

4749--A

2013-2014 Regular Sessions

I N S E N A T E

April 22, 2013

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive 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 installation credit

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

1 Section 1. The executive law is amended by adding a new section 94-b
2 to read as follows:
3 S 94-B. GREEN ROOF INSPECTION AND CERTIFICATION. 1. THE SECRETARY
4 SHALL DEVELOP AND IMPLEMENT A PROGRAM TO EVALUATE AND SET STANDARDS FOR
5 THE PLANT MATERIAL UTILIZED IN GREEN ROOF CONSTRUCTION IN THE STATE AND
6 FOR ENVIRONMENTALLY ACCEPTABLE CHEMICAL FERTILIZERS USED IN THE MAINTENANCE
7 OF GREEN ROOFS. SUCH PROGRAM SHALL INCLUDE CRITERIA FOR
8 INSPECTION AND CERTIFICATION OF GREEN ROOF PLANS PRIOR TO INSTALLATION
9 AND INSPECTION AFTER INSTALLATION. SUCH PRE-INSTALLATION CRITERIA FOR
10 CERTIFICATION SHALL INCLUDE, BUT NOT BE LIMITED TO: HEIGHT, GROWTH
11 RATE, DROUGHT TOLERANCE, ROOT SYSTEMS, IRRIGATION OR NUTRITIONAL
12 REQUIREMENTS, MAINTENANCE REQUIREMENTS, PRODUCTION OF SEEDS LIKELY TO
13 INVADE NEARBY LANDSCAPES, GENERATION OF ALLERGENS AND REMEDIAL AIR
14 FILTRATION. THE COMMISSIONER SHALL IMPLEMENT A PROGRAM TO INFORM COMMERCIAL
15 INSTALLERS AND THE PUBLIC OF ANY PROHIBITIONS AND RECOMMENDATIONS.
16 INSPECTION AFTER INSTALLATION SHALL INCLUDE, IN ADDITION TO PRE-INSTALLATION
17 CRITERIA, THE TESTING OF RUNOFF WATER FOR ENVIRONMENTALLY UNACCEPTABLE
18 CHEMICAL FERTILIZERS.
19 2. THE SECRETARY 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.