

1803

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 12, 2009

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Introduced by M. of A. DINOWITZ, MILLMAN, BENEDETTO, PAULIN, SCHIMMING-  
ER, DelMONTE, STIRPE, LUPARDO, ORTIZ, GALEF, COLTON, MAISEL, ESPAIL-  
LAT, ROSENTHAL, HEVESI, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A.  
ABBATE, ALFANO, BROOK-KRASNY, CHRISTENSEN, CLARK, DIAZ, GIGLIO, GOTT-  
FRIED, GREENE, GUNTHER, JAFFEE, JEFFRIES, KELLNER, LATIMER, P. LOPEZ,  
V. LOPEZ, McDONOUGH, McENENY, MORELLE, PEOPLES, PHEFFER, QUINN, SPANO,  
SWEENEY, THIELE, WALKER, WEISENBERG -- read once and referred 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 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

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

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1 PRE-INSTALLATION CRITERIA, THE TESTING OF RUNOFF WATER FOR ENVIRON-  
2 MENTALLY UNACCEPTABLE CHEMICAL FERTILIZERS.

3 2. THE COMMISSIONER MAY DELEGATE TO QUALIFIED PERSONNEL OF COUNTY AND  
4 CITY BUILDING INSPECTORS HIS OR HER DUTIES OF REVIEW AND APPROVAL OF  
5 PLANS AND ISSUANCE OF CERTIFICATION REQUIRED IN SUBDIVISION ONE OF THIS  
6 SECTION, SUBJECT TO SUCH CONDITIONS AS HE OR SHE MAY ESTABLISH.

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

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

14 (U) GREEN ROOF INSTALLATION CREDIT. (1) GENERAL. AN INDIVIDUAL TAXPAY-  
15 ER SHALL BE ALLOWED A CREDIT FOR TAXABLE YEARS BEGINNING ON OR AFTER  
16 JANUARY FIRST, TWO THOUSAND TEN AGAINST THE TAX IMPOSED BY THIS ARTICLE  
17 FOR THE INSTALLATION OF A GREEN ROOF. THE AMOUNT OF THE CREDIT SHALL BE  
18 FIFTY-FIVE PERCENT OF QUALIFIED GREEN ROOF INSTALLATION EXPENDITURES,  
19 BUT SHALL NOT EXCEED THE MAXIMUM CREDIT OF FIVE THOUSAND DOLLARS.

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

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

33 (C) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER  
34 FINANCE CHARGES.

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

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

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

52 (6) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE  
53 INCURRED IN PURCHASING AND INSTALLING THE GREEN ROOF, THE AMOUNT OF ANY  
54 FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER, WHICH WAS USED  
55 FOR THE PURCHASE AND/OR INSTALLATION OF SUCH ROOF AND WHICH WAS NOT

1 INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER, SHALL NOT BE  
2 INCLUDED IN THE AMOUNT OF SUCH EXPENDITURES.

3 (7) WHEN CREDIT ALLOWED. THE CREDIT PROVIDED FOR IN THIS SUBSECTION  
4 SHALL BE ALLOWED WITH RESPECT TO THE TAXABLE YEAR, COMMENCING AFTER  
5 JANUARY FIRST, TWO THOUSAND TEN, IN WHICH THE GREEN ROOF IS INSTALLED.

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

12 S 3. This act shall take effect immediately provided that section one  
13 of this act shall take effect on the one hundred eightieth day after it  
14 shall have become a law and that section two of this act shall apply to  
15 taxable years commencing on or after January 1, 2010; provided, however,  
16 that effective immediately, the addition, amendment and/or repeal of any  
17 rule or regulation necessary for the implementation of this act on its  
18 effective date are authorized and directed to be made and completed on  
19 or before such effective date.