

Part U of A2009B- Assembly Budget bill

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) [~~Te~~] 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  
parcs,  
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

A. 2009--B 39

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) [~~Te~~] 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  
parcs,  
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) ~~Te~~ 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

A. 2009--B 40

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

A. 2009--B

41

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; (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

A. 2009--B

42

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

A. 2009--B

43

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-

A. 2009--B

44

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.