

STATE OF NEW YORK

7964

2025-2026 Regular Sessions

IN SENATE

May 15, 2025

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

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

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

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

4 (A) Notwithstanding any other provision of law to the contrary, the
5 tangible property credit component available for any qualified site
6 pursuant to paragraph three of this subdivision shall not exceed thir-
7 ty-five million dollars or three times the sum of the costs included in
8 the calculation of the site preparation credit component and the on-site
9 groundwater remediation credit component under paragraphs two and four,
10 respectively, of this subdivision, and the costs that would have been
11 included in the calculation of such components if not treated as an
12 expense and deducted pursuant to section one hundred ninety-eight of the
13 internal revenue code, whichever is less; provided, however, that: (1)
14 in the case of a qualified site to be used primarily for manufacturing
15 activities, the tangible property credit component available for any
16 qualified site pursuant to paragraph three of this subdivision shall not
17 exceed forty-five million dollars or six times the sum of the costs
18 included in the calculation of the site preparation credit component and
19 the on-site groundwater remediation credit component under paragraphs
20 two and four, respectively, of this subdivision, and the costs that
21 would have been included in the calculation of such components if not
22 treated as an expense and deducted pursuant to section one hundred nine-
23 ty-eight of the internal revenue code, whichever is less; (2) in the
24 case of a qualified project site, the tangible property credit component

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

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

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

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

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

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

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

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

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

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

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

21 Construction work for site remediation activities described in para-
22 graphs (c), (d), and (f) of subdivision five of section 27-1405 of the
23 environmental conservation law on a qualified project site shall be
24 subject to prevailing wage requirements in accordance with sections two
25 hundred twenty and two hundred twenty-b of the labor law; provided
26 however that prevailing wage requirements shall not apply to work
27 performed under a project labor agreement ("PLA") between an owner or
28 contractor and a bona fide building and construction trade labor organ-
29 ization which has established itself as the collective bargaining repre-
30 sentative for all persons who will perform work on such a project, and
31 which provides that only contractors and subcontractors who sign a PLA
32 with the labor organization can perform work on such a project under a
33 PLA between an owner or contractor and a bona fide building and
34 construction trade labor organization. The PLA shall require forty
35 percent of full-time equivalent positions receive wages equivalent to
36 prevailing wage. The enforcement of the prevailing wage requirements if
37 applicable to a qualified project site shall be subject to the require-
38 ments of sections two hundred twenty, two hundred twenty-a, two hundred
39 twenty-b, two hundred twenty-i, two hundred twenty-three, two hundred
40 twenty-four-b, and two hundred twenty-seven of the labor law and within
41 the jurisdiction of the fiscal officer as defined in section two hundred
42 twenty of the labor law.

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

46 Upon receipt of the final engineering report, the department shall
47 review such report and the data submitted pursuant to the brownfield
48 site cleanup agreement as well as any other relevant information regard-
49 ing the brownfield site. Upon satisfaction of the commissioner that the
50 remediation requirements set forth in this title have been or will be
51 achieved in accordance with the timeframes, if any, established in the
52 remedial work plan, the commissioner shall issue a written certificate
53 of completion. The certificate shall include such information as deter-
54 mined by the department of taxation and finance, including but not
55 limited to the brownfield site boundaries included in the final engi-
56 neering report, the date of the brownfield site cleanup agreement, and

1 the applicable percentages available as of the date of the certificate
2 of completion for that site for purposes of section twenty-one of the
3 tax law. For those sites for which the department has issued a notice to
4 the applicant on or after July first, two thousand fifteen or the date
5 of publication in the state register of proposed regulations defining
6 "underutilized" as provided in subdivision thirty of section 27-1405 of
7 this title, whichever shall be later, that its request for participation
8 has been accepted under subdivision six of section 27-1407 of this
9 title, the tangible property credit component of the brownfield redevelop-
10 ment tax credit pursuant to paragraph three of subdivision (a) of
11 section twenty-one of the tax law shall only be available to the taxpayer
12 if the criteria for receiving such tax credit component have been
13 met. For those sites for which the department has issued a notice to the
14 taxpayer after June twenty-third, two thousand eight that its request
15 for participation has been accepted under subdivision six of section
16 27-1407 of this title, the applicable percentage for the site preparation
17 credit component pursuant to paragraph two of subdivision (a) of
18 section twenty-one of the tax law, and the on-site groundwater remediation
19 credit component pursuant to paragraph four of subdivision (a) of
20 section twenty-one of the tax law shall be based on the level of cleanup
21 achieved pursuant to subdivision four of section 27-1415 of this title
22 and the level of cleanup of soils to contaminant-specific soil cleanup
23 objectives promulgated pursuant to subdivision six of section 27-1415 of
24 this title, up to a maximum of [~~fifty~~] seventy-five percent, as follows:
25 § 4. This act shall take effect immediately.