

2011 NY A 9059, Chaptered

New York

SUMMARY: Amends various laws relating to enacting the State Budget to include STAR property tax exemptions, alternative fuel taxes, commercial production tax credit, electronic real property tax administration, low-income housing tax credits, earned income tax credit, commuter mobility tax credit, room remarketers sales tax collection, video lottery gaming, employer youth tax credit, school tax relief fund, environmental infrastructure projects, housing finance, highway and bridge funds, and transit authorities.~SAME AS: NY S 6259#

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Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

01/17/2012 INTRODUCED.

01/17/2012 To ASSEMBLY Committee on WAYS AND MEANS.

02/10/2012 Amended in ASSEMBLY Committee on WAYS AND MEANS.

02/17/2012 Amended in ASSEMBLY Committee on WAYS AND MEANS.

03/09/2012 Amended in ASSEMBLY Committee on WAYS AND MEANS.

03/27/2012 Amended in ASSEMBLY Committee on WAYS AND MEANS.

03/29/2012 From ASSEMBLY Committee on WAYS AND MEANS.

03/29/2012 To ASSEMBLY Committee on RULES.

03/29/2012 From ASSEMBLY Committee on RULES.

03/30/2012 Passed ASSEMBLY. *****To SENATE.

03/30/2012 To SENATE Committee on FINANCE.

03/30/2012 From SENATE Committee on FINANCE.

03/30/2012 Substituted for S 6259.

03/30/2012 Passed SENATE.

03/30/2012 *****To GOVERNOR.

03/30/2012 Signed by GOVERNOR.

03/30/2012 Chapter No. 59-2012

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session: New York 235th Annual Legislative Schedule

cite: 2011 NY A 9059

Chaptered

March 30, 2012

Office of the Governor

LAWS OF NEW YORK, 2012

CHAPTER 59

AN ACT to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effective date of such chapter (Part A); to amend the real

property tax law and the tax law, in relation to the suspension of STAR exemptions and related benefits of persons who are delinquent in the payment of outstanding state tax liabilities (Part B); intentionally omitted (Part C); to amend chapter 109 of the laws of 2006, amending the tax law relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, in relation to extending the alternative fuels tax exemptions (Part D); to amend the tax law, in relation to making technical amendments to the tax treatment of diesel fuel to reflect industry practice (Part E); intentionally omitted (Part F); to amend the tax law and part U of chapter 61 of the laws of 2011, amending the real property tax law, the general municipal law, the public officers law, the tax law, the abandoned property law, the state finance law and the administrative code of the city of New York, relating to establishing standards for electronic real property tax administration, allowing the department of taxation and finance to use electronic communication means to furnish tax notices and other documents, mandatory electronic filing of tax documents, debit cards issued for tax refunds, improving sales tax compliance and repealing certain provisions of the tax law and the administrative code of the city of New York relating thereto, in relation to the expiration thereof (Part G); intentionally omitted (Part H); to amend the tax law, in relation to extending the empire state commercial production tax credit; and to amend part V of chapter 62 of the laws of 2006 relating to the empire state commercial production tax credit, in relation to the effectiveness thereof (Part I); to amend the public housing law, in relation to the credit against income tax for persons or entities investing in low-income housing (Part J); to amend the tax law, in relation to extending the biofuel production tax credit; and to amend part X of chapter 62 of the laws of 2006, amending the tax law relating to providing tax credits for biofuel production plants, in relation to the effectiveness thereof (Part K); to amend chapter 58 of the laws of 2006, relating to providing an enhanced earned income tax credit, in relation to the effectiveness thereof (Part L); intentionally omitted (Part M); to amend the tax law, in relation to tax rates and exclusions under the metropolitan commuter transportation mobility tax for professional employer organizations and to amend part B of chapter 56 of the laws of 2011 amending the tax law relating to the tax rates and exclusions under the metropolitan commuter transportation mobility tax, in relation to the effectiveness thereof (Part N); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part O); to amend the tax law, in relation to the distribution of revenue collected from the corporate and utilities taxes imposed under sections 183 and 184 of the tax law; and providing for the repeal of such provisions upon expiration thereof (Part P); to amend the tax law and the administrative code of the city of New York, in relation to facilitating the compliance of room remarketers with their obligation to collect sales tax on their sales of occupancy (Part Q); to amend the tax law and the administrative code of the city of New York, in relation to transitional provisions relating to the enactment and implementation of the federal Gramm-Leach-Bliley act (Part R); to amend the tax law, in relation to video lottery gaming (Part S); to amend the labor law and the tax law, in relation to the deadline for employer applications to the New York youth tax credit program (Part T); and to provide for the administration of certain funds and accounts related to the 2012-13 budget; authorizing certain payments and transfers; to amend the state finance law, in relation to school tax relief fund; to amend the state finance law, in relation to issuance of certificates of participation, variable rate bonds, payments, transfers and deposits of funds and investment of general funds, bond proceeds, and other funds not immediately required; to amend the public authorities law, in relation to state environmental infrastructure projects; to amend chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to the Division of Military and Naval Affairs Capital Projects; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the private housing finance law, in relation to housing program bonds and notes; to amend chapter 329 of

the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the issuance of bonds; to amend the public authorities law, in relation to courthouse improvements and training facilities, metropolitan transportation authority facilities, peace bridge projects and issuance of bonds by the dormitory authority; to amend the New York state urban development corporation act, in relation to funding project costs for the state university of New York college for nanoscale and science engineering and the NY-SUNY 2020 challenge grant program; to amend chapter 57 of the laws of 2008, relating to providing for the administration of certain funds and accounts related to the 2008-2009 budget, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2009, relating to providing for the administration of certain funds and accounts related to the 2009-10 budget, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2010, relating to providing for the administration of certain funds and accounts related to the 2009-10 budget, in relation to the effectiveness thereof; to amend chapter 61 of the laws of 2000, amending the public authorities law relating to the metropolitan transportation authority, the New York city transit authority, and the Triborough bridge and tunnel authority, in relation to authorizations to issue bonds and notes; to repeal sections 90-b, 91-g, 92-a, 92-i, 92-j, 92-m, 92-w, 94-c, 94-d, 96, 97-n, 97-o, 97-cc, 97-ff, 97-ss, 97-fff, 97-uuu, 97-www, 97-aaaa, 97-bbbb, 99-g, 99-i and subdivision 5 of section 97-rrr of the state finance law relating thereto; to repeal subdivision 5 of section 233-a and subdivision 3-a of section 378 of the education law relating thereto; to repeal paragraph f of subdivision 31 of section 1680 of the public authorities law relating to the reserve funds of private not-for-profit schools established with the dormitory authority; to repeal section 1022 of the private housing finance law relating to the rural housing assistance fund; to repeal section 12 of chapter 1040 of the laws of 1981 relating to penalties for violations of the lobbying act; to repeal chapter 50 of the laws of 1993 relating to making appropriations for the support of government; and providing for the repeal of certain provisions upon expiration thereof (Part U)

Became a law March 30, 2012, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

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

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

PART I

Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax law, as amended by chapter 440 of the laws of 2006, is amended to read as follows:

(1) A taxpayer which is a qualified commercial production company, or which is a sole proprietor of a qualified commercial production company, and which is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision ~~(d)~~ (c) of this section, to be computed as provided in this section. Provided, however, to be eligible for such credit, at least seventy-five percent of the production costs (excluding post production costs) paid or incurred directly and predominantly in the actual filming or recording of the qualified commercial must be costs incurred in New York state. ***The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand fifteen.***

Section 2. Subparagraphs (i) and (iii) of paragraph 2 of subsection (a) of section 28 of the tax law, subparagraph (i) as amended by chapter 448 of the laws of 2009 and subparagraph (iii) as amended by chapter 300 of the laws of 2007, are amended to read as follows:

(i) The state annually will disburse ~~three~~ **one** million of the total seven million in tax credits to all eligible production companies and the amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of twenty percent of the qualified production costs paid or incurred in the production of a qualified commercial, provided that the qualified production costs paid or incurred are attributable to the use of tangible property or the performance of services within the state in the production of such qualified commercial. To be

eligible for said credit the total qualified production costs of a qualified production company must be greater in the aggregate during the current calendar year than the average of the three previous years for which the credit was applied. Provided, however, that until a qualified production company has established a three year history, the credit will be based on either the previous year or the average of the two previous years, whichever period is longer for the qualified production company seeking the credit. If the qualified production company has never applied for the growth credit, the previous year's data will be used to create a benchmark. The tax credit shall be applied only to the amount of the total qualified production costs of the current calendar year that are greater than the total amount of production costs of the appropriate measurement period as described in this subparagraph. The tax credit must be distributed to eligible production companies on a pro rata basis, provided, however, that no such qualified production company shall receive more than three hundred thousand dollars annually for such credit. The credit shall be allowed for the taxable year in which the production of such qualified commercial is completed.

(iii) The state annually will disburse ~~one~~ **three** million of the total seven million in tax credits to all eligible production companies who film or record a qualified commercial outside of the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law ; **provided, however, that if, after the state reviews all applications from eligible production companies who film or record a qualified commercial outside of the metropolitan commuter district for a given year, tax credits remain unallocated under this subparagraph, those credits shall be allotted to the credits set forth in subparagraph (i) of this paragraph for use consistent with the purposes of such subparagraph** . The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of five percent of the qualified production costs paid or incurred in the production of a qualified commercial, provided that the qualified production costs paid or incurred are attributable to the use of tangible property or the performance of services within the state in the production of such qualified commercial. To be eligible for said credit the total qualified production costs of a qualified production company must be greater than two hundred thousand dollars in the aggregate during the calendar year. Such credit will be applied to qualified production costs exceeding two hundred thousand dollars in a calendar year.

Section 3. Paragraph (a) of subdivision 38 of section 210 of the tax law, as added by section 3 of part V of chapter 62 of the laws of 2006, is amended to read as follows:

(a) Allowance of credit. A taxpayer that is eligible pursuant to provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. **The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand fifteen.**

Section 4. Paragraph 1 of subsection (jj) of section 606 of the tax law, as added by section 5 of part V of chapter 62 of the laws of 2006, is amended to read as follows:

(1) Allowance of credit. A taxpayer that is eligible pursuant to the provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. **The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand fifteen.**

Section 5. Section 10 of part V of chapter 62 of the laws of 2006, relating to the empire state commercial production tax credit, is amended to read as follows:

Section 10. This act shall take effect immediately ~~and shall apply to taxable years beginning on and after January 1, 2007 and shall expire and be deemed repealed on December 31, 2011~~ ; provided, however that the IMB credit for energy taxes under subsection (t-1) and the state film production credit under subsection (gg) of section 606 of the tax law contained in section four of this act shall expire on the same date as provided in subdivision (a) of section 49 of part Y of chapter 63 of the laws of 2000, as amended and section 9 of part P of chapter 60 of the laws of 2004, as amended, respectively.

SECTIONS NOT PERTAINING TO THE COMMERCIAL INCENTIVE HAVE BEEN OMITTED.

Section 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through U of this act shall be as specifically set forth in the last section of such Parts.