

4749

2013-2014 Regular Sessions

I N   S E N A T E

April 22, 2013

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Introduced by Sen. MARCELLINO -- read twice and ordered printed, and  
when printed to be committed to the Committee on Environmental Conser-  
vation

AN ACT to amend the environmental conservation law, in relation to pre-  
installation review and certification of green roof materials and to  
amend the tax law, in relation to establishing a green roof installa-  
tion credit

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The environmental conservation law is amended by adding a  
2     new section 3-0308 to read as follows:  
3     S 3-0308. GREEN ROOF INSPECTION AND CERTIFICATION.  
4     1. THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT A PROGRAM TO EVALUATE  
5     AND SET STANDARDS FOR THE PLANT MATERIAL UTILIZED IN GREEN ROOF  
6     CONSTRUCTION IN THE STATE AND FOR ENVIRONMENTALLY ACCEPTABLE CHEMICAL  
7     FERTILIZERS USED IN THE MAINTENANCE OF GREEN ROOFS. SUCH PROGRAM SHALL  
8     INCLUDE CRITERIA FOR INSPECTION AND CERTIFICATION OF GREEN ROOF PLANS  
9     PRIOR TO INSTALLATION AND INSPECTION AFTER INSTALLATION. SUCH PRE-INS-  
10    TALLATION CRITERIA FOR CERTIFICATION SHALL INCLUDE, BUT NOT BE LIMITED  
11    TO: HEIGHT, GROWTH RATE, DROUGHT TOLERANCE, ROOT SYSTEMS, IRRIGATION OR  
12    NUTRITIONAL REQUIREMENTS, MAINTENANCE REQUIREMENTS, PRODUCTION OF SEEDS  
13    LIKELY TO INVADE NEARBY LANDSCAPES, GENERATION OF ALLERGENS AND REMEDIAL  
14    AIR FILTRATION. THE COMMISSIONER SHALL IMPLEMENT A PROGRAM TO INFORM  
15    COMMERCIAL INSTALLERS AND THE PUBLIC OF ANY PROHIBITIONS AND RECOMMENDA-  
16    TIONS. INSPECTION AFTER INSTALLATION SHALL INCLUDE, IN ADDITION TO  
17    PRE-INSTALLATION CRITERIA, THE TESTING OF RUNOFF WATER FOR ENVIRON-  
18    MENTALLY UNACCEPTABLE CHEMICAL FERTILIZERS.  
19    2. THE COMMISSIONER MAY DELEGATE TO QUALIFIED PERSONNEL OF COUNTY AND  
20    CITY BUILDING INSPECTORS HIS OR HER DUTIES OF REVIEW AND APPROVAL OF  
21    PLANS AND ISSUANCE OF CERTIFICATION REQUIRED IN SUBDIVISION ONE OF THIS  
22    SECTION, SUBJECT TO SUCH CONDITIONS AS HE OR SHE MAY ESTABLISH.

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

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1 3. FOR PURPOSES OF THIS SECTION "GREEN ROOF" SHALL MEAN ROOFING ON A  
2 BUILDING CONSTRUCTED OF FROM TWO TO FOUR INCHES OF SOIL AND DRAINAGE  
3 MATERIAL SUPPORTING PLANT MATERIAL WITH FOLIAGE FROM TWO TO FOUR INCHES  
4 HIGH DESIGNED TO PROVIDE MAXIMUM GROUND COVER, WATER RETENTION, EROSION  
5 RESISTANCE, AND RESPIRATIVE TRANSPIRATION OF MOISTURE.

6 S 2. Section 606 of the tax law is amended by adding a new subsection  
7 (u) to read as follows:

8 (U) GREEN ROOF INSTALLATION CREDIT. (1) GENERAL. AN INDIVIDUAL TAXPAY-  
9 ER SHALL BE ALLOWED A CREDIT FOR TAXABLE YEARS BEGINNING ON OR AFTER  
10 JANUARY FIRST, TWO THOUSAND FOURTEEN AGAINST THE TAX IMPOSED BY THIS  
11 ARTICLE FOR THE INSTALLATION OF A GREEN ROOF. THE AMOUNT OF THE CREDIT  
12 SHALL BE FIFTY-FIVE PERCENT OF QUALIFIED GREEN ROOF INSTALLATION EXPEND-  
13 ITURES, BUT SHALL NOT EXCEED THE MAXIMUM CREDIT OF FIVE THOUSAND  
14 DOLLARS.

15 (2) QUALIFIED GREEN ROOF INSTALLATION EXPENDITURES. (A) THE TERM  
16 "QUALIFIED GREEN ROOF INSTALLATION EXPENDITURES" MEANS EXPENDITURES FOR  
17 THE PURCHASE, CONSTRUCTION AND INSTALLATION OF A GREEN ROOF WHICH IS  
18 INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY WHICH IS (I) LOCATED  
19 IN THIS STATE AND (II) WHICH IS USED BY THE TAXPAYER AS HIS OR HER PRIN-  
20 CIPAL RESIDENCE AT THE TIME THE GREEN ROOF IS PLACED IN SERVICE.

21 (B) SUCH QUALIFIED EXPENDITURES SHALL INCLUDE EXPENDITURES FOR MATERI-  
22 ALS, INCLUDING BUT NOT LIMITED TO, IRRIGATION SYSTEMS, PRODUCTION OF  
23 SEED AND ROOT SYSTEMS AND LABOR COSTS PROPERLY ALLOCABLE TO ON-SITE  
24 PREPARATION, ASSEMBLY AND ORIGINAL INSTALLATION, ARCHITECTURAL AND ENGI-  
25 NEERING SERVICES, PRE-INSTALLATION CRITERIA FOR INSTALLATION AND  
26 DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION  
27 OF THE GREEN ROOF.

28 (C) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER  
29 FINANCE CHARGES.

30 (3) GREEN ROOF PRE-INSTALLATION CRITERIA. THE TERM "GREEN ROOF  
31 PRE-INSTALLATION CRITERIA" SHALL INCLUDE, BUT NOT BE LIMITED TO, HEIGHT,  
32 GROWTH RATE, DROUGHT TOLERANCE, IRRIGATION OR NUTRITIONAL REQUIREMENTS,  
33 GENERATION OF ALLERGENS AND REMEDIAL AIR FILTRATION AND TESTING OF  
34 RUNOFF WATER FOR ENVIRONMENTALLY UNACCEPTABLE CHEMICAL FERTILIZERS.

35 (4) CONDOMINIUM/COOPERATIVE HOUSING. WHERE A GREEN ROOF IS INSTALLED  
36 BY A CONDOMINIUM MANAGEMENT ASSOCIATION OR A COOPERATIVE HOUSING CORPO-  
37 RATION, A TAXPAYER WHO IS A MEMBER OF THE CONDOMINIUM MANAGEMENT ASSOCI-  
38 ATION OR WHO IS A TENANT-STOCKHOLDER IN THE COOPERATIVE HOUSING CORPO-  
39 RATION MAY FOR THE PURPOSE OF THIS SUBSECTION CLAIM A PROPORTIONATE  
40 SHARE OF THE TOTAL EXPENSES AS EXPENDITURE FOR THE PURPOSES OF THE CRED-  
41 IT ATTRIBUTABLE OF HIS OR HER PRINCIPAL RESIDENCE.

42 (5) MULTIPLE TAXPAYERS. WHERE A GREEN ROOF IS PURCHASED AND INSTALLED  
43 IN A PRINCIPAL RESIDENCE SHARED BY TWO OR MORE TAXPAYERS, THE AMOUNT OF  
44 THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR EACH SUCH TAXPAYER SHALL  
45 BE PRORATED ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR  
46 SUCH ROOF CONTRIBUTED BY EACH TAXPAYER.

47 (6) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE  
48 INCURRED IN PURCHASING AND INSTALLING THE GREEN ROOF, THE AMOUNT OF ANY  
49 FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER, WHICH WAS USED  
50 FOR THE PURCHASE AND/OR INSTALLATION OF SUCH ROOF AND WHICH WAS NOT  
51 INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER, SHALL NOT BE  
52 INCLUDED IN THE AMOUNT OF SUCH EXPENDITURES.

53 (7) WHEN CREDIT ALLOWED. THE CREDIT PROVIDED FOR IN THIS SUBSECTION  
54 SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR, COMMENCING AFTER  
55 JANUARY FIRST, TWO THOUSAND FOURTEEN, IN WHICH THE GREEN ROOF IS  
56 INSTALLED.

1 (8) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS  
2 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR  
3 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE  
4 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR  
5 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE  
6 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

7 S 3. This act shall take effect immediately provided that section one  
8 of this act shall take effect January 1, 2014 and that section two of  
9 this act shall apply to taxable years commencing on or after January 1,  
10 2014; provided, however, that effective immediately, the addition,  
11 amendment and/or repeal of any rule or regulation necessary for the  
12 implementation of this act on its effective date are authorized and  
13 directed to be made and completed on or before such effective date.