# STATE OF NEW YORK

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6021--B

2025-2026 Regular Sessions

# IN SENATE

March 4, 2025

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

AN ACT to amend the tax law and the parks, recreation and historic preservation law, in relation to establishing the large projects historic rehabilitation tax credit and the "white elephant" housing historic rehabilitation projects tax credit program

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

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

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

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**(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 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 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) 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~~]

(B) 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

(C) 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.

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

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

(B) "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 consecutive years preceding the date of the taxpayer's application for the rehabilitation credit; and

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

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

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

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

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

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

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

(v) the amount of credit being transferred.

(C) No transfer shall be effective unless the taxpayer allowed a credit pursuant to this subsection and seeking to transfer the credit files a transfer application with the commissioner of parks, recreation and historic preservation prior to the transfer and such transfer application is approved. The transfer application shall include the name and federal identification numbers of the taxpayer and each proposed transferee, the amount of credit proposed to be transferred to each proposed transferee, a copy of the transfer contract, and such other information as the commissioner or the commissioner of parks, recreation and historic preservation may require. The commissioner of parks, recreation and historic preservation shall approve or deny each transfer application and, if an application is denied, shall issue a written determination to the taxpayer. If the transfer is approved, the commissioner of parks, recreation and historic preservation shall issue a transfer approval certificate that provides the name of the transferor and all transferees, the amount of credit being transferred and such other information as the commissioner of parks, recreation and historic preservation and the commissioner deem necessary. A copy of the transfer approval certificate must be attached to each transferee's tax return. The commissioner of parks, recreation and historic preservation, in consultation with the commissioner, may establish such other procedures and standards deemed necessary for the transferability of credits allowed under this subsection.

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

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

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

**(9) The commissioner shall report annually, on or before the first day of November, on the aggregate amount of credits claimed and awarded 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, chair of the senate**

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

§ 2. Subdivision 26 of section 210-B of the tax law, as amended by section 1 of part E of chapter 59 of the laws of 2025, 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~~] thirty-seven, a taxpayer, or a transferee of such a taxpayer as described in paragraph (g) of this subdivision, shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to:

(A) 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; and

(B) 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 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.

(ii) 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 (g) of this subdivision, 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, 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.

[~~(a-1)~~] (iii) 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)~~] **subparagraphs (i) and (ii)** of this [~~subdivision~~] **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.

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

(iii) "Phase II housing project" means a white elephant housing project which the commissioner determines (A) is reasonably related to a prior eligible white elephant project or eligible white elephant housing project by the same applicant, (B) such prior project qualified as eligible with seventy-five million dollars or less of qualified rehabilitation expenditures, and (C) the phase II application has been submitted within five years of the commissioner's previous allowance of credit for the prior eligible white elephant project or eligible white elephant housing project.

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

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

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

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

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

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

(E) the amount of credit being transferred.

(iii) No transfer shall be effective unless the taxpayer allowed a credit pursuant to this subdivision and seeking to transfer the credit files a transfer application with the commissioner of parks, recreation and historic preservation prior to the transfer and such transfer application is approved. The transfer application shall include the name and federal identification numbers of the taxpayer and each proposed transferee, the amount of credit proposed to be transferred to each proposed transferee, a copy of the transfer contract, and such other information as the commissioner or the commissioner of parks, recreation and historic preservation may require. The commissioner of parks, recreation and historic preservation shall approve or deny each transfer application and, if an application is denied, shall issue a written determination to the taxpayer. If the transfer is approved, the commissioner of parks, recreation and historic preservation shall issue a transfer approval certificate that provides the name of the transferor and all transferees, the amount of credit being transferred and such other information as the commissioner of parks, recreation and historic preservation and the commissioner deem necessary. A copy of the transfer approval certificate must be attached to each transferee's tax return. The commissioner of parks, recreation and historic preservation, in consultation with the commissioner, may establish such other procedures and standards deemed necessary for the transferability of credits allowed under this subdivision.

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

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

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

**(i) The commissioner shall report annually, on or before the first day of November, on the aggregate amount of credits claimed and awarded 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, chair of the senate finance committee and chair of the assembly ways and means committee and shall be made publicly available on the department's website.**

§ 3. Subdivision (y) of section 1511 of the tax law, as amended by section 3 of part E of chapter 59 of the laws of 2025, 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~~] **thirty-seven**, a taxpayer, or a transferee of such a taxpayer as described in paragraph seven of this subdivision, 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 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 subdivision, 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, then the 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 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 transferee 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) 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) 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~~]

(B) 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

(C) 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.

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

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

(B) "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 consecutive years preceding the date of the taxpayer's application for the rehabilitation credit; and

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

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

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

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

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

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

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

(v) the amount of credit being transferred.

(C) No transfer shall be effective unless the taxpayer allowed a credit pursuant to this subdivision and seeking to transfer the credit files a transfer application with the commissioner of parks, recreation and historic preservation prior to the transfer and such transfer application is approved. The transfer application shall include the name and federal identification numbers of the taxpayer and each proposed transferee, the amount of credit proposed to be transferred to each proposed transferee, a copy of the transfer contract, and such other information as the commissioner or the commissioner of parks, recreation and historic preservation may require. The commissioner of parks, recreation and historic preservation shall approve or deny each transfer application and, if an application is denied, shall issue a written determination to the taxpayer. If the transfer is approved, the commissioner of parks, recreation and historic preservation shall issue a transfer approval certificate that provides the name of the transferor and all transferees, the amount of credit being transferred and such other information as the commissioner of parks, recreation and historic preservation and the commissioner deem necessary. A copy of the transfer approval certificate must be attached to each transferee's tax return. The commissioner of parks, recreation and historic preservation, in consultation with the commissioner, may establish such other procedures and standards deemed necessary for the transferability of credits allowed under this subdivision.

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

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

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

**(9) The commissioner shall report annually, on or before the first day of November, on the aggregate amount of credits claimed and awarded 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, chair of the senate finance committee and chair of the assembly ways and means committee and shall be made publicly available on the department's website.**

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

**ARTICLE 14-A**

**WHITE ELEPHANT HOUSING HISTORIC REHABILITATION PROJECTS TAX CREDIT PROGRAM**

**Section 14.15 Definitions.**

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

1. "Eligibility statement" means a statement issued by the commissioner, in consultation with the commissioner of the division of community housing and renewal, certifying that a white elephant housing project is eligible for white elephant housing project historic rehabilitation credits under this article and low-income housing tax credits under article two-A of the public housing law. Such statement shall set forth the taxable year in which the building is placed in service, the dollar amount of rehabilitation credit certified by the commissioner to such building as provided in section 14.16 of this article, the dollar amount of low-income housing tax credit allocated by the commissioner of community housing and renewal to such building as provided in section twenty-two of the public housing law, sufficient information to identify each such building and the taxpayer or taxpayers with respect to each such building, whether the project is a phase II housing project, and such other information as the commissioner, in consultation with the commissioner of taxation and finance and commissioner of community housing and renewal, shall prescribe. Such eligibility statement shall be first issued following the close of the first taxable year, and thereafter, to the extent required by the commissioner of taxation and finance, following the close of each of the following four taxable years.

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

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

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

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

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

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

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

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

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

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

(i) the building identification numbers for all buildings in the white elephant housing 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 taxpayer for the transfer credit; and

(vi) the amount of credit being transferred.

(c) No transfer shall be effective unless the taxpayer allowed a credit pursuant to this article and seeking to transfer the credit files a transfer statement with the commissioner prior to the transfer and the commissioner approves such transfer. The transfer statement shall provide the name and federal identification numbers of the filing transferor and the taxpayer to whom the filing transferor transferred the credit, and the amount of credit transferred to each such person or entity. A copy of the transfer contract shall be attached to the transfer statement. The statement shall also contain such other information as the commissioner may require. After reviewing the transfer contract and the transfer statement, the commissioner shall approve or deny the transfer as provided in this subdivision. If the commissioner approves the transfer, the commissioner shall issue an approval statement that provides the name of the transferor and transferee, 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 approval statement must be attached to the transferee's tax return. If the commissioner denies the transfer, the commissioner shall provide the taxpayer a written determination for such denial. The commissioner, in consultation with the commissioner of taxation and finance, may establish such other procedures and standards deemed necessary for the transferability of the white elephant housing project historic rehabilitation credit.

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

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

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

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

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

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

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

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

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

(B) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand [~~twenty-five~~] thirty-seven, if the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, and the taxpayer's New York adjusted gross income for such year does not exceed sixty thousand dollars, 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. If the taxpayer's New York adjusted gross income for such year exceeds sixty thousand dollars, the excess credit that may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years. For taxable years beginning on or after January first, two thousand [~~twenty-five~~] thirty-seven, if the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(13) The commissioner shall report annually, on or before the first day of November, on the aggregate amount of credits claimed and awarded 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, chair of the senate finance committee and chair of the assembly ways and means committee, and shall be made publicly available on the department's website.

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

5. (a) 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, temporary president of the senate, speaker of the assembly, chair of the senate finance committee and chair of the assembly ways and means committee, shall be made publicly available on the department's website and shall include the following information:

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

(ii) 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;

(iii) 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;

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

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

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

(b) The commissioner shall report annually, on or before the first day of November, on the tax credit projects applied for pursuant to subsection (pp) of section six hundred six of the tax law 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, chair of the senate finance committee and chair of the assembly ways and means committee, shall be made publicly available on the office's website and shall include the following information:

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

(ii) the number and value of tax credit projects certified by the office during the state fiscal year, organized by municipality and county, and project size;

(iii) 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;

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

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

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