

STATE OF NEW YORK

10366--A

IN ASSEMBLY

March 2, 2026

Introduced by M. of A. HUNTER, WOERNER, STIRPE, BARRETT, BURKE, CONRAD, RIVERA, McMAHON, SAYEGH, SHRESTHA, LUPARDO, SANTABARBARA, SHIMSKY -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development -- reported and referred to the Committee on Ways and Means -- 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:

Section 1. Subsection (oo) of section 606 of the tax law, as amended by section 2 of part E of chapter 59 of the laws of 2025, is amended to read as follows:

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

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

(ii) one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure that is a white elephant project, under internal revenue code section 47(c)(3), with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars, unless such credit is allowed with respect to a certified historic structure that is a

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

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white elephant project, in which case, the credit shall not exceed fifteen million dollars. Provided, further, that whenever the commissioner of parks, recreation and historic preservation receives an application for a white elephant project from an applicant for which such commissioner has previously certified credit for an eligible white elephant project, the commissioner of parks, recreation and historic preservation may deem such subsequent application to be phase II of the original eligible project if such commissioner determines that the two projects are reasonably related, as determined by such commissioner; the previous project qualified as an eligible white elephant project with seventy-five million dollars or less of qualified rehabilitation expenditures; and the phase II application has been submitted within five years of such commissioner's previous certification of credit for the previously eligible white elephant project.

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

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

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

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

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

(5) To be eligible for the credit allowable under this subsection the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below one hundred percent of the state median family income as calculated as of April 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 subsection 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; ~~[or]~~

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 subsection the term "small"]~~ As used in this
24 subsection, 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 subsection 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 subsection 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 subsection 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 subsection.

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 subsection shall remain
36 solely liable for all obligations and liabilities imposed on the taxpay-
37 er with respect to the credit allowed by this subsection, 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 subsection may be
41 made without regard to and in a separate manner from any federal reha-
42 bilitation credit that may be allocated with respect to a qualified
43 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 subsection on returns filed during the preceding calen-
47 dar year. Such report shall be provided to the governor, temporary pres-
48 ident 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 § 2. Subdivision 26 of section 210-B of the tax law, as amended by
52 section 1 of part E of chapter 59 of the laws of 2025, is amended to
53 read as follows:

54 26. Credit for rehabilitation of historic properties. (a) Application
55 of credit. (i) For taxable years beginning on or after January first,
56 two thousand ten, and before January first, two thousand [~~thirty~~] ~~thir-~~

1 ty-seven, a taxpayer, or a transferee of such a taxpayer as described in
2 paragraph (g) of this subdivision, shall be allowed a credit as herein-
3 after provided, against the tax imposed by this article, in an amount
4 equal to:

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) "White elephant project" means qualified rehabilitation expenditures totaling fifty million dollars or more with respect to a certified historic structure that has been vacant, as determined by local code enforcement or other reasonable means, for at least ten of fifteen

1 consecutive years preceding the date of the taxpayer's application for
2 the rehabilitation credit; and

3 (iii) "Phase II housing project" means a white elephant housing
4 project which the commissioner determines (A) is reasonably related to a
5 prior eligible white elephant project or eligible white elephant housing
6 project by the same applicant, (B) such prior project qualified as
7 eligible with seventy-five million dollars or less of qualified rehabil-
8 itation expenditures, and (C) the phase II application has been submit-
9 ted within five years of the commissioner's previous allowance of credit
10 for the prior eligible white elephant project or eligible white elephant
11 housing project.

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

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

24 (A) the building identification numbers for all buildings in the
25 project;

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

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

29 (D) the amount of consideration received by the taxpayer for the
30 transfer credit; and

31 (E) the amount of credit being transferred.

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

55 (iv) The commissioner of parks, recreation and historic preservation
56 shall forward copies of all transfer applications and attachments there-

1 to and approval certificates to the commissioner within thirty days
2 after the transfer is approved.

3 (v) A taxpayer allowed a credit pursuant to section forty-seven of the
4 internal revenue code with respect to a qualified rehabilitation that is
5 also the subject of the credit allowed by this subdivision shall remain
6 solely liable for all obligations and liabilities imposed on the taxpay-
7 er with respect to the credit allowed by this subdivision, none of which
8 shall apply to a party to whom the credit has been subsequently trans-
9 ferred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (i) the building identification numbers for all buildings in the
48 project;

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

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

52 (iv) the amount of consideration received by the taxpayer for the
53 transfer credit; and

54 (v) the amount of credit being transferred.

55 (C) No transfer shall be effective unless the taxpayer allowed a cred-
56 it pursuant to this subdivision and seeking to transfer the credit files

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

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

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

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

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

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

46 ARTICLE 14-A

47 WHITE ELEPHANT HOUSING HISTORIC REHABILITATION PROJECTS TAX
48 CREDIT PROGRAM

49 Section 14.15 Definitions.

50 14.16 Allowance of credit, amount and limitations.

51 14.17 Project monitoring.

52 14.18 Regulations, coordination with federal rehabilitation
53 credit provisions.

54 14.19 Construction wage standards.

55 § 14.15 Definitions. As used in this article, the following terms
56 shall have the following meanings:

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

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

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

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

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

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

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

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

49 § 14.16 Allowance of credit, amount and limitations. 1. A taxpayer
50 subject to tax under article nine-A, twenty-two, or thirty-three of the
51 tax law which owns an interest in one or more eligible white elephant
52 housing projects, or a transferee of such a taxpayer as described in
53 subdivision two of this section, shall be allowed a credit against such
54 tax for the amount of white elephant housing project historic rehabili-
55 tation credit certified by the commissioner to each such structure.

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

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

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

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

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

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

20 (v) the amount of consideration received by the taxpayer for the
21 transfer credit; and

22 (vi) the amount of credit being transferred.

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

46 (d) The commissioner shall forward copies of all transfer statements
47 and attachments thereto and approval statements to the department of
48 taxation and finance within thirty days after the transfer is approved
49 by the commissioner.

50 § 14.17 Project monitoring. The commissioner shall establish such
51 procedures deemed necessary for monitoring compliance of an eligible
52 white elephant housing project with the provisions of this article, and
53 for notifying the commissioner of taxation and finance of any such
54 noncompliance.

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

4 2. The provisions of section 47 of the internal revenue code shall
5 apply to the credit under this article, provided however, to the extent
6 such provisions are inconsistent with this article, the provisions of
7 this article shall control.

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

12 § 14.19 Construction wage standards. 1. Any project defined in section
13 14.15 of this article shall be subject to prevailing wage requirements
14 in accordance with sections two hundred twenty, two hundred twenty-a,
15 two hundred twenty-b, two hundred twenty-i, two hundred twenty-j, two
16 hundred twenty-three, and two hundred twenty-four-b of the labor law.

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

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

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

46 (B) For taxable years beginning on or after January first, two thou-
47 sand ten and before January first, two thousand [~~twenty-five~~] thirty-
48 seven, if the amount of credit allowable under this subsection shall
49 exceed the taxpayer's tax for such year, and the taxpayer's New York
50 adjusted gross income for such year does not exceed sixty thousand
51 dollars, the excess shall be treated as an overpayment of tax to be
52 credited or refunded in accordance with the provisions of section six
53 hundred eighty-six of this article, provided, however, that no interest
54 shall be paid thereon. If the taxpayer's New York adjusted gross income
55 for such year exceeds sixty thousand dollars, the excess credit that may
56 be carried over to the following year or years and may be deducted from

1 the taxpayer's tax for such year or years. For taxable years beginning
2 on or after January first, two thousand [~~twenty-five~~] thirty-seven, if
3 the amount of credit allowable under this subsection shall exceed the
4 taxpayer's tax for such year, the excess may be carried over to the
5 following year or years and may be deducted from the taxpayer's tax for
6 such year or years.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (iv) the number of housing units before and after rehabilitation; and
- 2 (v) the number of projects certified for state credits by the office.
- 3 § 7. This act shall take effect immediately and shall apply to taxable
- 4 years beginning on or after January 1, 2026.