

2444--B

2013-2014 Regular Sessions

I N   S E N A T E

January 17, 2013

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Introduced by Sens. KLEIN, AVELLA, BALL, ESPAILLAT, HOYLMAN, LATIMER, PARKER, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- 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 installation credit

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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 PROGRAM, INSPECTION AND CERTIFICATION.  
4     1. THE COMMISSIONER SHALL DEVELOP STANDARDS FOR THE CONSTRUCTION,  
5     INSTALLATION AND CERTIFICATION OF GREEN ROOFS THAT CAN BE ELIGIBLE FOR  
6     THE GREEN ROOF INSTALLATION PERSONAL INCOME TAX CREDIT PURSUANT TO  
7     SUBSECTION (U) OF SECTION SIX HUNDRED SIX OF THE TAX LAW. SUCH STAND-  
8     ARDS SHALL INCLUDE CRITERIA FOR INSPECTION AND CERTIFICATION OF GREEN  
9     ROOF PLANS PRIOR TO INSTALLATION AND INSPECTION AFTER SUCH INSTALLATION.  
10    SUCH PRE-INSTALLATION CRITERIA FOR CERTIFICATION MAY INCLUDE, BUT NOT BE  
11    LIMITED TO: PLANT GROWTH RATE AND DROUGHT TOLERANCE, APPROPRIATE ROOT  
12    SYSTEMS FOR SUCH GREEN ROOFS, APPROPRIATE PLANT IRRIGATION, NUTRITIONAL  
13    AND MAINTENANCE REQUIREMENTS, POTENTIAL GENERATION OF ALLERGENS AND THE  
14    POSSIBLE NEED FOR REMEDIAL INDOOR AIR FILTRATION TO THE SUBJECT AND  
15    ADJACENT BUILDINGS. INSPECTION AND CERTIFICATION AFTER INSTALLATION MAY

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

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1 INCLUDE, IN ADDITION TO PRE-INSTALLATION CRITERIA, THE TESTING OF RUNOFF  
2 WATER FOR ENVIRONMENTALLY UNACCEPTABLE LEVELS OF POLLUTANTS.

3 2. THE COMMISSIONER MAY DELEGATE TO MUNICIPAL BUILDING INSPECTORS THE  
4 DUTIES TO REVIEW AND APPROVE PLANS AND ISSUE THE CERTIFICATION REQUIRED  
5 IN SUBDIVISION ONE OF THIS SECTION.

6 3. FOR PURPOSES OF THIS SECTION:

7 A. "GREEN ROOF" MEANS ROOFING ON AN ELIGIBLE BUILDING THAT COVERS AT  
8 LEAST FIFTY PERCENT OF SUCH BUILDING'S ELIGIBLE ROOFTOP SPACE AND  
9 INCLUDES (1) A WEATHERPROOF AND WATERPROOF ROOFING MEMBRANE LAYER, (2) A  
10 ROOT BARRIER LAYER, (3) IF APPROPRIATE, AN INSULATION LAYER THAT  
11 COMPLIES WITH THE STATE ENERGY CONSERVATION CONSTRUCTION CODE, (4) A  
12 DRAINAGE LAYER THAT COMPLIES WITH THE STATE UNIFORM FIRE PREVENTION AND  
13 BUILDING CODE AND IS DESIGNED SO THE DRAINS CAN BE INSPECTED AND  
14 CLEANED, (5) A GROWTH MEDIUM, INCLUDING NATURAL OR SIMULATED SOIL, WITH  
15 A DEPTH OF AT LEAST TWO INCHES, (6) IF THE DEPTH OF THE GROWTH MEDIUM IS  
16 LESS THAN THREE INCHES, AN INDEPENDENT WATER HOLDING LAYER THAT IS  
17 DESIGNED TO PREVENT THE RAPID DRYING OUT OF SUCH MEDIUM MAY BE REQUIRED,  
18 UNLESS THE GREEN ROOF CONTAINS A SUFFICIENT PERCENTAGE OF DROUGHT  
19 RESISTANT PLANTS TO SURVIVE, AND (7) A VEGETATION LAYER COVERED BY LIVE  
20 PLANTS SUCH AS (I) SEDUM OR EQUALLY DROUGHT RESISTANT AND HARDY PLANT  
21 SPECIES, (II) NATIVE PLANT SPECIES, AND/OR (III) AGRICULTURAL PLANT  
22 SPECIES.

23 B. "ELIGIBLE BUILDING" MEANS A RESIDENTIAL BUILDING OR MIXED-USE  
24 BUILDING WITH RESIDENTIAL UNITS.

25 C. "ELIGIBLE ROOFTOP SPACE" MEANS THE TOTAL SPACE AVAILABLE ON AN  
26 ELIGIBLE BUILDING TO SUPPORT A GREEN ROOF.

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

29 (U) GREEN ROOF INSTALLATION CREDIT. (1) GENERAL. AN INDIVIDUAL TAXPAY-  
30 ER SHALL BE ALLOWED A CREDIT FOR TAXABLE YEARS BEGINNING ON OR AFTER  
31 JANUARY FIRST, TWO THOUSAND SIXTEEN AGAINST THE TAX IMPOSED BY THIS  
32 ARTICLE FOR THE INSTALLATION OF A QUALIFIED GREEN ROOF AS CERTIFIED  
33 PURSUANT TO SECTION 3-0308 OF THE ENVIRONMENTAL CONSERVATION LAW. THE  
34 AMOUNT OF THE CREDIT SHALL BE FIFTY-FIVE PERCENT OF QUALIFIED GREEN ROOF  
35 INSTALLATION EXPENDITURES, BUT SHALL NOT EXCEED THE MAXIMUM CREDIT OF  
36 FIVE THOUSAND DOLLARS.

37 (2) QUALIFIED GREEN ROOF INSTALLATION EXPENDITURES. (A) THE TERM  
38 "QUALIFIED GREEN ROOF INSTALLATION EXPENDITURES" MEANS EXPENDITURES FOR  
39 THE PURCHASE, CONSTRUCTION AND INSTALLATION OF A CERTIFIED GREEN ROOF,  
40 AS PROVIDED IN SECTION 3-0308 OF THE ENVIRONMENTAL CONSERVATION LAW,  
41 WHICH IS INSTALLED IN CONNECTION WITH RESIDENTIAL PROPERTY OR MIXED-USE  
42 PROPERTY, WHICH IS (I) LOCATED IN THIS STATE; (II) WHICH IS OWNED BY THE  
43 TAXPAYER; AND (III) WHICH IS USED BY THE TAXPAYER AS HIS OR HER PRINCIPAL  
44 RESIDENCE.

45 (B) SUCH QUALIFIED EXPENDITURES SHALL INCLUDE EXPENDITURES FOR PLANT  
46 MATERIAL, NATURAL OR SIMULATED SOIL IRRIGATION AND DRAINAGE SYSTEMS,  
47 ESTABLISHMENT OF ROOT SYSTEMS AND THE LABOR COSTS PROPERLY ALLOCABLE TO  
48 ON-SITE PREPARATION, ASSEMBLY AND ORIGINAL INSTALLATION, ARCHITECTURAL  
49 AND ENGINEERING SERVICES, PRE-INSTALLATION CRITERIA FOR INSTALLATION AND  
50 DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION  
51 OF THE QUALIFIED GREEN ROOF.

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

54 (3) GREEN ROOF PRE-INSTALLATION CRITERIA. THE TERM "GREEN ROOF  
55 PRE-INSTALLATION CRITERIA" MAY INCLUDE, BUT NOT BE LIMITED TO, CRITERIA  
56 SUCH AS GROWTH RATE AND DROUGHT TOLERANCE OF SELECTED PLANTS, APPROPRI-

1 ATE PLANT IRRIGATION, NUTRITIONAL AND MAINTENANCE REQUIREMENTS, GENER-  
2 ATION OF ALLERGENS AND THE POSSIBLE NEED FOR REMEDIAL AIR FILTRATION TO  
3 THE SUBJECT AND ADJACENT BUILDINGS AS PRESCRIBED IN ACCORDANCE WITH  
4 SECTION 3-0308 OF THE ENVIRONMENTAL CONSERVATION LAW.

5 (4) CONDOMINIUM/COOPERATIVE HOUSING. WHERE A QUALIFIED GREEN ROOF IS  
6 INSTALLED BY A CONDOMINIUM MANAGEMENT ASSOCIATION OR A COOPERATIVE HOUS-  
7 ING CORPORATION, A TAXPAYER WHO IS A MEMBER OF SUCH ASSOCIATION OR IS A  
8 TENANT-STOCKHOLDER MAY FOR THE PURPOSE OF THIS SUBSECTION CLAIM A  
9 PROPORTIONATE SHARE OF THE TOTAL EXPENSES AS EXPENDITURE FOR THE  
10 PURPOSES OF THE CREDIT ATTRIBUTABLE TO HIS OR HER PRINCIPAL RESIDENCE.

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

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

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

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

32 S 3. This act shall take effect immediately provided that section one  
33 of this act shall take effect on the one hundred eightieth day after it  
34 shall have become a law and that section two of this act shall apply to  
35 taxable years commencing on or after January 1, 2016; provided, however,  
36 that effective immediately, the addition, amendment and/or repeal of any  
37 rule or regulation necessary for the implementation of this act on its  
38 effective date is authorized and directed to be made and completed on or  
39 before such effective date.