S T A T E O F N E W Y O R K

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I N A S S E M B L Y

February 15, 2012

Introduced by M. of A. CRESPO -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law and the education law, in relation to a green walls tax abatement for certain properties in a city of one million or more persons

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

Section 1. The title heading of title 4-B of article 4 of the real property tax law, as added by chapter 461 of the laws of 2008, is amended to read as follows:

GREEN ROOF/GREEN WALLS
TAX ABATEMENT FOR CERTAIN PROPERTIES
IN A CITY OF ONE MILLION OR MORE PERSONS

S 2. Subdivisions 2 and 7 of section 499-aaa of the real property tax law, as added by chapter 461 of the laws of 2008, are amended and three new subdivisions 11, 12, and 13 are added to read as follows:

2. "Application for tax abatement" shall mean an application for a green roof AND/OR GREEN WALLS tax abatement pursuant to [section four hundred ninety-nine-ccc of] this title.

7. "Eligible building" shall mean a class one, class two or class four real property, as defined in subdivision one of section eighteen hundred two of this chapter, located within a city having a population of one million or more persons. No building shall be eligible for more than one tax abatement FOR ADDITION OF A GREEN ROOF OR FOR MORE THAN ONE TAX ABATEMENT FOR ADDITION OF ONE OR MORE GREEN WALLS pursuant to this title.

11. "GREEN WALL" SHALL MEAN AN ADDITION TO ONE OR MORE EXTERIOR WALLS OF AN ELIGIBLE BUILDING THAT IS APPROVED FOR USE PURSUANT TO APPLICABLE FIRE AND CONSTRUCTION CODES AND IS: (A) A GREEN FACADE; OR (B) A LIVING WALL.

12. "GREEN FACADE" SHALL MEAN AN ADDITION TO A BUILDING'S EXTERIOR WALL CONSISTING OF CLIMBING PLANTS OR CASCADING GROUNDCOVERS WHICH ARE TRAINED TO COVER MODULAR TRELLIS PANELS, CABLE AND/OR WIRE-ROPE NET SYSTEMS, OR OTHER SUPPORTING STRUCTURES.

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

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13. "LIVING WALL" SHALL MEAN AN ADDITION TO A BUILDING'S EXTERIOR WALL CONSISTING OF PLANTS THAT COVER PRE-VEGETATED PANELS, VERTICAL MODULES OR PLANTED BLANKETS THAT ARE FIXED VERTICALLY TO A STRUCTURAL WALL OR FRAME.

S 3. Subdivision 1 of section 499-bbb of the real property tax law, as added by chapter 461 of the laws of 2008, is amended and two new subdivisions 1-a and 1-b are added to read as follows:

1. The amount of such tax abatement FOR A GREEN ROOF shall be four dollars and fifty cents per square foot of a green roof pursuant to an approved application for tax abatement; provided, however, that the amount of such tax abatement shall not exceed the lesser of (a) one hundred thousand dollars or (b) the tax liability for the eligible building in the tax year in which the tax abatement is taken.

1-A. THE AMOUNT OF SUCH TAX ABATEMENT FOR GREEN WALLS SHALL BE ESTABLISHED BY THE DEPARTMENT OF FINANCE, WHICH MAY VARY SUCH AMOUNT BASED ON DIFFERENCES IN THE CHARACTERISTICS AND ANTICIPATED PUBLIC BENEFITS OF DIFFERENT TYPES OF GREEN WALL DESIGN, BUT NO SUCH AMOUNT SHALL BE LESS THAN ONE DOLLAR AND FIFTY CENTS NOR MORE THAN THREE DOLLARS PER SQUARE FOOT OF A GREEN WALL PURSUANT TO AN APPROVED APPLICATION FOR TAX ABATEMENT; PROVIDED, HOWEVER, THAT THE AMOUNT OF SUCH TAX ABATEMENT SHALL NOT EXCEED THE LESSER OF: (A) AN AMOUNT EQUAL TO THE APPROVED AMOUNT PER SQUARE FOOT TIMES A FACTOR OF TWENTY THOUSAND; OR (B) THE TAX LIABILITY FOR THE ELIGIBLE BUILDING IN THE TAX YEAR IN WHICH THE TAX ABATEMENT IS TAKEN.

1-B. AN ELIGIBLE BUILDING MAY APPLY FOR BOTH A GREEN ROOF AND A GREEN WALLS TAX ABATEMENT. THE AMOUNT OF THE COMBINED TAX ABATEMENT FOR SUCH BUILDING AND THE MAXIMUM AMOUNT NOT TO BE EXCEEDED SHALL BE CALCULATED SEPARATELY FOR EACH APPLICATION; PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE COMBINED AMOUNT OF SUCH TAX ABATEMENTS EXCEED THE TAX LIABILITY FOR THE ELIGIBLE BUILDING IN THE TAX YEAR IN WHICH THE TAX ABATEMENT IS TAKEN.

S 4. The real property tax law is amended by adding a new section 499-hhh to read as follows:

S 499-HHH. GREEN WALLS TAX ABATEMENT. 1. AN ELIGIBLE BUILDING SHALL RECEIVE AN ABATEMENT OF REAL PROPERTY TAXES UNDER TERMS, CONDITIONS AND REQUIREMENTS SUBSTANTIALLY SIMILAR TO THOSE APPLICABLE TO GREEN ROOF TAX ABATEMENTS PURSUANT TO THIS TITLE AND OTHER APPLICABLE PROVISIONS OF LAW, INCLUDING, BUT NOT LIMITED TO FILING OF AN APPLICATION WITH RELATED PROOFS, CERTIFICATIONS AND AGREEMENTS IN A MANNER SUBSTANTIALLY SIMILAR TO THE APPLICATION PROCEDURES SET FORTH IN SECTION FOUR HUNDRED NINETY-NINE-CCC OF THIS TITLE, AND SATISFACTION OF CONTINUING REQUIREMENTS THAT ARE SUBSTANTIALLY SIMILAR TO THOSE SET FORTH IN SECTION FOUR HUNDRED NINETY-NINE-DDD OF THIS TITLE.

2. THE DEPARTMENT OF FINANCE AND A DESIGNATED AGENCY SHALL HAVE THE POWER TO ENFORCE AND ADMINISTER THE PROVISIONS OF THIS TITLE RELATING TO GREEN WALL TAX ABATEMENTS IN A MANNER SUBSTANTIALLY SIMILAR TO THE PROVISIONS OF LAW RELATING TO GREEN WALL TAX ABATEMENTS, INCLUDING, BUT NOT LIMITED TO REVOCATION OF TAX ABATEMENTS IN A MANNER SUBSTANTIALLY SIMILAR TO THE PROCEDURES SET FORTH IN SECTION FOUR HUNDRED NINETY-NINE-EEE OF THIS TITLE, AND THE EXERCISE OF POWERS AND DUTIES RELATED TO ENFORCEMENT AND ADMINISTRATION OF THIS TITLE IN A MANNER SUBSTANTIALLY SIMILAR TO THE PROCEDURES SET FORTH IN SECTION FOUR HUNDRED NINETY-NINE-FFF OF THIS TITLE.

3. THE DEPARTMENT OF FINANCE AND A DESIGNATED AGENCY SHALL MAKE AND PROMULGATE RULES, PRESCRIBE FORMS AND TAKE ANY AND ALL OTHER ACTIONS NECESSARY TO CARRY OUT THE PURPOSES OF THIS SECTION.

S 5. Subdivision 13 of section 6509 of the education law, as added by chapter 461 of the laws of 2008, is amended to read as follows:

(13) In the event that any agency designated pursuant to title four-B of article four of the real property tax law (relating to [the] green roof AND GREEN WALLS tax abatement) has reported to the department alleged misconduct by an architect or engineer in making a certification under such title, the board of regents, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate.

S 6. This act shall take effect immediately.