STATE OF NEW YORK

7964

2025-2026 Regular Sessions

IN SENATE

May 15, 2025

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law and the environmental conservation law, in relation to incentivizing projects on certain Brownfield sites

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

Section 1. Subparagraph (A) of paragraph 3-a of subdivision (a) of section 21 of the tax law, as amended by section 18 of part BB of chapter 56 of the laws of 2015, is amended to read as follows:

(A) Notwithstanding any other provision of law to the contrary, the tangible property credit component available for any qualified site pursuant to paragraph three of this subdivision shall not exceed thirty-five million dollars or three times the sum of the costs included in the calculation of the site preparation credit component and the on-site groundwater remediation credit component under paragraphs two and four, respectively, of this subdivision, and the costs that would have been included in the calculation of such components if not treated as an expense and deducted pursuant to section one hundred ninety-eight of the internal revenue code, whichever is less; provided, however, that: (1) in the case of a qualified site to be used primarily for manufacturing activities, the tangible property credit component available for any qualified site pursuant to paragraph three of this subdivision shall not exceed forty-five million dollars or six times the sum of the costs included in the calculation of the site preparation credit component and the on-site groundwater remediation credit component under paragraphs two and four, respectively, of this subdivision, and the costs that would have been included in the calculation of such components if not treated as an expense and deducted pursuant to section one hundred ninety-eight of the internal revenue code, whichever is less; **(2) in the case of a qualified project site, the tangible property credit component**

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

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available for any qualified site pursuant to paragraph three of this subdivision shall not exceed seventy million dollars or five times the sum of the costs included in the calculation of the site preparation credit component and the on-site groundwater remediation credit component under paragraphs two and four of this subdivision, respectively, and the costs that would have been included in the calculation of such components if not treated as an expense and deducted pursuant to section one hundred ninety-eight of the internal revenue code, whichever is less; and [~~(2)~~] (3) the provisions of this paragraph shall not apply to any qualified site for which the department of environmental conservation has issued a notice to the taxpayer before June twenty-third, two thousand eight that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law.

§ 2. Subdivision (b) of section 21 of the tax law is amended by adding a new paragraph 7 to read as follows:

(7) Qualified project site. The term "qualified project site" shall mean a qualified site, located in a city having a population of less than one hundred thousand, which meets all of the following criteria:

(A) at least fifty percent of the site is located in an environmental zone, a designated brownfield opportunity area, or a disadvantaged community as that term is defined in section 27-1405 of the environmental conservation law;

(B) one or more structures constructed on the site is physically connected to, or is within one-half mile of, a station for regular shared-ride transportation services open to the general public, including but not limited to an intercity bus station, a passenger rail station, an intermodal transportation station, or other station for modes of public transportation;

(C) In any building placed into service on a qualified project site which is primarily for residential use, either: (i) at least twenty-five percent of the residential units in the building are affordable units as defined in this paragraph; or (ii) at least twelve percent of the residential units in the building are affordable units and the total number of affordable units relative to the total number of residential units for all buildings placed into service on the project or zoning development site as of the last day of the taxable year equals or exceeds twenty-five percent;

(D) In any building placed into service on a qualified project site which is for office use, (i) at least two affordable units per ten thousand square feet of office use shall be located on the project or zoning site and (ii) the total number of affordable units in all buildings in service on the project or zoning development site at any time before the last day of the taxable year equals or exceeds twenty-five percent of the total number of residential units in such buildings plus an additional two affordable units for every ten thousand square feet of office space in the building being placed into service;

(E) The total project value for land, buildings, and construction-in-progress of improvements on the qualified site exceeds two hundred fifty million dollars at the end of each taxable year in which qualified tangible property is placed into service on the site, where "total project value" shall be the sum of the reported end of year balances for land, buildings and other assets without regard to depreciation, and other assets to the extent including construction or work in progress as set forth on the balance sheet included in the taxpayer's federal income tax return; and

(F) The department of environmental conservation has issued a notice to the taxpayer on or after January first, two thousand twenty-five that its request for participation with respect to the site has been accepted under subdivision six of section 27-1407 of the environmental conservation law.

For purposes of this paragraph: (i) "station" means the portion of a property located appurtenant to a right-of-way on which one or more modes of public transportation may be operated, where such portion is used by the general public and is related to the provision of such transportation, and which may include passenger platforms, designated waiting areas, ticketing areas, restrooms, and ancillary services such as concession areas; (ii) "project or zoning development site" means all parcels or lots subject to an approved site plan which includes the qualified project site or sites; and (iii) "affordable units" means rental or for-sale residential units dedicated to tenants or homeowners at eighty percent of the area median income for the primary metropolitan statistical area or for the county if located outside of a metropolitan statistical area, as determined by the United States department of housing and urban development or its successor for a family of four, as adjusted for family size.

Construction work for site remediation activities described in paragraphs (c), (d), and (f) of subdivision five of section 27-1405 of the environmental conservation law on a qualified project site shall be subject to prevailing wage requirements in accordance with sections two hundred twenty and two hundred twenty-b of the labor law; provided however that prevailing wage requirements shall not apply to work performed under a project labor agreement ("PLA") between an owner or contractor and a bona fide building and construction trade labor organization which has established itself as the collective bargaining representative for all persons who will perform work on such a project, and which provides that only contractors and subcontractors who sign a PLA with the labor organization can perform work on such a project under a PLA between an owner or contractor and a bona fide building and construction trade labor organization. The PLA shall require forty percent of full-time equivalent positions receive wages equivalent to prevailing wage. The enforcement of the prevailing wage requirements if applicable to a qualified project site shall be subject to the requirements of sections two hundred twenty, two hundred twenty-a, two hundred twenty-b, two hundred twenty-i, two hundred twenty-three, two hundred twenty-four-b, and two hundred twenty-seven of the labor law and within the jurisdiction of the fiscal officer as defined in section two hundred twenty of the labor law.

§ 3. The opening paragraph of subdivision 3 of section 27-1419 of the environmental conservation law, as amended by section 10 of part BB of chapter 56 of the laws of 2015, is amended to read as follows:

Upon receipt of the final engineering report, the department shall review such report and the data submitted pursuant to the brownfield site cleanup agreement as well as any other relevant information regarding the brownfield site. Upon satisfaction of the commissioner that the remediation requirements set forth in this title have been or will be achieved in accordance with the timeframes, if any, established in the remedial work plan, the commissioner shall issue a written certificate of completion. The certificate shall include such information as determined by the department of taxation and finance, including but not limited to the brownfield site boundaries included in the final engineering report, the date of the brownfield site cleanup agreement, and

the applicable percentages available as of the date of the certificate of completion for that site for purposes of section twenty-one of the tax law. For those sites for which the department has issued a notice to the applicant on or after July first, two thousand fifteen or the date of publication in the state register of proposed regulations defining "underutilized" as provided in subdivision thirty of section 27-1405 of this title, whichever shall be later, that its request for participation has been accepted under subdivision six of section 27-1407 of this title, the tangible property credit component of the brownfield redevelopment tax credit pursuant to paragraph three of subdivision (a) of section twenty-one of the tax law shall only be available to the taxpayer if the criteria for receiving such tax **credit** component have been met. For those sites for which the department has issued a notice to the taxpayer after June twenty-third, two thousand eight that its request for participation has been accepted under subdivision six of section 27-1407 of this title, the applicable percentage for the site preparation credit component pursuant to paragraph two of subdivision (a) of section twenty-one of the tax law, and the on-site groundwater remediation credit component pursuant to paragraph four of subdivision (a) of section twenty-one of the tax law shall be based on the level of cleanup achieved pursuant to subdivision four of section 27-1415 of this title and the level of cleanup of soils to contaminant-specific soil cleanup objectives promulgated pursuant to subdivision six of section 27-1415 of this title, up to a maximum of [~~**fifty**~~] **seventy-five** percent, as follows:

§ 4. This act shall take effect immediately.