

NYS Assembly Article VII Bills Revenue (REV) Bill (A2009-B)

<https://nyassembly.gov/2019budget/assembly/A2009b.pdf>

Numbers on each line refer to the numbered line of text in the bill, which helps for ease of language identification.

PART U

37 Section 1. Paragraph (e) of subdivision 26 of section 210-B of the tax
38 law, as amended by section 2 of part RR of chapter 59 of the laws of
39 2018, is amended to read as follows:
40 (e) [To] Except in the case of a qualified rehabilitation project
41 undertaken within a state park, state historic site, or other land owned
42 by the state, that is under the jurisdiction of the office of parks,
43 recreation and historic preservation, to be eligible for the credit
44 allowable under this subdivision, the rehabilitation project shall be in
45 whole or in part located within a census tract which is identified as
46 being at or below one hundred percent of the state median family income
47 as calculated as of April first of each year using the most recent five
48 year estimate from the American community survey published by the United
49 States Census bureau. If there is a change in the most recent five year
50 estimate, a census tract that qualified for eligibility under this
51 program before information about the change was released will remain

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1 eligible for a credit under this subdivision for an additional two
2 calendar years.
3 § 2. Paragraph 5 of subsection (oo) of section 606 of the tax law, as
4 amended by section 1 of part RR of chapter 59 of the laws of 2018, is
5 amended to read as follows:
6 (5) [To] Except in the case of a qualified rehabilitation project
7 undertaken within a state park, state historic site, or other land owned

8 by the state, that is under the jurisdiction of the office of parks,
9 recreation and historic preservation, to be eligible for the credit
10 allowable under this subsection the rehabilitation project shall be in
11 whole or in part located within a census tract which is identified as
12 being at or below one hundred percent of the state median family income
13 as calculated as of April first of each year using the most recent five
14 year estimate from the American community survey published by the United
15 States Census bureau. If there is a change in the most recent five year
16 estimate, a census tract that qualified for eligibility under this
17 program before information about the change was released will remain
18 eligible for a credit under this subsection for an additional two calen-
19 dar years.

20 § 3. Paragraph 5 of subdivision (y) of section 1511 of the tax law, as
21 amended by section 3 of part RR of chapter 59 of the laws of 2018, is
22 amended to read as follows:

23 (5) [To] Except in the case of a qualified rehabilitation project
24 undertaken within a state park, state historic site, or other land owned
25 by the state, that is under the jurisdiction of the office of parks,
26 recreation and historic preservation, to be eligible for the credit
27 allowable under this subdivision, the rehabilitation project shall be in
28 whole or in part located within a census tract which is identified as
29 being at or below one hundred percent of the state median family income
30 as calculated as of April first of each year using the most recent five
31 year estimate from the American community survey published by the United
32 States Census bureau. If there is a change in the most recent five year
33 estimate, a census tract that qualified for eligibility under this
34 program before information about the change was released will remain
35 eligible for a credit under this subdivision for an additional two
36 calendar years.

37 § 4. Subparagraph (A) of paragraph 1 of subsection (oo) of section 606
38 of the tax law, as amended by section 1 of part RR of chapter 59 of the
39 laws of 2018, is amended and two new paragraphs 6 and 7 are added to
40 read as follows:

41 (A) For taxable years beginning on or after January first, two thou-
42 sand ten and before January first, two thousand twenty-five, a taxpayer
43 shall be allowed a credit as hereinafter provided, against the tax
44 imposed by this article, in an amount equal to one hundred percent of
45 the amount of credit allowed the taxpayer with respect to a certified
46 historic structure, and one hundred fifty percent of the amount of cred-
47 it allowed the taxpayer with respect to a certified historic structure
48 that is a small project, under internal revenue code section 47(c)(3),
49 determined without regard to ratably allocating the credit over a five
50 year period as required by subsection (a) of such section 47, with
51 respect to a certified historic structure located within the state.
52 Provided, however, the credit shall not exceed five million dollars. For
53 taxable years beginning on or after January first, two thousand twenty-
54 five, a taxpayer shall be allowed a credit as hereinafter provided,
55 against the tax imposed by this article, in an amount equal to thirty
56 percent of the amount of credit allowed the taxpayer with respect to a

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1 certified historic structure under internal revenue code section
2 47(c)(3), determined without regard to ratably allocating the credit
3 over a five year period as required by subsection (a) of such section
4 47, with respect to a certified historic structure located within the
5 state; provided, however, the credit shall not exceed one hundred thou-
6 sand dollars.

7 (6)(a) A taxpayer allowed a credit pursuant to this subsection may

8 transfer the credit, in whole or in part, to another person or entity,
9 who shall be referred to as the transferee, with respect to the rehabil-
10 itated historic building may be allocated and notwithstanding that such
11 other person or entity owns no interest in the rehabilitated historic
12 building or in an entity with an ownership interest in the rehabilitated
13 historic building. Transferees shall be entitled to apply transferred
14 credit to a tax imposed under article nine-A, twenty-two or thirty-three
15 of this chapter, provided all requirements for claiming the credit are
16 met. A transferee may not transfer any credit, or portion thereof,
17 acquired by transfer.

18 (b) A taxpayer allowed a credit pursuant to this article must enter
19 into a transfer contract with the transferee. The transfer contract must
20 specify (i) the building identification numbers for rehabilitated
21 historic building in the project; (ii) the date such rehabilitated
22 historic building was placed into service; (iii) the five year compli-
23 ance period for the project; (iv) the schedule of years for which the
24 transfer credit may be claimed and the amount of credit previously
25 claimed; (v) the amount of consideration received by the taxpayer for
26 the transfer credit; and (vi) the amount of credit being transferred.

27 (c) No transfer shall be effective unless the taxpayer allowed a cred-
28 it pursuant to this subsection and seeking to transfer the credit files
29 a transfer statement with the commissioner of parks, recreation and
30 historic preservation prior to the transfer and he or she approves such
31 transfer. The transfer statement shall provide the name and federal
32 identification numbers of the filing transferor and the taxpayer to whom
33 the filing transferor transferred the credit, and the amount of credit
34 transferred to each such person or entity. A copy of the transfer
35 contract shall be attached to the transfer statement. The statement
36 shall also contain such other information as the commissioner of parks,

37 recreation and historic preservation may require. After reviewing the
38 transfer contract and the transfer statement, the commissioner of parks,
39 recreation and historic preservation shall approve or deny the transfer
40 as provided in this subsection. If the commissioner of parks, recreation
41 and historic preservation approves the transfer, he or she shall issue
42 an approval statement that provides the name of the transferor and
43 transferee, the amount of credit being transferred and such other infor-
44 mation as the commissioner of parks, recreation and historic preserva-
45 tion and the commissioner deem necessary. A copy of the statement
46 approved by the commissioner of parks, recreation and historic preserva-
47 tion must be attached to the transferee's tax return. If the commission-
48 er of parks, recreation and historic preservation denies the transfer,
49 he or she shall provide the taxpayer a written determination for such
50 denial. The commissioner of parks, recreation and historic preservation,
51 in consultation with the commissioner, may establish such other proce-
52 dures and standards deemed necessary for the transferability of the
53 rehabilitation tax credit.

54 (d) The commissioner of parks, recreation and historic preservation
55 shall forward copies of all transfer statements and attachments thereto
56 and approval statements to the department within thirty days after the

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1 transfer is approved by the commissioner of parks, recreation and
2 historic preservation.

3 (e) The taxpayer that originally received the credit shall remain
4 solely liable for all obligations and liabilities imposed on the taxpay-
5 er with respect to the credit, none of which shall apply to a party to
6 whom the credit has been subsequently transferred.

7 (7) For purposes of this subsection the term "small project" means

8 qualified rehabilitation expenditures totaling five million dollars or
9 less.

10 § 5. Subparagraph (A) of paragraph 5 of subsection (pp) of section 606
11 of the tax law, as added by chapter 547 of the laws of 2006, clause (iv)
12 as amended by chapter 239 of the laws of 2009, is amended to read as
13 follows:

14 (A) The term "qualified historic home" means, for purposes of this
15 subsection, a certified historic structure located within New York
16 state:

17 (i) which has been substantially rehabilitated,

18 (ii) which, or any portion of which, is owned, in whole or part, by
19 the taxpayer,

20 (iii) in which the taxpayer resides during the taxable year in which
21 the taxpayer is allowed a credit under this subsection, and

22 (iv) (1) which is in whole or in part a targeted area residence within
23 the meaning of section 143(j) of the internal revenue code; or (2) is

24 located within a census tract which is identified as being at or below

25 one hundred percent of the state median family income in the most recent

26 federal census; or (3) which is located in a city with a population of

27 less than one million with a poverty rate greater than fifteen percent,

28 rounded to the nearest whole number, in the two thousand seventeen Amer-

29 ican community survey.

30 § 6. Subparagraph (i) of paragraph (a) of subdivision 26 of section
31 210-B of the tax law, as amended by section 2 of part RR of chapter 59
32 of the laws of 2018, is amended and two new paragraphs (f) and (g) are
33 added to read as follows:

34 (i) For taxable years beginning on or after January first, two thou-

35 sand ten, and before January first, two thousand twenty-five, a taxpayer

36 shall be allowed a credit as hereinafter provided, against the tax

37 imposed by this article, in an amount equal to one hundred percent of
38 the amount of credit allowed the taxpayer for the same taxable year with
39 respect to a certified historic structure, and one hundred fifty percent
40 of the amount of credit allowed the taxpayer with respect to a certified
41 historic structure that is a small project, under internal revenue code
42 section 47(c)(3), determined without regard to ratably allocating the
43 credit over a five year period as required by subsection (a) of such
44 section 47, with respect to a certified historic structure located with-
45 in the state. Provided, however, the credit shall not exceed five
46 million dollars.

47 (f)(1) A taxpayer allowed a credit pursuant to this subdivision may
48 transfer the credit, in whole or in part, to another person or entity,
49 who shall be referred to as the transferee, with respect to the rehabil-
50 itated historic building may be allocated and notwithstanding that such
51 other person or entity owns no interest in the rehabilitated historic
52 building or in an entity with an ownership interest in the rehabilitated
53 historic building. Transferees shall be entitled to apply transferred
54 credit to a tax imposed under article nine-A, twenty-two or thirty-three
55 of this chapter, provided all requirements for claiming the credit are

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1 met. A transferee may not transfer any credit, or portion thereof,
2 acquired by transfer.

3 (2) A taxpayer allowed a credit pursuant to this article must enter
4 into a transfer contract with the transferee. The transfer contract must
5 specify (i) the building identification numbers for rehabilitated
6 historic building in the project; (ii) the date such rehabilitated
7 historic building was placed into service; (iii) the five year compli-
8 ance period for the project; (iv) the schedule of years for which the

9 transfer credit may be claimed and the amount of credit previously
10 claimed; (v) the amount of consideration received by the taxpayer for
11 the transfer credit; and (vi) the amount of credit being transferred.

12 (3) No transfer shall be effective unless the taxpayer allowed a cred-
13 it pursuant to this subdivision and seeking to transfer the credit files
14 a transfer statement with the commissioner of parks, recreation and
15 historic preservation prior to the transfer and he or she approves such
16 transfer. The transfer statement shall provide the name and federal
17 identification numbers of the filing transferor and the taxpayer to whom
18 the filing transferor transferred the credit, and the amount of credit
19 transferred to each such person or entity. A copy of the transfer
20 contract shall be attached to the transfer statement. The statement
21 shall also contain such other information as the commissioner of parks,
22 recreation and historic preservation may require. After reviewing the
23 transfer contract and the transfer statement, the commissioner of parks,
24 recreation and historic preservation shall approve or deny the transfer
25 as provided in this subdivision. If the commissioner of parks, recre-
26 ation and historic preservation approves the transfer, he or she shall
27 issue an approval statement that provides the name of the transferor and
28 transferee, the amount of credit being transferred and such other infor-
29 mation as the commissioner of parks, recreation and historic preserva-
30 tion and the commissioner deem necessary. A copy of the statement
31 approved by the commissioner of parks, recreation and historic preserva-
32 tion must be attached to the transferee's tax return. If the commission-
33 er of parks, recreation and historic preservation denies the transfer,
34 he or she shall provide the taxpayer a written determination for such
35 denial. The commissioner of parks, recreation and historic preservation,
36 in consultation with the commissioner, may establish such other proce-
37 dures and standards deemed necessary for the transferability of the

38 rehabilitation tax credit.

39 (4) The commissioner of parks, recreation and historic preservation
40 shall forward copies of all transfer statements and attachments thereto
41 and approval statements to the department within thirty days after the
42 transfer is approved by the commissioner of parks, recreation and
43 historic preservation.

44 (5) The taxpayer that originally received the credit shall remain
45 solely liable for all obligations and liabilities imposed on the taxpay-
46 er with respect to the credit, none of which shall apply to a party to
47 whom the credit has been subsequently transferred.

48 (g) For purposes of this subdivision "small project" means qualified
49 rehabilitation expenditures totaling five million dollars or less.

50 § 7. Subparagraph (A) of paragraph 1 of subdivision (y) of section
51 1511 of the tax law, as amended by section 3 of part RR of chapter 59 of
52 the laws of 2018, is amended and two new paragraphs 6 and 7 are added to
53 read as follows:

54 (A) For taxable years beginning on or after January first, two thou-
55 sand ten and before January first, two thousand twenty-five, a taxpayer
56 shall be allowed a credit as hereinafter provided, against the tax

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1 imposed by this article, in an amount equal to one hundred percent of
2 the amount of credit allowed the taxpayer with respect to a certified
3 historic structure, and one hundred fifty percent of the amount of cred-
4 it allowed the taxpayer with respect to a certified historic structure
5 that is a small project, under internal revenue code section 47(c)(3),
6 determined without regard to ratably allocating the credit over a five
7 year period as required by subsection (a) of such section 47, with
8 respect to a certified historic structure located within the state.

9 Provided, however, the credit shall not exceed five million dollars. For
10 taxable years beginning on or after January first, two thousand twenty-
11 five, a taxpayer shall be allowed a credit as hereinafter provided,
12 against the tax imposed by this article, in an amount equal to thirty
13 percent of the amount of credit allowed the taxpayer with respect to a
14 certified historic structure under internal revenue code section
15 47(c)(3), determined without regard to ratably allocating the credit
16 over a five year period as required by subsection (a) of such section 47
17 with respect to a certified historic structure located within the state.

18 Provided, however, the credit shall not exceed one hundred thousand
19 dollars.

20 (6)(a) A taxpayer allowed a credit pursuant to this subdivision may
21 transfer the credit, in whole or in part, to another person or entity,
22 who shall be referred to as the transferee, with respect to the rehabil-
23 itated historic building may be allocated and notwithstanding that such
24 other person or entity owns no interest in the rehabilitated historic
25 building or in an entity with an ownership interest in the rehabilitated
26 historic building. Transferees shall be entitled to apply transferred
27 credit to a tax imposed under article nine-A, twenty-two or thirty-three
28 of this chapter, provided all requirements for claiming the credit are
29 met. A transferee may not transfer any credit, or portion thereof,
30 acquired by transfer.

31 (b) A taxpayer allowed a credit pursuant to this article must enter
32 into a transfer contract with the transferee. The transfer contract must
33 specify (i) the building identification numbers for rehabilitated
34 historic building in the project; (ii) the date such rehabilitated
35 historic building was placed into service; (iii) the five year compli-
36 ance period for the project; (iv) the schedule of years for which the
37 transfer credit may be claimed and the amount of credit previously

38 claimed; (v) the amount of consideration received by the taxpayer for
39 the transfer credit; and (vi) the amount of credit being transferred.

40 (c) No transfer shall be effective unless the taxpayer allowed a cred-
41 it pursuant to this subdivision and seeking to transfer the credit files
42 a transfer statement with the commissioner of parks, recreation and
43 historic preservation prior to the transfer and he or she approves such
44 transfer. The transfer statement shall provide the name and federal
45 identification numbers of the filing transferor and the taxpayer to whom
46 the filing transferor transferred the credit, and the amount of credit
47 transferred to each such person or entity. A copy of the transfer
48 contract shall be attached to the transfer statement. The statement
49 shall also contain such other information as the commissioner of parks,
50 recreation and historic preservation may require. After reviewing the
51 transfer contract and the transfer statement, the commissioner of parks,
52 recreation and historic preservation shall approve or deny the transfer
53 as provided in this subdivision. If the commissioner of parks, recre-
54 ation and historic preservation approves the transfer, he or she shall
55 issue an approval statement that provides the name of the transferor and
56 transferee, the amount of credit being transferred and such other infor-

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1 mation as the commissioner of parks, recreation and historic preserva-
2 tion and the commissioner deem necessary. A copy of the statement
3 approved by the commissioner of parks, recreation and historic preserva-
4 tion must be attached to the transferee's tax return. If the commission-
5 er of parks, recreation and historic preservation denies the transfer,
6 he or she shall provide the taxpayer a written determination for such
7 denial. The commissioner of parks, recreation and historic preservation,
8 in consultation with the commissioner, may establish such other proce-

9 dures and standards deemed necessary for the transferability of the
10 rehabilitation tax credit.

11 (d) The commissioner of parks, recreation and historic preservation
12 shall forward copies of all transfer statements and attachments thereto
13 and approval statements to the department within thirty days after the
14 transfer is approved by the commissioner of parks, recreation and
15 historic preservation.

16 (e) The taxpayer that originally received the credit shall remain
17 solely liable for all obligations and liabilities imposed on the taxpay-
18 er with respect to the credit, none of which shall apply to a party to
19 whom the credit has been subsequently transferred.

20 (7) For purposes of this subdivision "small project" means qualified
21 rehabilitation expenditures totaling five million dollars or less.

22 § 8. This act shall take effect immediately, and shall apply to taxa-
23 ble years beginning on or after January 1, 2020.