STATE OF NEW YORK

10318

IN SENATE

May 13, 2026

Introduced by Sen. BOTTCHER -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to establishing a tax credit for same-sex couples re-recording their property deeds to reflect a change in status from tenants in common or joint tenants with right of survivorship to tenancy by the entirety; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. This act shall be known and may be cited as the "Marriage Equality Deed Correction Tax Credit Act".

§ 2. Section 606 of the tax law is amended by adding a new subsection (uuu) to read as follows:

(uuu) Real property re-recording credit. (1) For purposes of this subsection:

(A) "Qualified taxpayer" means a resident individual of the state who:

(i) is currently a spouse in a same-sex marriage;

(ii) prior to June twenty-fourth, two thousand eleven, purchased and has continually occupied a residence with the person who is the taxpayer's current spouse;

(iii) recorded the deed to such residence in the names of the taxpayer and the taxpayer's now-spouse as tenants in common or joint tenants with right of survivorship;

(iv) during the current tax year, still owns and occupies the residence with the person who is the taxpayer's current spouse; and

(v) during the current tax year, records a new deed to the residence in the names of the taxpayer and the taxpayer's now-spouse as tenants by the entirety.

(B) "Allowable recording fee" means the fees and costs charged by a city, town or county clerk for the recording of a qualifying deed.

(C) "Qualifying deed" means a deed to real property owned by the taxpayer and the taxpayer's current spouse that is recorded for the sole purpose of changing the status of the taxpayer and the taxpayer's spouse

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

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from tenants in common or joint tenants with right of survivorship to tenants by the entirety.

(D) "Residence" means a dwelling in this state owned by a taxpayer and the taxpayer's spouse and used by such taxpayer and the taxpayer's spouse as their primary residence, and so much of the land abutting it as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multi-dwelling or multi-purpose building including a cooperative or condominium. "Residence" includes a trailer or mobile home, used exclusively for residential purposes and defined as real property pursuant to paragraph (g) of subdivision twelve of section one hundred two of the real property tax law.

(2) A qualified taxpayer shall be allowed a credit as provided in this subsection against the tax imposed by this article. The amount of credit shall be the lesser of five hundred dollars or the allowable recording fee imposed by a town clerk or county clerk and paid by the taxpayer to record a qualifying deed to real property.

(3) (A) A taxpayer may claim the credit provided by this subsection only one time and as to only one residence. If a taxpayer has claimed the credit allowed under this subsection, the taxpayer's spouse may not claim the credit an additional time or as to an additional residence.

(B) Any credit claimed under this subsection shall be deducted from the cost basis of the property for purposes of calculating gain upon sale of the property.

(4) No credit shall be granted under this subsection:

(A) To a taxpayer if the combined gross income of the taxpayer and the taxpayer's spouse for the taxable year exceeds three hundred thousand dollars.

(B) To any commercial property.

(C) To a taxpayer unless the residence is used as the taxpayer's primary residence.

(D) To an individual with respect to whom a deduction under subsection (c) of section one hundred fifty-one of the internal revenue code is allowable to another taxpayer for the taxable year.

(E) With respect to a residence that is wholly exempted from real property taxation.

(F) To an individual who is not a resident individual of the state for the entire taxable year.

(5) In no event shall the amount of the credit herein provided for be allowed in excess of the taxpayer's tax for such year, provided, however, that if the amount of credit allowable under this subsection for any taxable year exceeds the taxpayer's tax for such year, any amount of credit not deductible in such taxable year may be carried over to the following three years and may be deducted from the taxpayer's tax for such year or years.

§ 3. This act shall take effect immediately, shall apply to taxable years beginning on or after January 1, 2027 and shall expire and be deemed repealed January 1, 2029; provided that the expiration and repeal of this act shall not affect the claiming of a tax credit as provided in section two of this act when filing income taxes for any year during which this act was in effect.