

863

2009-2010 Regular Sessions

I N   S E N A T E

January 21, 2009

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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 TEN AGAINST THE TAX IMPOSED BY THIS ARTICLE  
11 FOR THE INSTALLATION OF A GREEN ROOF. THE AMOUNT OF THE CREDIT SHALL BE  
12 FIFTY-FIVE PERCENT OF QUALIFIED GREEN ROOF INSTALLATION EXPENDITURES,  
13 BUT SHALL NOT EXCEED THE MAXIMUM CREDIT OF FIVE THOUSAND DOLLARS.

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

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

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

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

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

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

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

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

55 (8) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS  
56 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR

1 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE  
2 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR  
3 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE  
4 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.  
5 S 3. This act shall take effect immediately provided that section one  
6 of this act shall take effect on the one hundred eightieth day after it  
7 shall have become a law and that section two of this act shall apply to  
8 taxable years commencing on or after January 1, 2010; provided, however,  
9 that effective immediately, the addition, amendment and/or repeal of any  
10 rule or regulation necessary for the implementation of this act on its  
11 effective date are authorized and directed to be made and completed on  
12 or before such effective date.