

# STATE OF NEW YORK

6021--B

2025-2026 Regular Sessions

## IN SENATE

March 4, 2025

Introduced by Sens. BASKIN, COMRIE, COONEY, FAHY, GALLIVAN, MAY, ROLISSON, SUTTON, ZELLNER -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- recommitted to the Committee on Budget and Revenue in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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

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

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

45 (3) If the taxpayer is allowed a credit pursuant to section 47 of the  
46 internal revenue code with respect to a qualified rehabilitation that is  
47 also the subject of the credit allowed by this subsection and that cred-  
48 it pursuant to such section 47 is recaptured pursuant to subsection (a)  
49 of section 50 of the internal revenue code, a portion of the credit  
50 allowed under this subsection must be added back by the taxpayer or  
51 transferee in the same taxable year and in the same proportion as the  
52 federal recapture.

53 (4) If the amount of the credit allowed under this subsection for any  
54 taxable year shall exceed the taxpayer's tax for such year, the excess  
55 shall be treated as an overpayment of tax to be credited or refunded in

1 accordance with the provisions of section six hundred eighty-six of this  
2 article, provided, however, that no interest shall be paid thereon.

3 (5) To be eligible for the credit allowable under this subsection the  
4 rehabilitation project shall be in whole or in part located within a  
5 census tract which is identified as being at or below one hundred  
6 percent of the state median family income as calculated as of April  
7 first of each year using the most recent five year estimate from the  
8 American community survey published by the United States Census bureau.  
9 If there is a change in the most recent five year estimate, a census  
10 tract that qualified for eligibility under this program before informa-  
11 tion about the change was released will remain eligible for a credit  
12 under this subsection for an additional two calendar years. The eligi-  
13 bility restrictions set forth in this paragraph shall not be applicable  
14 if:

15 (A) a qualified rehabilitation project is undertaken within a state  
16 park, state historic site, or other land owned by the state, that is  
17 under the jurisdiction of the office of parks, recreation and historic  
18 preservation; ~~or~~

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

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

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

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

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

40 (C) "Phase II housing project" means a white elephant housing project  
41 which the commissioner determines (i) is reasonably related to a prior  
42 eligible white elephant project or eligible white elephant housing  
43 project by the same applicant, (ii) such prior project qualified as  
44 eligible with seventy-five million dollars or less of qualified rehabil-  
45 itation expenditures, and (iii) the phase II application has been  
46 submitted within five years of the commissioner's previous allowance of  
47 credit for the prior eligible white elephant project or eligible white  
48 elephant housing project.

49 (7)(A) A taxpayer allowed a credit pursuant to this subsection may  
50 transfer the credit, in whole or in part, to another person or entity,  
51 who shall be referred to as the transferee, without regard to how any  
52 tax credit authorized pursuant to section forty-seven of the internal  
53 revenue code with respect to a qualified rehabilitation project may be  
54 allocated and notwithstanding that such other person or entity owns no  
55 interest in the qualified rehabilitation project or in an entity with an

1 ownership interest in the qualified rehabilitation project. A transferee  
2 may not transfer any credit, or portion thereof, acquired by transfer.

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

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

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

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

11 (iv) the amount of consideration received by the taxpayer for the  
12 transfer credit; and

13 (v) the amount of credit being transferred.

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

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

41 (E) A taxpayer allowed a credit pursuant to section forty-seven of the  
42 internal revenue code with respect to a qualified rehabilitation that is  
43 also the subject of the credit allowed by this subsection shall remain  
44 solely liable for all obligations and liabilities imposed on the taxpay-  
45 er with respect to the credit allowed by this subsection, none of which  
46 shall apply to a party to whom the credit has been subsequently trans-  
47 ferred.

48 (8) The allocation of the credit established by this subsection may be  
49 made without regard to and in a separate manner from any federal reha-  
50 bilitation credit that may be allocated with respect to a qualified  
51 white elephant project.

52 (9) The commissioner shall report annually, on or before the first day  
53 of November, on the aggregate amount of credits claimed and awarded  
54 pursuant to this subsection on returns filed during the preceding calen-  
55 dar year. Such report shall be provided to the governor, temporary pres-  
56 ident of the senate, speaker of the assembly, chair of the senate

1 finance committee and chair of the assembly ways and means committee and  
2 shall be made publicly available on the department's website.

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

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

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

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

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

55 [~~(a-1)~~ (iii)] If the taxpayer or transferee is a partner in a partner-  
56 ship or a shareholder in a New York S corporation, then the credit caps

1 imposed in [~~paragraph (a)~~] subparagraphs (i) and (ii) of this [~~subdivi-~~  
2 ~~sion~~] paragraph shall be applied at the entity level, so that the aggre-  
3 gate credit allowed to all the partners or shareholders of each such  
4 entity in the taxable year does not exceed the credit cap that is appli-  
5 cable in that taxable year.

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

9 (c) If the taxpayer is allowed a credit pursuant to section 47 of the  
10 internal revenue code with respect to a qualified rehabilitation that is  
11 also the subject of the credit allowed by this subdivision and that  
12 credit pursuant to such section 47 is recaptured pursuant to subsection  
13 (a) of section 50 of the internal revenue code, a portion of the credit  
14 allowed under this subdivision must be added back by the taxpayer or  
15 transferee in the same taxable year and in the same proportion as the  
16 federal credit.

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

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

41 (i) a qualified rehabilitation project is undertaken within a state  
42 park, state historic site, or other land owned by the state, that is  
43 under the jurisdiction of the office of parks, recreation and historic  
44 preservation; [~~or~~]

45 (ii) a qualified rehabilitation project is undertaken for the  
46 provision of affordable housing and the taxpayer has entered into a  
47 regulatory agreement with any state or federal agency or authority, or  
48 any other government entity that is authorized to engage in the financ-  
49 ing, construction or oversight of affordable housing within such enti-  
50 ty'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; or

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

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

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

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

11 (iii) "Phase II housing project" means a white elephant housing  
12 project which the commissioner determines (A) is reasonably related to a  
13 prior eligible white elephant project or eligible white elephant housing  
14 project by the same applicant, (B) such prior project qualified as  
15 eligible with seventy-five million dollars or less of qualified rehabil-  
16 itation expenditures, and (C) the phase II application has been submit-  
17 ted within five years of the commissioner's previous allowance of credit  
18 for the prior eligible white elephant project or eligible white elephant  
19 housing project.

20 (g)(i) A taxpayer allowed a credit pursuant to this subdivision may  
21 transfer the credit, in whole or in part, to another person or entity,  
22 who shall be referred to as the transferee, without regard to how any  
23 tax credit authorized pursuant to section forty-seven of the internal  
24 revenue code with respect to a qualified rehabilitation project may be  
25 allocated and notwithstanding that such other person or entity owns no  
26 interest in the qualified rehabilitation project or in an entity with an  
27 ownership interest in the qualified rehabilitation project. A transferee  
28 may not transfer any credit, or portion thereof, acquired by transfer.

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

32 (A) the building identification numbers for all buildings in the  
33 project;

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

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

37 (D) the amount of consideration received by the taxpayer for the  
38 transfer credit; and

39 (E) the amount of credit being transferred.

40 (iii) No transfer shall be effective unless the taxpayer allowed a  
41 credit pursuant to this subdivision and seeking to transfer the credit  
42 files a transfer application with the commissioner of parks, recreation  
43 and historic preservation prior to the transfer and such transfer appli-  
44 cation is approved. The transfer application shall include the name and  
45 federal identification numbers of the taxpayer and each proposed trans-  
46 feree, the amount of credit proposed to be transferred to each proposed  
47 transferee, a copy of the transfer contract, and such other information  
48 as the commissioner or the commissioner of parks, recreation and histor-  
49 ic preservation may require. The commissioner of parks, recreation and  
50 historic preservation shall approve or deny each transfer application  
51 and, if an application is denied, shall issue a written determination to  
52 the taxpayer. If the transfer is approved, the commissioner of parks,  
53 recreation and historic preservation shall issue a transfer approval  
54 certificate that provides the name of the transferor and all transfer-  
55 ees, the amount of credit being transferred and such other information  
56 as the commissioner of parks, recreation and historic preservation and

1 the commissioner deem necessary. A copy of the transfer approval certifi-  
2 cate must be attached to each transferee's tax return. The commission-  
3 er of parks, recreation and historic preservation, in consultation with  
4 the commissioner, may establish such other procedures and standards  
5 deemed necessary for the transferability of credits allowed under this  
6 subdivision.

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

11 (v) A taxpayer allowed a credit pursuant to section forty-seven of the  
12 internal revenue code with respect to a qualified rehabilitation that is  
13 also the subject of the credit allowed by this subdivision shall remain  
14 solely liable for all obligations and liabilities imposed on the taxpay-  
15 er with respect to the credit allowed by this subdivision, none of which  
16 shall apply to a party to whom the credit has been subsequently trans-  
17 ferred.

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

22 (i) The commissioner shall report annually, on or before the first day  
23 of November, on the aggregate amount of credits claimed and awarded  
24 pursuant to this subdivision on returns filed during the preceding  
25 calendar year. Such report shall be provided to the governor, temporary  
26 president of the senate, speaker of the assembly, chair of the senate  
27 finance committee and chair of the assembly ways and means committee and  
28 shall be made publicly available on the department's website.

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

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

38 (i) one hundred percent of the amount of credit allowed the taxpayer  
39 with respect to a certified historic structure, and one hundred fifty  
40 percent of the amount of credit allowed the taxpayer with respect to a  
41 certified historic structure that is a small project, under internal  
42 revenue code section 47(c)(3), determined without regard to ratably  
43 allocating the credit over a five year period as required by subsection  
44 (a) of such section 47; and

45 (ii) one hundred percent of the amount of credit allowed the taxpayer  
46 with respect to a certified historic structure that is a white elephant  
47 project, under internal revenue code section 47(c)(3), with respect to a  
48 certified historic structure located within the state. Provided, howev-  
49 er, the credit shall not exceed five million dollars, unless such credit  
50 is allowed with respect to a certified historic structure that is a  
51 white elephant project, in which case, the credit shall not exceed  
52 fifteen million dollars. Provided, further, that whenever the commis-  
53 sioner of parks, recreation and historic preservation receives an appli-  
54 cation for a white elephant project from an applicant for which such  
55 commissioner has previously certified credit for an eligible white  
56 elephant project, the commissioner of parks, recreation and historic

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

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

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

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

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

40 (4) The credit allowed under this subdivision for any taxable year  
41 shall not reduce the tax due for such year to less than the minimum  
42 fixed by paragraph four of subdivision (a) of section fifteen hundred  
43 two or section fifteen hundred two-a of this article, whichever is  
44 applicable. However, if the amount of credits allowed under this subdivi-  
45 sion for any taxable year reduces the tax to such amount, any amount  
46 of credit thus not deductible in such taxable year shall be treated as  
47 an overpayment of tax to be credited or refunded in accordance with the  
48 provisions of section one thousand eighty-six of this chapter. Provided,  
49 however, the provisions of subsection (c) of section one thousand eight-  
50 y-eight of this chapter notwithstanding, no interest shall be paid ther-  
51 eon.

52 (5) To be eligible for the credit allowable under this subdivision,  
53 the rehabilitation project shall be in whole or in part located within a  
54 census tract which is identified as being at or below one hundred  
55 percent of the state median family income as calculated as of April  
56 first of each year using the most recent five year estimate from the

1 American community survey published by the United States Census bureau.  
2 If there is a change in the most recent five year estimate, a census  
3 tract that qualified for eligibility under this program before informa-  
4 tion about the change was released will remain eligible for a credit  
5 under this subdivision for an additional two calendar years. The eligi-  
6 bility restrictions set forth in this paragraph shall not be applicable  
7 if:

8 (A) a qualified rehabilitation project is undertaken within a state  
9 park, state historic site, or other land owned by the state, that is  
10 under the jurisdiction of the office of parks, recreation and historic  
11 preservation; ~~[ex]~~

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

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

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

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

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

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

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

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

54 (i) the building identification numbers for all buildings in the  
55 project;

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

1 (iii) the schedule of years for which the transfer credit may be  
 2 claimed and the amount of credit previously claimed;  
 3 (iv) the amount of consideration received by the taxpayer for the  
 4 transfer credit; and  
 5 (v) the amount of credit being transferred.

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

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

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

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

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

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

53 ARTICLE 14-A  
 54 WHITE ELEPHANT HOUSING HISTORIC REHABILITATION PROJECTS TAX  
 55 CREDIT PROGRAM  
 56 Section 14.15 Definitions.

1 14.16 Allowance of credit, amount and limitations.

2 14.17 Project monitoring.

3 14.18 Regulations, coordination with federal rehabilitation  
4 credit provisions.

5 14.19 Construction wage standards.

6 § 14.15 Definitions. As used in this article, the following terms  
7 shall have the following meanings:

8 1. "Eligibility statement" means a statement issued by the commissioner,  
9 in consultation with the commissioner of the division of community  
10 housing and renewal, certifying that a white elephant housing project is  
11 eligible for white elephant housing project historic rehabilitation  
12 credits under this article and low-income housing tax credits under  
13 article two-A of the public housing law. Such statement shall set forth  
14 the taxable year in which the building is placed in service, the dollar  
15 amount of rehabilitation credit certified by the commissioner to such  
16 building as provided in section 14.16 of this article, the dollar amount  
17 of low-income housing tax credit allocated by the commissioner of commu-  
18 nity housing and renewal to such building as provided in section twenty-  
19 two of the public housing law, sufficient information to identify  
20 each such building and the taxpayer or taxpayers with respect to each  
21 such building, whether the project is a phase II housing project, and  
22 such other information as the commissioner, in consultation with the  
23 commissioner of taxation and finance and commissioner of community hous-  
24 ing and renewal, shall prescribe. Such eligibility statement shall be  
25 first issued following the close of the first taxable year, and there-  
26 after, to the extent required by the commissioner of taxation and  
27 finance, following the close of each of the following four taxable  
28 years.

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

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

37 4. "Phase II housing project" means a white elephant housing project  
38 which the commissioner determines (a) is reasonably related to a prior  
39 eligible white elephant project or eligible white elephant housing  
40 project by the same applicant, (b) such prior project qualified as  
41 eligible with less than seventy-five million dollars of qualified reha-  
42 bilitation expenditures, and (c) the phase II application has been  
43 submitted within five years of the commissioner's previous allowance of  
44 credit for the prior eligible white elephant project or eligible white  
45 elephant housing project.

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

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

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

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

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

8 2. (a) A taxpayer allowed a credit pursuant to this article may trans-  
9 fer the credit, in whole or in part, to another person or entity, who  
10 shall be referred to as the transferee, notwithstanding that such other  
11 person or entity owns no interest in the eligible white elephant housing  
12 project or in an entity with an ownership interest in the eligible white  
13 elephant housing project. Transferees shall be entitled to apply trans-  
14 ferred credit to a tax imposed under article nine-A, twenty-two or thir-  
15 ty-three of the tax law, provided all requirements for claiming the  
16 credit are met. A transferee may not transfer any credit, or portion  
17 thereof, acquired by transfer.

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

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

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

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

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

27 (v) the amount of consideration received by the taxpayer for the  
28 transfer credit; and

29 (vi) the amount of credit being transferred.

30 (c) No transfer shall be effective unless the taxpayer allowed a cred-  
31 it pursuant to this article and seeking to transfer the credit files a cred-  
32 it transfer statement with the commissioner prior to the transfer and the  
33 commissioner approves such transfer. The transfer statement shall  
34 provide the name and federal identification numbers of the filing  
35 transferor and the taxpayer to whom the filing transferor transferred  
36 the credit, and the amount of credit transferred to each such person or  
37 entity. A copy of the transfer contract shall be attached to the trans-  
38 fer statement. The statement shall also contain such other information  
39 as the commissioner may require. After reviewing the transfer contract  
40 and the transfer statement, the commissioner shall approve or deny the  
41 transfer as provided in this subdivision. If the commissioner approves  
42 the transfer, the commissioner shall issue an approval statement that  
43 provides the name of the transferor and transferee, the amount of credit  
44 being transferred and such other information as the commissioner and the  
45 commissioner of taxation and finance deem necessary. A copy of the  
46 commissioner's approval statement must be attached to the transferee's  
47 tax return. If the commissioner denies the transfer, the commissioner  
48 shall provide the taxpayer a written determination for such denial. The  
49 commissioner, in consultation with the commissioner of taxation and  
50 finance, may establish such other procedures and standards deemed neces-  
51 sary for the transferability of the white elephant housing project  
52 historic rehabilitation credit.

53 (d) The commissioner shall forward copies of all transfer statements  
54 and attachments thereto and approval statements to the department of  
55 taxation and finance within thirty days after the transfer is approved  
56 by the commissioner.

1 § 14.17 Project monitoring. The commissioner shall establish such  
2 procedures deemed necessary for monitoring compliance of an eligible  
3 white elephant housing project with the provisions of this article, and  
4 for notifying the commissioner of taxation and finance of any such  
5 noncompliance.

6 § 14.18 Regulations, coordination with federal rehabilitation credit  
7 provisions. 1. The commissioner shall promulgate rules and regulations  
8 necessary to administer the provisions of this article.

9 2. The provisions of section 47 of the internal revenue code shall  
10 apply to the credit under this article, provided however, to the extent  
11 such provisions are inconsistent with this article, the provisions of  
12 this article shall control.

13 3. The allocation of the credit established by this article may be  
14 made without regard to and in a separate manner from any federal reha-  
15 bilitation credit that may be allocated with respect to an eligible  
16 white elephant housing project.

17 § 14.19 Construction wage standards. 1. Any project defined in section  
18 14.15 of this article shall be subject to prevailing wage requirements  
19 in accordance with sections two hundred twenty, two hundred twenty-a,  
20 two hundred twenty-b, two hundred twenty-i, two hundred twenty-j, two  
21 hundred twenty-three, and two hundred twenty-four-b of the labor law.

22 2. Prevailing wage requirements in subdivision one of this section  
23 shall not apply where the construction work is subject to a project  
24 labor agreement, such that it is performed under a pre-hire collective  
25 bargaining agreement between an owner or developer and a bona fide  
26 building and construction trades labor organization which has estab-  
27 lished itself, and/or its affiliates, as the collective bargaining  
28 representative for all persons who will perform work on such a project,  
29 and which provides that only contractors and subcontractors who sign a  
30 pre-negotiated agreement with the labor organization can perform work on  
31 such a project.

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

35 (2) (A) With respect to any particular residence of a taxpayer, the  
36 credit allowed under paragraph one of this subsection shall not exceed  
37 fifty thousand dollars for taxable years beginning on or after January  
38 first, two thousand ten and before January first, two thousand [~~twenty-~~  
39 ~~five~~] thirty-seven and twenty-five thousand dollars for taxable years  
40 beginning on or after January first, two thousand [~~twenty-five~~] thirty-  
41 seven. In the case of a [~~husband and wife~~] married couple, the amount of  
42 the credit shall be divided between them equally or in such other manner  
43 as they may both elect. If a taxpayer incurs qualified rehabilitation  
44 expenditures in relation to more than one residence in the same year,  
45 the total amount of credit allowed under paragraph one of this  
46 subsection for all such expenditures shall not exceed fifty thousand  
47 dollars for taxable years beginning on or after January first, two thou-  
48 sand ten and before January first, two thousand [~~twenty-five~~] thirty-  
49 seven and twenty-five thousand dollars for taxable years beginning on or  
50 after January first, two thousand [~~twenty-five~~] thirty-seven.

51 (B) For taxable years beginning on or after January first, two thou-  
52 sand ten and before January first, two thousand [~~twenty-five~~] thirty-  
53 seven, if the amount of credit allowable under this subsection shall  
54 exceed the taxpayer's tax for such year, and the taxpayer's New York  
55 adjusted gross income for such year does not exceed sixty thousand  
56 dollars, the excess shall be treated as an overpayment of tax to be

1 credited or refunded in accordance with the provisions of section six  
2 hundred eighty-six of this article, provided, however, that no interest  
3 shall be paid thereon. If the taxpayer's New York adjusted gross income  
4 for such year exceeds sixty thousand dollars, the excess credit that may  
5 be carried over to the following year or years and may be deducted from  
6 the taxpayer's tax for such year or years. For taxable years beginning  
7 on or after January first, two thousand [~~twenty-five~~] thirty-seven, if  
8 the amount of credit allowable under this subsection shall exceed the  
9 taxpayer's tax for such year, the excess may be carried over to the  
10 following year or years and may be deducted from the taxpayer's tax for  
11 such year or years.

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

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

21 5. (a) The commissioner shall report annually, on or before the first  
22 day of November, on the tax credit projects applied for in accordance  
23 with subdivision twenty-six of section two hundred ten-B, subsection  
24 (oo) of section six hundred six, and subdivision (y) of section fifteen  
25 hundred eleven of the tax law on returns filed during the preceding  
26 calendar year. Such report shall be provided to the governor, temporary  
27 president of the senate, speaker of the assembly, chair of the senate  
28 finance committee and chair of the assembly ways and means committee,  
29 shall be made publicly available on the department's website and shall  
30 include the following information:

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

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

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

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

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

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

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

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

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

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

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

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

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