:

44 (i) the building identification number or numbers for the eligible
45 housing rehabilitation project;

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

47 (iii) the five-year ownership period for the project;

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

50 (v) the amount of consideration received by the eligible transferor
51 for the transfer credit; and

52 (vi) the amount of credit being transferred.

53 (c) The commissioner shall establish procedures and a timeframe for
54 the submission of a transfer application. The transfer application
55 shall provide the name and federal identification numbers of the filing
56 eligible transferor and each proposed eligible transferee and the amount

1 of credit proposed to be transferred to each proposed eligible transfer-
2 ee. A copy of the proposed transfer contract shall be attached to the
3 transfer application. The application shall also contain such other
4 information as the commissioner may require. After reviewing the
5 proposed transfer contract and the transfer application, the commission-
6 er shall approve or deny the transfer as provided in this subdivision.
7 If the commissioner approves the transfer, the commissioner shall issue
8 a transfer approval certificate that provides the name of the eligible
9 transferor and all eligible transferees, the amount of credit being
10 transferred and such other information as the commissioner and the
11 commissioner of taxation and finance deem necessary. A copy of the
12 commissioner's transfer approval certificate must be attached to the
13 transferee's tax return. If the commissioner denies the transfer, the
14 commissioner shall provide the eligible transferor a written determi-
15 nation for such denial. The commissioner, in consultation with the
16 commissioner of taxation and finance, may establish such additional
17 procedures and standards as deemed necessary for the transferability of
18 the rehabilitation credit allowed pursuant to this article.

19 (c) The commissioner shall maintain an auditable record of valid
20 transfer approval certificates and shall provide copies of all transfer
21 applications and attachments thereto and approval certificates to the
22 commissioner of taxation and finance within thirty days after the trans-
23 fer is approved.

24 § 14.20 Historic preservation tax credit transfer. 1. An eligible
25 transferee shall be entitled to apply transferred rehabilitation credit
26 to a tax imposed under article nine-A, twenty-two or thirty-three of the
27 tax law, and in accordance with article twenty-four-A of the tax law,
28 where applicable, provided all requirements for claiming such credit are
29 met.

30 2. The transfer of credit shall be allowed as provided in section
31 fifty of the tax law.

32 § 14.21 Powers and duties of the commissioner. 1. The commissioner, in
33 consultation with the department of taxation and finance, shall promul-
34 gate regulations establishing eligibility criteria and a process for
35 submitting a transfer application which, notwithstanding any provisions
36 to the contrary in the state administrative procedure act, may be
37 adopted on an emergency basis.

38 2. The commissioner shall, in consultation with the department of
39 taxation and finance, develop a transfer approval certificate that shall
40 be issued by the commissioner to eligible business entities. Such
41 certificate shall contain such information as required by the department
42 of taxation and finance.

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

45 5. The commissioner shall report annually, on or before the first day
46 of November, on the tax credit projects applied for in accordance with
47 subdivision twenty-six of section two hundred ten-B, subsection (oo) of
48 section six hundred six, and subdivision (y) of section fifteen hundred
49 eleven of the tax law on returns filed during the preceding calendar
50 year. Such report shall be provided to the governor, the temporary pres-
51 ident of the senate, the speaker of the assembly, the chairs of the
52 senate committees on finance and on housing, construction and community
53 development, and the chairs of the assembly committees on ways and means
54 and on housing, shall be made publicly available on the department's
55 website and shall include the following information:

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

4 (b) the number and value of tax credit projects certified by the
5 national park service during the state fiscal year, organized by muni-
6 city and county, and project size;

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

10 (d) the total value of tax credit transfer approval certificates
11 issued annually for each of the taxable years beginning on or after
12 January first, two thousand seven to the present, by municipality and
13 county;

14 (e) the number of housing units before and after rehabilitation;

15 (f) the number of low-moderate housing units before and after rehabil-
16 itation; and

17 (g) the number of projects certified for both federal and state cred-
18 its, and the number of projects certified for federal credits only.

19 § 3. The tax law is amended by adding a new section 50 to read as
20 follows:

21 § 50. Historic preservation tax credit transfer. (a) Allowance of
22 credit transfer. A taxpayer subject to tax under article nine-A, twenty-
23 two, twenty-four-A, or thirty-three of this chapter shall be allowed
24 a credit against such tax, pursuant to the provisions referenced in
25 subdivision (e) of this section. The amount of the credit is equal to
26 the amount determined pursuant to article fourteen-A of the parks,
27 recreation and historic preservation law. No cost or expense paid or
28 incurred that is included as part of the calculation of this credit
29 shall be the basis of any other tax credit allowed under this chapter.

30 (b) Eligibility. To be eligible to claim the historic preservation tax
31 credit through a transfer contract the taxpayer shall have been issued a
32 transfer approval certificate by the commissioner of parks, recreation
33 and historic preservation pursuant to article fourteen-A of the parks,
34 recreation and historic preservation law, which certificate shall set
35 forth the amount of the credit that may be claimed for the taxable year.
36 The taxpayer shall be allowed to claim only the amount listed on the
37 transfer approval certificate for that taxable year.

38 (c) Tax return requirement. The taxpayer shall be required to attach
39 to its tax return, in the form prescribed by the commissioner, proof of
40 receipt of its transfer approval certificate issued by the commissioner
41 of the department of parks, recreation and historic preservation.

42 (d) Credit to successor owner. If a credit is allowed under subdivi-
43 sion a of this section with respect to a certified historic structure
44 under section forty-seven of the internal revenue code and such project
45 (or an interest therein) is sold during the credit period, the credit
46 for the period after the sale which would have been allowable under such
47 subdivision a to the prior owner had the certified historic structure
48 not been sold shall be allowable to the new owner. Credit for the year
49 of sale shall be allocated between the parties on the basis of the
50 number of days during such year that the certified historic structure or
51 interest was held by each.

52 (e) Credit recapture. (1) If a transfer approval certificate issued by
53 the department of parks, recreation and historic preservation under
54 article fourteen-A of the parks, recreation and historic preservation
55 law is revoked by such department within the five year recapture period,
56 the amount of credit described in this section that was transferred by

1 the eligible transferor and claimed by the eligible transferee taxpayer
2 prior to that revocation shall be added back to the tax of the transfe-
3 ror in the taxable year in which any such revocation becomes final.

4 (2) The eligible transferor taxpayer that originally qualified for the
5 credit and transferred the credit shall remain solely liable for all
6 obligations and liabilities imposed with respect to the credit, none of
7 which shall apply to a party to whom the credit has been subsequently
8 transferred.

9 (f) Cross references. For application of the credit provided in this
10 section see the following provisions of this chapter:

11 (1) article 9-A: section 210-B, subdivision 26.

12 (2) article 22: section 606, subsection (oo).

13 (3) article 24-A: section 863.

14 (4) article 33: section 1511, subsection (y).

15 § 4. Subdivision 26 of section 210-B of the tax law, as added by
16 section 17 of part A of chapter 59 of the laws of 2014, paragraphs (a)
17 and (c) as amended by section 2 of part RR of chapter 59 of the laws of
18 2018, subparagraph (i) of paragraph (a) as amended by section 2, subpar-
19 agraph (ii) of paragraph (a) as amended by section 4 and paragraph (a-1)
20 as amended by section 3 of subpart B of part I of chapter 59 of the laws
21 of 2023, paragraph (e) as amended by section 1 of part U of chapter 59
22 of the laws of 2019, and paragraph (f) as added by section 2 of part CCC
23 of chapter 59 of the laws of 2021, is amended to read as follows:

24 26. Credit for rehabilitation of historic properties. (a) Application
25 of credit. (i) For taxable years beginning on or after January first,
26 two thousand ten, and before January first, two thousand thirty, a
27 taxpayer, or an eligible transferee as described in article fourteen-A
28 of the parks, recreation and historic preservation law, shall be allowed
29 a credit as hereinafter provided, against the tax imposed by this arti-
30 cle, in an amount equal to one hundred percent of the amount of credit
31 allowed the taxpayer for the same taxable year with respect to a certi-
32 fied historic structure, and one hundred fifty percent of the amount of
33 credit allowed the taxpayer with respect to a certified historic struc-
34 ture that is a small project, under internal revenue code section
35 47(c)(3), determined without regard to ratably allocating the credit
36 over a five year period as required by subsection (a) of such section
37 47, with respect to a certified historic structure located within the
38 state. Provided, however, the credit shall not exceed five million
39 dollars.

40 (ii) For taxable years beginning on or after January first, two thou-
41 sand thirty, a taxpayer, or an eligible transferee as described in arti-
42 cle fourteen-A of the parks, recreation and historic preservation law,
43 shall be allowed a credit as hereinafter provided, against the tax
44 imposed by this article, in an amount equal to thirty percent of the
45 amount of credit allowed the taxpayer for the same taxable year deter-
46 mined without regard to ratably allocating the credit over a five year
47 period as required by subsection (a) of section 47 of the internal
48 revenue code, with respect to a certified historic structure under
49 subsection (c)(3) of section 47 of the internal revenue code with
50 respect to a certified historic structure located within the state.
51 Provided, however, the credit shall not exceed one hundred thousand
52 dollars.

53 (a-1) If the taxpayer or transferee is a partner in a partnership or a
54 shareholder in a New York S corporation, then the credit caps imposed in
55 paragraph (a) of this subdivision shall be applied at the entity level,
56 so that the aggregate credit allowed to all the partners or shareholders

1 of each such entity in the taxable year does not exceed the credit cap
2 that is applicable in that taxable year.

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

6 (c) If the taxpayer is allowed a credit pursuant to section 47 of the
7 internal revenue code with respect to a qualified rehabilitation that is
8 also the subject of the credit allowed by this subdivision and that
9 credit pursuant to such section 47 is recaptured pursuant to subsection
10 (a) of section 50 of the internal revenue code, a portion of the credit
11 allowed under this subdivision must be added back by the taxpayer or
12 eligible transferor described in article fourteen-A of the parks, recre-
13 ation and historic preservation law in the same taxable year and in the
14 same proportion as the federal credit.

15 (d) The credit allowed under this subdivision for any taxable year
16 shall not reduce the tax due for such year to less than the amount
17 prescribed in paragraph (d) of subdivision one of section two hundred
18 ten of this article. However, if the amount of the credit allowed under
19 this subdivision for any taxable year reduces the tax to such amount or
20 if the taxpayer otherwise pays tax based on the fixed dollar minimum
21 amount, any amount of credit thus not deductible in such taxable year
22 shall be treated as an overpayment of tax to be recredited or refunded
23 in accordance with the provisions of section one thousand eighty-six of
24 this chapter. Provided, however, the provisions of subsection (c) of
25 section one thousand eighty-eight of this chapter notwithstanding, no
26 interest shall be paid thereon.

27 (e) [~~Except in the case of a qualified rehabilitation project under-~~
28 ~~taken within a state park, state historic site, or other land owned by~~
29 ~~the state, that is under the jurisdiction of the office of parks, recre-~~
30 ~~ation and historic preservation, to] To be eligible for the credit
31 allowable under this subdivision, the rehabilitation project shall be in
32 whole or in part located within a census tract which is identified as
33 being at or below one hundred percent of the state median family income
34 as calculated as of April first of each year using the most recent five
35 year estimate from the American community survey published by the United
36 States Census bureau. If there is a change in the most recent five year
37 estimate, a census tract that qualified for eligibility under this
38 program before information about the change was released will remain
39 eligible for a credit under this subdivision for an additional two
40 calendar years. The eligibility restrictions set forth in this para-
41 graph shall not be applicable if a qualified rehabilitation project is
42 undertaken:~~

43 (i) within a state park, state historic site, or other land owned by
44 the state, that is under the jurisdiction of the office of parks, recre-
45 ation and historic preservation, or;

46 (ii) for the provision of affordable housing and the taxpayer has
47 entered into a regulatory agreement with any state or federal agency or
48 authority, or any other government or quasi-government entity, including
49 an industrial development agency, that is authorized to engage in the
50 financing, construction or oversight of affordable housing within such
51 entity's jurisdiction, and where such regulatory agreement sets forth
52 affordability requirements applicable for a period of not less than
53 thirty years and that is binding on all successors of the taxpayer.

54 (f) For purposes of this subdivision "small project" means qualified
55 rehabilitation expenditures totaling two million five hundred thousand
56 dollars or less.

1 (g) (i) The credit established by this subdivision may be transferred
2 as set forth in article fourteen-A of the parks, recreation and historic
3 preservation law without regard to and in a separate manner from any
4 federal rehabilitation credit that may be allocated with respect to a
5 certified historic structure under section forty-seven of the internal
6 revenue code.

7 (ii) The rehabilitation credit may be transferred as provided for in
8 article fourteen-A of the parks, recreation and historic preservation
9 law.

10 (h) The commissioner, in consultation with the commissioner of parks,
11 recreation and historic preservation, shall report annually, on or
12 before the first day of November, on the aggregate amount of credits
13 claimed pursuant to this subdivision on returns filed during the preced-
14 ing calendar year. Such report shall be provided to the governor,
15 temporary president of the senate, speaker of the assembly, chairs of
16 the senate committees on finance and on housing, construction and commu-
17 nity development, and chairs of the assembly committees on ways and
18 means and on housing and shall be made publicly available on the depart-
19 ment's website.

20 § 5. Subsection (oo) of section 606 of the tax law, as amended by
21 chapter 239 of the laws of 2009, paragraph 1 as amended by chapter 472
22 of the laws of 2010, subparagraph (A) of paragraph 1 as amended by
23 section 1 of subpart B of part I of chapter 59 of the laws of 2023,
24 paragraph 3 as amended by section 1 of part RR of chapter 59 of the laws
25 of 2018, paragraph 4 as amended by section 1 of part F of chapter 59 of
26 the laws of 2013, paragraph 5 as amended by section 2 of part U of chap-
27 ter 59 of the laws of 2019, and paragraph 6 as added by section 1 of
28 part CCC of chapter 59 of the laws of 2021, is amended to read as
29 follows:

30 (oo) Credit for rehabilitation of historic properties. (1) (A) For
31 taxable years beginning on or after January first, two thousand ten and
32 before January first, two thousand thirty, a taxpayer, or an eligible
33 transferee as described in article fourteen-A of the parks, recreation
34 and historic preservation law, shall be allowed a credit as hereinafter
35 provided, against the tax imposed by this article, in an amount equal to
36 one hundred percent of the amount of credit allowed the taxpayer with
37 respect to a certified historic structure, and one hundred fifty percent
38 of the amount of credit allowed the taxpayer with respect to a certified
39 historic structure that is a small project, under internal revenue code
40 section 47(c)(3), determined without regard to ratably allocating the
41 credit over a five year period as required by subsection (a) of such
42 section 47, with respect to a certified historic structure located with-
43 in the state. Provided, however, the credit shall not exceed five
44 million dollars. For taxable years beginning on or after January first,
45 two thousand thirty, a taxpayer, or an eligible transferee as described
46 in article fourteen-A of the parks, recreation and historic preservation
47 law, shall be allowed a credit as hereinafter provided, against the tax
48 imposed by this article, in an amount equal to thirty percent of the
49 amount of credit allowed the taxpayer with respect to a certified
50 historic structure under internal revenue code section 47(c)(3), deter-
51 mined without regard to ratably allocating the credit over a five year
52 period as required by subsection (a) of such section 47, with respect to
53 a certified historic structure located within the state; provided,
54 however, the credit shall not exceed one hundred thousand dollars.

55 (B) If the taxpayer or transferee is a partner in a partnership or a
56 shareholder of a New York S corporation, then the credit cap imposed in

1 subparagraph (A) of this paragraph shall be applied at the entity level,
2 so that the aggregate credit allowed to all the partners or shareholders
3 of each such entity in the taxable year does not exceed the credit cap
4 that is applicable in that taxable year.

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

8 (3) If the taxpayer is allowed a credit pursuant to section 47 of the
9 internal revenue code with respect to a qualified rehabilitation that is
10 also the subject of the credit allowed by this subsection and that cred-
11 it pursuant to such section 47 is recaptured pursuant to subsection (a)
12 of section 50 of the internal revenue code, a portion of the credit
13 allowed under this subsection must be added back by the taxpayer or
14 eligible transferor described in article fourteen-A of the parks, recre-
15 ation and historic preservation law in the same taxable year and in the
16 same proportion as the federal recapture.

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

22 (5) [~~Except in the case of a qualified rehabilitation project under~~
23 ~~taken within a state park, state historic site, or other land owned by~~
24 ~~the state, that is under the jurisdiction of the office of parks, recre-~~
25 ~~ation and historic preservation, to] To be eligible for the credit
26 allowable under this subsection the rehabilitation project shall be in
27 whole or in part located within a census tract which is identified as
28 being at or below one hundred percent of the state median family income
29 as calculated as of April first of each year using the most recent five
30 year estimate from the American community survey published by the United
31 States Census bureau. If there is a change in the most recent five year
32 estimate, a census tract that qualified for eligibility under this
33 program before information about the change was released will remain
34 eligible for a credit under this subsection for an additional two calen-
35 dar years. The eligibility restrictions set forth in this paragraph
36 shall not be applicable if a qualified rehabilitation project is under-
37 taken:~~

38 (A) within a state park, state historic site, or other land owned by
39 the state, that is under the jurisdiction of the office of parks, recre-
40 ation and historic preservation, or;

41 (B) for the provision of affordable housing and the taxpayer has
42 entered into a regulatory agreement with any state or federal agency or
43 authority, or any other government or quasi-government entity, including
44 an industrial development agency, that is authorized to engage in the
45 financing, construction or oversight of affordable housing within such
46 entity's jurisdiction, and where such regulatory agreement sets forth
47 affordability requirements applicable for a period of not less than
48 thirty years and that is binding on all successors of the taxpayer.

49 (6) For purposes of this subsection the term "small project" means
50 qualified rehabilitation expenditures totaling two million five hundred
51 thousand dollars or less.

52 (7) (A) The credit established by this subsection may be transferred
53 as set forth in article fourteen-A of the parks, recreation and historic
54 preservation law without regard to and in a separate manner from any
55 federal rehabilitation credit that may be allocated with respect to a

1 certified historic structure under section forty-seven of the internal
2 revenue code.

3 (B) The rehabilitation credit may be transferred as provided for in
4 article fourteen-A of the parks, recreation and historic preservation
5 law.

6 (8) The commissioner, in consultation with the commissioner of parks,
7 recreation and historic preservation, shall report annually, on or
8 before the first day of November, on the aggregate amount of credits
9 claimed pursuant to this subsection on returns filed during the preced-
10 ing calendar year. Such report shall be provided to the governor,
11 temporary president of the senate, speaker of the assembly, chairs of
12 the senate committees on finance and on housing, construction and commu-
13 nity development, and chairs of the assembly committees on ways and
14 means and on housing and shall be made publicly available on the depart-
15 ment's website.

16 § 6. Subdivision (y) of section 1511 of the tax law, as added by chap-
17 ter 472 of the laws of 2010, subparagraph (A) of paragraph 1 as amended
18 by section 5 of subpart B of part I of chapter 59 of the laws of 2023,
19 paragraph 3 as amended by section 3 of part RR of chapter 59 of the laws
20 of 2018, paragraph 4 as amended by section 4 of part F of chapter 59 of
21 the laws of 2013, paragraph 5 as amended by section 3 of part U of chap-
22 ter 59 of the laws of 2019, and paragraph 6 as added by section 3 of
23 part CCC of chapter 59 of the laws of 2021, is amended to read as
24 follows:

25 (y) Credit for rehabilitation of historic properties. (1) (A) For
26 taxable years beginning on or after January first, two thousand ten and
27 before January first, two thousand thirty, a taxpayer, or an eligible
28 transferee as described in article fourteen-A of the parks, recreation
29 and historic preservation law, shall be allowed a credit as hereinafter
30 provided, against the tax imposed by this article, in an amount equal to
31 one hundred percent of the amount of credit allowed the taxpayer with
32 respect to a certified historic structure, and one hundred fifty percent
33 of the amount of credit allowed the taxpayer with respect to a certified
34 historic structure that is a small project, under internal revenue code
35 section 47(c)(3), determined without regard to ratably allocating the
36 credit over a five year period as required by subsection (a) of such
37 section 47, with respect to a certified historic structure located with-
38 in the state. Provided, however, the credit shall not exceed five
39 million dollars. For taxable years beginning on or after January first,
40 two thousand thirty, a taxpayer, or an eligible transferee as described
41 in article fourteen-A of the parks, recreation and historic preservation
42 law, shall be allowed a credit as hereinafter provided, against the tax
43 imposed by this article, in an amount equal to thirty percent of the
44 amount of credit allowed the taxpayer with respect to a certified
45 historic structure under internal revenue code section 47(c)(3), deter-
46 mined without regard to ratably allocating the credit over a five year
47 period as required by subsection (a) of such section 47 with respect to
48 a certified historic structure located within the state. Provided,
49 however, the credit shall not exceed one hundred thousand dollars.

50 (B) If the taxpayer or transferee is a partner in a partnership, then
51 the cap imposed in subparagraph (A) of this paragraph shall be applied
52 at the entity level, so that the aggregate credit allowed to all the
53 partners of such partnership in the taxable year does not exceed the
54 credit cap that is applicable in that taxable year.

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

4 (3) If the taxpayer is allowed a credit pursuant to section 47 of the
5 internal revenue code with respect to a qualified rehabilitation that is
6 also the subject of the credit allowed by this subdivision and that
7 credit pursuant to such section 47 is recaptured pursuant to subsection
8 (a) of section 50 of the internal revenue code, a portion of the credit
9 allowed under this subdivision in the taxable year the credit was
10 claimed must be added back by the taxpayer or eligible transferor
11 described in article fourteen-A of the parks, recreation and historic
12 preservation law in the same taxable year and in the same proportion as
13 the federal recapture.

14 (4) The credit allowed under this subdivision for any taxable year
15 shall not reduce the tax due for such year to less than the minimum
16 fixed by paragraph four of subdivision (a) of section fifteen hundred
17 two or section fifteen hundred two-a of this article, whichever is
18 applicable. However, if the amount of credits allowed under this subdivi-
19 sion for any taxable year reduces the tax to such amount, any amount
20 of credit thus not deductible in such taxable year shall be treated as
21 an overpayment of tax to be credited or refunded in accordance with the
22 provisions of section one thousand eighty-six of this chapter. Provided,
23 however, the provisions of subsection (c) of section one thousand eight-
24 y-eight of this chapter notwithstanding, no interest shall be paid ther-
25 eon.

26 (5) [~~Except in the case of a qualified rehabilitation project under-~~
27 ~~taken within a state park, state historic site, or other land owned by~~
28 ~~the state, that is under the jurisdiction of the office of parks, recre-~~
29 ~~ation and historic preservation, to] To be eligible for the credit
30 allowable under this subdivision, the rehabilitation project shall be in
31 whole or in part located within a census tract which is identified as
32 being at or below one hundred percent of the state median family income
33 as calculated as of April first of each year using the most recent five
34 year estimate from the American community survey published by the United
35 States Census bureau. If there is a change in the most recent five year
36 estimate, a census tract that qualified for eligibility under this
37 program before information about the change was released will remain
38 eligible for a credit under this subdivision for an additional two
39 calendar years. The eligibility restrictions set forth in this paragraph
40 shall not be applicable if a qualified rehabilitation project is under-
41 taken:~~

42 (A) within a state park, state historic site, or other land owned by
43 the state, that is under the jurisdiction of the office of parks, recre-
44 ation and historic preservation, or;

45 (B) for the provision of affordable housing and the taxpayer has
46 entered into a regulatory agreement with any state or federal agency or
47 authority, or any other government or quasi-government entity, including
48 an industrial development agency, that is authorized to engage in the
49 financing, construction or oversight of affordable housing within such
50 entity's jurisdiction, and where such regulatory agreement sets forth
51 affordability requirements applicable for a period of not less than
52 thirty years and that is binding on all successors of the taxpayer.

53 (6) For purposes of this subdivision "small project" means qualified
54 rehabilitation expenditures totaling two million five hundred thousand
55 dollars or less.

1 (7) (A) The credit established by this subdivision may be transferred
2 as set forth in article fourteen-A of the parks, recreation and historic
3 preservation law without regard to and in a separate manner from any
4 federal rehabilitation credit that may be allocated with respect to a
5 certified historic structure under section forty-seven of the internal
6 revenue code.

7 (B) The rehabilitation credit may be transferred as provided for in
8 article fourteen-A of the parks, recreation and historic preservation
9 law.

10 (8) The commissioner, in consultation with the commissioner of parks,
11 recreation and historic preservation, shall report annually, on or
12 before the first day of November, on the aggregate amount of credits
13 claimed pursuant to this subdivision on returns filed during the preced-
14 ing calendar year. Such report shall be provided to the governor,
15 temporary president of the senate, speaker of the assembly, chairs of
16 the senate committees on finance and on housing, construction and commu-
17 nity development, and chairs of the assembly committees on ways and
18 means and on housing and shall be made publicly available on the depart-
19 ment's website.

20 § 7. This act shall take effect immediately and shall apply to taxable
21 years commencing on and after January 1, 2026.