§ 845-e. Commercial security tax credit program. 1. Definitions. For the purposes of this section:

(a) "Certificate of tax credit" means the document issued to a business entity by the division after the division has verified that the business entity has met all applicable eligibility criteria in subdivision two of this section. The certificate shall specify the exact amount of the tax credit under this section that a business entity may claim, pursuant to subdivision five of this section, and other information as required by the department of taxation and finance.

(b) "Qualified business" means a business with fifty or fewer total employees that operates one or more physical retail business locations open to the public in New York state that incurs costs related to protection against retail theft of goods through retail theft prevention measures.

(c) "Qualified retail theft prevention measure expenses" means any combination of retail theft prevention measure costs paid or incurred by a qualified business during the taxable year that cumulatively exceed four thousand dollars for a qualified business with twenty-five or fewer total employees or six thousand dollars for a qualified business with more than twenty-five employees for each New York retail location.

(d) "Retail theft prevention measure" means (i) the use of security officers as defined in paragraph (e) of this subdivision, (ii) security cameras, (iii) perimeter security lighting, (iv) interior or exterior locking or hardening measures, (v) alarm systems, (vi) access control systems, or (vii) other appropriate anti-theft devices as determined by the division to be eligible under this section.

(e) "Security officers" means security officers, registered under article seven-A of the general business law, responsible for the security and theft deterrence in a qualified business, whether employed directly by such business or indirectly through a contractor.

2. Eligibility criteria. To be eligible for a tax credit under the commercial security tax credit program, an eligible business must:

(a) be a qualified business required to file a tax return pursuant to articles nine, nine-A or twenty-two of the tax law;

(b) have qualified retail theft prevention measure expenses that exceed four thousand dollars for a qualified business with twenty-five

or fewer total employees or six thousand dollars for a qualified business with more than twenty-five employees for each New York retail location during the taxable year;

(c) provide a certification in a manner and form prescribed by the commissioner that the business entity participates in a community anti-theft partnership as established by the division between businesses and relevant local law enforcement agencies; and

(d) may not owe past due state taxes or local property taxes unless the business entity is making payments and complying with an approved binding payment agreement entered into with the taxing authority.

3. Application and approval process. (a) A business entity must submit a complete application as prescribed by the commissioner by October thirty-first of each year.

(b) The commissioner shall establish procedures for business entities to submit applications. As part of the application, each business entity must:

(i) provide evidence of eligibility in a form and manner prescribed by the commissioner;

(ii) agree to allow the department of taxation and finance to share the business entity's tax information with the division. However, any information shared as a result of this program shall not be available for disclosure or inspection under the state freedom of information law pursuant to article six of the public officers law;

(iii) allow the division and its agents access to any and all books and records the division may require to confirm eligibility; and

(iv) agree to provide any additional information required by the division relevant to this section.

4. Certificate of tax credit. After reviewing a business entity's completed final application and determining that a business entity meets the eligibility criteria as set forth in this section, the division may issue to that business entity a certificate of tax credit. All applications will be processed by the division in the order they are received and certificates of tax credit may be issued in amounts that, in the aggregate, do not exceed the annual cap as set forth in subdivision seven of this section.

5. Commercial security tax credit. (a) For taxable years beginning on or after January first, two thousand twenty-four and before January first, two thousand twenty-nine, a business entity in the commercial security tax credit program that meets the eligibility requirements of subdivision two of this section may be eligible to claim a credit equal to three thousand dollars for each retail location of the business entity located in New York state.

(b) A business entity may claim the tax credit in the taxable year that begins in the year for which it was allocated a credit by the division under this section.

(c) The credit shall be allowed as provided in section forty-nine, section one hundred eighty-seven-r, subdivision sixty of section two hundred ten-B and subsection (ppp) of section six hundred six of the tax law.

(d) The commissioner shall, in consultation with the department of taxation and finance, develop a certificate of tax credit that shall be issued by the commissioner to eligible businesses.

(e) The commissioner shall solely determine the eligibility of any applicant applying for entry into the program and shall remove any business entity from the program for failing to meet any of the requirements set forth in subdivision two and subdivision three of this section. In the event a business entity is removed from the program, the division shall notify the department of taxation and finance of such removal.

6. Maintenance of records. Each eligible business participating in the program shall keep all relevant records for the duration of their program participation for at least three years.

7. Cap on tax credit. The total amount of tax credits listed on certificates of tax credit issued by the division pursuant to this section may not exceed five million dollars per calendar year.