

1814

2015-2016 Regular Sessions

I N S E N A T E

January 15, 2015

Introduced by Sens. KLEIN, AVELLA, BOYLE, CARLUCCI, ESPAILLAT, HOYLMAN, LATIMER, PARKER, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

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 installation credit

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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 PROGRAM, INSPECTION AND CERTIFICATION.
4 1. THE COMMISSIONER SHALL DEVELOP STANDARDS FOR THE CONSTRUCTION,
5 INSTALLATION AND CERTIFICATION OF GREEN ROOFS THAT CAN BE ELIGIBLE FOR
6 THE GREEN ROOF INSTALLATION PERSONAL INCOME TAX CREDIT PURSUANT TO
7 SUBSECTION (V) OF SECTION SIX HUNDRED SIX OF THE TAX LAW. SUCH STAND-
8 ARDS SHALL INCLUDE CRITERIA FOR INSPECTION AND CERTIFICATION OF GREEN
9 ROOF PLANS PRIOR TO INSTALLATION AND INSPECTION AFTER SUCH INSTALLATION.
10 SUCH PRE-INSTALLATION CRITERIA FOR CERTIFICATION MAY INCLUDE, BUT NOT BE
11 LIMITED TO: PLANT GROWTH RATE AND DROUGHT TOLERANCE, APPROPRIATE ROOT
12 SYSTEMS FOR SUCH GREEN ROOFS, APPROPRIATE PLANT IRRIGATION, NUTRITIONAL
13 AND MAINTENANCE REQUIREMENTS, POTENTIAL GENERATION OF ALLERGENS AND THE
14 POSSIBLE NEED FOR REMEDIAL INDOOR AIR FILTRATION TO THE SUBJECT AND
15 ADJACENT BUILDINGS. INSPECTION AND CERTIFICATION AFTER INSTALLATION MAY
16 INCLUDE, IN ADDITION TO PRE-INSTALLATION CRITERIA, THE TESTING OF RUNOFF
17 WATER FOR ENVIRONMENTALLY UNACCEPTABLE LEVELS OF POLLUTANTS.
18 2. THE COMMISSIONER MAY DELEGATE TO MUNICIPAL BUILDING INSPECTORS THE
19 DUTIES TO REVIEW AND APPROVE PLANS AND ISSUE THE CERTIFICATION REQUIRED
20 IN SUBDIVISION ONE OF THIS SECTION.
21 3. FOR PURPOSES OF THIS SECTION:

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

LBD01541-01-5

1 A. "GREEN ROOF" MEANS ROOFING ON AN ELIGIBLE BUILDING THAT COVERS AT
2 LEAST FIFTY PERCENT OF SUCH BUILDING'S ELIGIBLE ROOFTOP SPACE AND
3 INCLUDES (1) A WEATHERPROOF AND WATERPROOF ROOFING MEMBRANE LAYER, (2) A
4 ROOT BARRIER LAYER, (3) IF APPROPRIATE, AN INSULATION LAYER THAT
5 COMPLIES WITH THE STATE ENERGY CONSERVATION CONSTRUCTION CODE, (4) A
6 DRAINAGE LAYER THAT COMPLIES WITH THE STATE UNIFORM FIRE PREVENTION AND
7 BUILDING CODE AND IS DESIGNED SO THE DRAINS CAN BE INSPECTED AND
8 CLEANED, (5) A GROWTH MEDIUM, INCLUDING NATURAL OR SIMULATED SOIL, WITH
9 A DEPTH OF AT LEAST TWO INCHES, (6) IF THE DEPTH OF THE GROWTH MEDIUM IS
10 LESS THAN THREE INCHES, AN INDEPENDENT WATER HOLDING LAYER THAT IS
11 DESIGNED TO PREVENT THE RAPID DRYING OUT OF SUCH MEDIUM MAY BE REQUIRED,
12 UNLESS THE GREEN ROOF CONTAINS A SUFFICIENT PERCENTAGE OF DROUGHT
13 RESISTANT PLANTS TO SURVIVE, AND (7) A VEGETATION LAYER COVERED BY LIVE
14 PLANTS SUCH AS (I) SEDUM OR EQUALLY DROUGHT RESISTANT AND HARDY PLANT
15 SPECIES, (II) NATIVE PLANT SPECIES, AND/OR (III) AGRICULTURAL PLANT
16 SPECIES.

17 B. "ELIGIBLE BUILDING" MEANS A RESIDENTIAL BUILDING OR MIXED-USE
18 BUILDING WITH RESIDENTIAL UNITS.

19 C. "ELIGIBLE ROOFTOP SPACE" MEANS THE TOTAL SPACE AVAILABLE ON AN
20 ELIGIBLE BUILDING TO SUPPORT A GREEN ROOF.

21 S 2. Section 606 of the tax law is amended by adding a new subsection
22 (v) to read as follows:

23 (V) GREEN ROOF INSTALLATION CREDIT. (1) GENERAL. AN INDIVIDUAL TAXPAY-
24 ER SHALL BE ALLOWED A CREDIT FOR TAXABLE YEARS BEGINNING ON OR AFTER
25 JANUARY FIRST, TWO THOUSAND SEVENTEEN AGAINST THE TAX IMPOSED BY THIS
26 ARTICLE FOR THE INSTALLATION OF A QUALIFIED GREEN ROOF AS CERTIFIED
27 PURSUANT TO SECTION 3-0308 OF THE ENVIRONMENTAL CONSERVATION LAW. THE
28 AMOUNT OF THE CREDIT SHALL BE FIFTY-FIVE PERCENT OF QUALIFIED GREEN ROOF
29 INSTALLATION EXPENDITURES, BUT SHALL NOT EXCEED THE MAXIMUM CREDIT OF
30 FIVE THOUSAND DOLLARS.

31 (2) QUALIFIED GREEN ROOF INSTALLATION EXPENDITURES. (A) THE TERM
32 "QUALIFIED GREEN ROOF INSTALLATION EXPENDITURES" MEANS EXPENDITURES FOR
33 THE PURCHASE, CONSTRUCTION AND INSTALLATION OF A CERTIFIED GREEN ROOF,
34 AS PROVIDED IN SECTION 3-0308 OF THE ENVIRONMENTAL CONSERVATION LAW,
35 WHICH IS INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY OR MIXED-USE
36 PROPERTY, WHICH IS (I) LOCATED IN THIS STATE; (II) WHICH IS OWNED BY THE
37 TAXPAYER; AND (III) WHICH IS USED BY THE TAXPAYER AS HIS OR HER PRINCIPAL
38 RESIDENCE.

39 (B) SUCH QUALIFIED EXPENDITURES SHALL INCLUDE EXPENDITURES FOR PLANT
40 MATERIAL, NATURAL OR SIMULATED SOIL IRRIGATION AND DRAINAGE SYSTEMS,
41 ESTABLISHMENT OF ROOT SYSTEMS AND THE LABOR COSTS PROPERLY ALLOCABLE TO
42 ON-SITE PREPARATION, ASSEMBLY AND ORIGINAL INSTALLATION, ARCHITECTURAL
43 AND ENGINEERING SERVICES, PRE-INSTALLATION CRITERIA FOR INSTALLATION AND
44 DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION
45 OF THE QUALIFIED GREEN ROOF.

46 (C) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER
47 FINANCE CHARGES.

48 (3) GREEN ROOF PRE-INSTALLATION CRITERIA. THE TERM "GREEN ROOF
49 PRE-INSTALLATION CRITERIA" MAY INCLUDE, BUT NOT BE LIMITED TO, CRITERIA
50 SUCH AS GROWTH RATE AND DROUGHT TOLERANCE OF SELECTED PLANTS, APPROPRI-
51 ATE PLANT IRRIGATION, NUTRITIONAL AND MAINTENANCE REQUIREMENTS, GENER-
52 ATION OF ALLERGENS AND THE POSSIBLE NEED FOR REMEDIAL AIR FILTRATION TO
53 THE SUBJECT AND ADJACENT BUILDINGS AS PRESCRIBED IN ACCORDANCE WITH
54 SECTION 3-0308 OF THE ENVIRONMENTAL CONSERVATION LAW.

55 (4) CONDOMINIUM/COOPERATIVE HOUSING. WHERE A QUALIFIED GREEN ROOF IS
56 INSTALLED BY A CONDOMINIUM MANAGEMENT ASSOCIATION OR A COOPERATIVE HOUS-

1 ING CORPORATION, A TAXPAYER WHO IS A MEMBER OF SUCH ASSOCIATION OR IS A
2 TENANT-STOCKHOLDER MAY FOR THE PURPOSE OF THIS SUBSECTION CLAIM A
3 PROPORTIONATE SHARE OF THE TOTAL EXPENSES AS EXPENDITURE FOR THE
4 PURPOSES OF THE CREDIT ATTRIBUTABLE TO HIS OR HER PRINCIPAL RESIDENCE.

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

10 (6) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE
11 INCURRED IN PURCHASING AND INSTALLING THE GREEN ROOF, THE AMOUNT OF ANY
12 FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER, WHICH WAS USED
13 FOR THE PURCHASE AND/OR INSTALLATION OF SUCH ROOF AND WHICH WAS NOT
14 INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER, SHALL NOT BE
15 INCLUDED IN THE AMOUNT OF SUCH EXPENDITURES.

16 (7) WHEN CREDIT ALLOWED. THE CREDIT PROVIDED FOR IN THIS SUBSECTION
17 SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR, COMMENCING AFTER
18 JANUARY FIRST, TWO THOUSAND SEVENTEEN, IN WHICH THE GREEN ROOF IS
19 INSTALLED.

20 (8) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS
21 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR
22 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE
23 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR
24 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE
25 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

26 S 3. This act shall take effect immediately provided that section one
27 of this act shall take effect on the one hundred eightieth day after it
28 shall have become a law and that section two of this act shall apply to
29 taxable years commencing on or after January 1, 2017; provided, however,
30 that effective immediately, the addition, amendment and/or repeal of any
31 rule or regulation necessary for the implementation of this act on its
32 effective date is authorized and directed to be made and completed on or
33 before such effective date.