STATE OF NEW YORK

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2025-2026 Regular Sessions

IN ASSEMBLY

January 22, 2025

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

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

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

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

ARTICLE 14-A

HISTORIC PRESERVATION TAX CREDIT TRANSFER PROGRAM

Section 14.15 Short title.

14.16 Statement of legislative findings and declaration.

14.17 Definitions.

14.18 Eligibility criteria.

14.19 Allowance of credit, amount and limitations.

14.20 Historic preservation tax credit transfer.

14.21 Powers and duties of the commissioner.

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

§ 14.16 Statement of legislative findings and declaration. It is hereby found and declared that New York state needs, as a matter of public policy, to provide flexibility and incentives for businesses which rehabilitate historic properties to further promote the development of affordable housing.

§ 14.17 Definitions. For the purposes of this article:

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

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

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

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

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

5. "Eligible transferee" shall mean a taxpayer which meets the eligibility criteria set forth in section 14.18 of this article.

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

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

8. "Historic preservation tax credit transfer" shall mean a transfer of the rehabilitation credit allowed for a certified historic rehabilitation project.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) An eligible transferor may (i) transfer the rehabilitation credit allowed for an eligible housing rehabilitation project to an eligible transferee together with a federal rehabilitation credit allowed for the same eligible housing rehabilitation project, (ii) transfer such rehabilitation credit, in whole or in part, to one or more eligible transferees and the federal rehabilitation credit for the same eligible housing rehabilitation project to a different eligible transferee or transferees, (iii) retain the rehabilitation credit even while transferring the federal rehabilitation credit allocated for the same eligible housing rehabilitation project to an eligible transferee or (iv) retain or transfer a rehabilitation credit for an eligible housing rehabilitation project for which no federal rehabilitation credit has been allowed.

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

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

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

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

(b) The transfer contract must specify:

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

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

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

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

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

(vi) the amount of credit being transferred.

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

of credit proposed to be transferred to each proposed eligible transferee. A copy of the proposed transfer contract shall be attached to the transfer application. The application shall also contain such other information as the commissioner may require. After reviewing the proposed transfer contract and the transfer application, the commissioner shall approve or deny the transfer as provided in this subdivision. If the commissioner approves the transfer, the commissioner shall issue a transfer approval certificate that provides the name of the eligible transferor and all eligible transferees, the amount of credit being transferred and such other information as the commissioner and the commissioner of taxation and finance deem necessary. A copy of the commissioner's transfer approval certificate must be attached to the transferee's tax return. If the commissioner denies the transfer, the commissioner shall provide the eligible transferor a written determination for such denial. The commissioner, in consultation with the commissioner of taxation and finance, may establish such additional procedures and standards as deemed necessary for the transferability of the rehabilitation credit allowed pursuant to this article.

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

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

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

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

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

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

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

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

(b) the number and value of tax credit projects certified by the national park service during the state fiscal year, organized by municipality and county, and project size;

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

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

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

(f) the number of low-moderate housing units before and after rehabilitation; and

(g) the number of projects certified for both federal and state credits, and the number of projects certified for federal credits only.

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

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

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

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

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

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

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

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

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

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

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

(3) article 24-A: section 863.

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

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

26. Credit for rehabilitation of historic properties. (a) Application of credit. (i) For taxable years beginning on or after January first, two thousand ten, and before January first, two thousand thirty, a taxpayer, or an eligible transferee as described in article fourteen-A of the parks, recreation and historic preservation law, shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer for the same taxable year 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, with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars.

(ii) For taxable years beginning on or after January first, two thousand thirty, a taxpayer, or an eligible transferee as described in article fourteen-A of the parks, recreation and historic preservation law, 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 for the same taxable year determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of section 47 of the internal revenue code, with respect to a certified historic structure under subsection (c)(3) of section 47 of the internal revenue code with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed one hundred thousand dollars.

(a-1) If the taxpayer or transferee is a partner in a partnership or a shareholder in a New York S corporation, then the credit caps imposed in paragraph (a) of this subdivision 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.

(b) Tax credits allowed pursuant to this subdivision shall be allowed in the taxable year that the qualified rehabilitation is placed in 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 eligible transferor described in article fourteen-A of the parks, recreation and historic preservation law** 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) [~~**Except in the case of a qualified rehabilitation project 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, to**~~] **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 a qualified rehabilitation project is undertaken:**

(i) 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) 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 or quasi-government entity, including an industrial development agency, 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.

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

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

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

(h) The commissioner, in consultation with the commissioner of parks, recreation and historic preservation, shall report annually, on or before the first day of November, on the aggregate amount of credits claimed pursuant to this subdivision on returns filed during the preceding calendar year. Such report shall be provided to the governor, temporary president of the senate, speaker of the assembly, chairs of the senate committees on finance and on housing, construction and community development, and chairs of the assembly committees on ways and means and on housing and shall be made publicly available on the department's website.

§ 5. Subsection (oo) of section 606 of the tax law, as amended by chapter 239 of the laws of 2009, paragraph 1 as amended by chapter 472 of the laws of 2010, subparagraph (A) of paragraph 1 as amended by section 1 of subpart B of part I of chapter 59 of the laws of 2023, paragraph 3 as amended by section 1 of part RR of chapter 59 of the laws of 2018, paragraph 4 as amended by section 1 of part F of chapter 59 of the laws of 2013, paragraph 5 as amended by section 2 of part U of chapter 59 of the laws of 2019, and paragraph 6 as added by section 1 of part CCC of chapter 59 of the laws of 2021, 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, a taxpayer**, or an eligible transferee as described in article fourteen-A of the parks, recreation and historic preservation law,** shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to 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, with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand thirty, a taxpayer**, or an eligible transferee as described in article fourteen-A of the parks, recreation and historic preservation law,** 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.

(B) 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 (A) 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 eligible transferor described in article fourteen-A of the parks, recreation and historic preservation law** 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) [~~**Except in the case of a qualified rehabilitation project 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, to**~~] **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 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 subsection for an additional two calendar years. **The eligibility restrictions set forth in this paragraph shall not be applicable if a qualified rehabilitation project is undertaken:**

(A) 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;

(B) 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 or quasi-government entity, including an industrial development agency, 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.

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

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

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

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

(8) The commissioner, in consultation with the commissioner of parks, recreation and historic preservation, shall report annually, on or before the first day of November, on the aggregate amount of credits claimed pursuant to this subsection on returns filed during the preceding calendar year. Such report shall be provided to the governor, temporary president of the senate, speaker of the assembly, chairs of the senate committees on finance and on housing, construction and community development, and chairs of the assembly committees on ways and means and on housing and shall be made publicly available on the department's website.

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

(y) 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, a taxpayer, or an eligible transferee as described in article fourteen-A of the parks, recreation and historic preservation law, shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to 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, with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand thirty, a taxpayer, or an eligible transferee as described in article fourteen-A of the parks, recreation and historic preservation law, 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.

(B) If the taxpayer or transferee is a partner in a partnership, then the cap imposed in subparagraph (A) of this paragraph shall be applied at the entity level, so that the aggregate credit allowed to all the partners of such partnership 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 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 in the taxable year the credit was claimed must be added back **by the taxpayer or eligible transferor described in article fourteen-A of the parks, recreation and historic preservation law** in the same taxable year and in the same proportion as the federal recapture.

(4) The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the minimum fixed by paragraph four of subdivision (a) of section fifteen hundred two or section fifteen hundred two-a of this article, whichever is applicable. However, if the amount of credits allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited 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.

(5) [~~Except in the case of a qualified rehabilitation project 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, to~~] **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 a qualified rehabilitation project is undertaken:**

(A) 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;

(B) 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 or quasi-government entity, including an industrial development agency, 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.

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

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

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

(8) The commissioner, in consultation with the commissioner of parks, recreation and historic preservation, shall report annually, on or before the first day of November, on the aggregate amount of credits claimed pursuant to this subdivision on returns filed during the preceding calendar year. Such report shall be provided to the governor, temporary president of the senate, speaker of the assembly, chairs of the senate committees on finance and on housing, construction and community development, and chairs of the assembly committees on ways and means and on housing and shall be made publicly available on the department's website.

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