

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

578--A

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. DINOWITZ, MILLMAN, BENEDETTO, PAULIN, SCHIMMING-
ER, LUPARDO, ORTIZ, GALEF, COLTON, MAISEL, ROSENTHAL, HEVESI, ENGLE-
BRIGHT, QUART -- Multi-Sponsored by -- M. of A. ABBATE, BROOK-KRASNY,
CLARK, GIGLIO, GOTTFRIED, GUNTHER, JAFFEE, JEFFRIES, KELLNER, LATIMER,
P. LOPEZ, V. LOPEZ, McDONOUGH, MCENENY, MORELLE, PEOPLES-STOKES, SWEE-
NEY, THIELE, WEISENBERG -- read once and referred to the Committee on
Environmental Conservation -- recommitted to the Committee on Environ-
mental Conservation in accordance with Assembly Rule 3, sec. 2 --
committee discharged, bill amended, ordered reprinted as amended and
recommitted to said committee

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

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

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1 COMMERCIAL INSTALLERS AND THE PUBLIC OF ANY PROHIBITIONS AND RECOMMENDA-
2 TIONS. INSPECTION AFTER INSTALLATION SHALL INCLUDE, IN ADDITION TO
3 PRE-INSTALLATION CRITERIA, THE TESTING OF RUNOFF WATER FOR ENVIRON-
4 MENTALLY UNACCEPTABLE CHEMICAL FERTILIZERS.

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

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

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

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

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

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

36 (C) SUCH QUALIFIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER
37 FINANCE CHARGES.

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

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

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

55 (6) GRANTS. FOR PURPOSES OF DETERMINING THE AMOUNT OF THE EXPENDITURE
56 INCURRED IN PURCHASING AND INSTALLING THE GREEN ROOF, THE AMOUNT OF ANY

1 FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE TAXPAYER, WHICH WAS USED
2 FOR THE PURCHASE AND/OR INSTALLATION OF SUCH ROOF AND WHICH WAS NOT
3 INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER, SHALL NOT BE
4 INCLUDED IN THE AMOUNT OF SUCH EXPENDITURES.

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

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

15 S 3. This act shall take effect immediately provided that section one
16 of this act shall take effect on the one hundred eightieth day after it
17 shall have become a law and that section two of this act shall apply to
18 taxable years commencing on or after January 1, 2014; provided, however,
19 that effective immediately, the addition, amendment and/or repeal of any
20 rule or regulation necessary for the implementation of this act on its
21 effective date are authorized and directed to be made and completed on
22 or before such effective date.