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

7046

2011-2012 Regular Sessions

I N   A S S E M B L Y

April 11, 2011

Introduced by M. of A. GALEF, COLTON, CASTRO, FINCH -- Multi-Sponsored by -- M. of A. CASTELLI, LATIMER, LUPARDO, McKEVITT, THIELE -- 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 installation credit

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

Section 1. The environmental conservation law is amended by adding a new section 3-0308 to read as follows:

S 3-0308. GREEN ROOF INSPECTION AND CERTIFICATION.

1. THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT A PROGRAM TO EVALUATE AND SET STANDARDS FOR THE PLANT MATERIAL UTILIZED IN GREEN ROOF CONSTRUCTION IN THE STATE AND FOR ENVIRONMENTALLY ACCEPTABLE CHEMICAL FERTILIZERS USED IN THE MAINTENANCE OF GREEN ROOFS. SUCH PROGRAM SHALL INCLUDE CRITERIA FOR INSPECTION AND CERTIFICATION OF GREEN ROOF PLANS PRIOR TO INSTALLATION AND INSPECTION AFTER INSTALLATION. SUCH PRE-INSTALLATION CRITERIA FOR CERTIFICATION SHALL INCLUDE, BUT NOT BE LIMITED TO: HEIGHT, GROWTH RATE, DROUGHT TOLERANCE, ROOT SYSTEMS, IRRIGATION OR NUTRITIONAL REQUIREMENTS, MAINTENANCE REQUIREMENTS, PRODUCTION OF SEEDS LIKELY TO INVADE NEARBY LANDSCAPES, GENERATION OF ALLERGENS AND REMEDIAL AIR FILTRATION. THE COMMISSIONER SHALL IMPLEMENT A PROGRAM TO INFORM COMMERCIAL INSTALLERS AND THE PUBLIC OF ANY PROHIBITIONS AND RECOMMENDATIONS. INSPECTION AFTER INSTALLATION SHALL INCLUDE, IN ADDITION TO PRE-INSTALLATION CRITERIA, THE TESTING OF RUNOFF WATER FOR ENVIRONMENTALLY UNACCEPTABLE CHEMICAL FERTILIZERS.

2. THE COMMISSIONER MAY DELEGATE TO QUALIFIED PERSONNEL OF COUNTY AND CITY BUILDING INSPECTORS HIS OR HER DUTIES OF REVIEW AND APPROVAL OF PLANS AND ISSUANCE OF CERTIFICATION REQUIRED IN SUBDIVISION ONE OF THIS 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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3. FOR PURPOSES OF THIS SECTION "GREEN ROOF" SHALL MEAN ROOFING ON A BUILDING CONSTRUCTED OF FROM TWO TO FOUR INCHES OF SOIL AND DRAINAGE MATERIAL SUPPORTING PLANT MATERIAL WITH FOLIAGE FROM TWO TO FOUR INCHES HIGH DESIGNED TO PROVIDE MAXIMUM GROUNDCOVER, WATER RETENTION, EROSION RESISTANCE, AND RESPIRATIVE TRANSPIRATION OF MOISTURE.

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

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

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

(B) SUCH QUALIFIED EXPENDITURES SHALL INCLUDE EXPENDITURES FOR MATERIALS, INCLUDING BUT NOT LIMITED TO, IRRIGATION SYSTEMS, PRODUCTION OF SEED AND ROOT SYSTEMS AND LABOR COSTS PROPERLY ALLOCABLE TO ON-SITE PREPARATION, ASSEMBLY AND ORIGINAL INSTALLATION, ARCHITECTURAL AND ENGINEERING SERVICES, PRE-INSTALLATION CRITERIA FOR INSTALLATION AND DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION OF THE GREEN ROOF.

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

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

(4) CONDOMINIUM/COOPERATIVE HOUSING. WHERE A GREEN ROOF IS INSTALLED BY A CONDOMINIUM MANAGEMENT ASSOCIATION OR A COOPERATIVE HOUSING CORPORATION, A TAXPAYER WHO IS A MEMBER OF THE CONDOMINIUM MANAGEMENT ASSOCIATION OR WHO IS A TENANT-STOCKHOLDER IN THE COOPERATIVE HOUSING CORPORATION MAY FOR THE PURPOSE OF THIS SUBSECTION CLAIM A PROPORTIONATE SHARE OF THE TOTAL EXPENSES AS EXPENDITURE FOR THE PURPOSES OF THE CREDIT ATTRIBUTABLE OF HIS OR HER PRINCIPAL RESIDENCE.

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

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

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

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

S 3. This act shall take effect immediately provided that section one of this act shall take effect January 1, 2012 and that section two of this act shall apply to taxable years commencing on or after January 1, 2012; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.