STATE OF NEW YORK

5554--B

Cal. No. 1345

2019-2020 Regular Sessions

IN SENATE

May 6, 2019

Introduced by Sen. LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged and said bill committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the real property tax law, in relation to the green roof tax abatement

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 10 of section 499-aaa of the real property tax law, as amended by chapter 524 of the laws of 2013, is amended to read as follows:

10. "Green roof" shall mean an addition to a roof of an eligible building that covers at least fifty percent of such building's eligible rooftop space and includes (a) a weatherproof and waterproof roofing membrane layer that complies with local construction and fire codes, (b) a root barrier layer, (c) [~~an insulation layer that complies with the Energy Conservation Construction Code of New York state and local construction and fire codes, (d)~~] a drainage layer that complies with local construction and fire codes and is designed so the drains can be inspected and cleaned, **(d) a filter or separation fabric,** (e) a growth medium, including natural or simulated soil, with a depth of at least two inches, (f) if the depth of the growth medium is less than three inches, an independent water holding layer that is designed to prevent the rapid drying of the growth medium, such as a non-woven fabric, pad or foam mat or controlled flow roof drain, unless the green roof is certified not to need regular irrigation to maintain live plants, and

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

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(g) a vegetation layer, at least eighty percent of which must be covered by live plants such as (i) sedum or equally drought resistant and hardy plant species, (ii) native plant species, and/or (iii) agricultural plant species.

§ 2. Section 499-bbb of the real property tax law, as added by chapter 461 of the laws of 2008 and subdivision 1 as amended by chapter 524 of the laws of 2013, is amended to read as follows:

§ 499-bbb. Real property tax abatement. An eligible building shall receive an abatement of real property taxes as provided in this title and the rules promulgated hereunder.

1. (a) The amount of such tax abatement for any tax year commencing on or after July first, two thousand nine and ending on or before June thirtieth, two thousand fourteen 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 (i) one hundred thousand dollars or (ii) the tax liability for the eligible building in the tax year in which the tax abatement is taken.

(b) The total amount of such tax abatement [~~for any tax year~~] commencing on or after July first, two thousand fourteen and ending on or before June thirtieth, two thousand [~~nineteen~~] twenty-four, shall be five dollars and twenty-three 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 (i)~~] two hundred thousand dollars [~~or (ii) the tax liability for the eligible building in the tax year in which the tax abatement is taken~~]. To the extent the amount of such tax abatement exceeds the total tax liability in any tax year, any remaining amount may be applied to the tax liability in succeeding tax years, provided that such abatement must be applied within five years of the tax year in which the tax abatement was initially taken.

(c) Notwithstanding paragraph (b) of this subdivision, property located within specifically designated New York city community districts, selected by an agency designated by the mayor of the city of New York pursuant to subdivision five of this section, shall receive an enhanced tax abatement for any green roof with a growth medium with a depth of at least four inches. The total amount of such enhanced tax abatement commencing on or after July first, two thousand nineteen and ending on or before June thirtieth, two thousand twenty-four, shall be fifteen dollars per square foot of a green roof pursuant to an approved application for enhanced tax abatement: provided, however, that the amount of such enhanced tax abatement shall not exceed two hundred thousand dollars. To the extent the amount of such enhanced tax abatement exceeds the total tax liability in any tax year, any remaining amount may be applied to the tax liability in succeeding tax years, provided that such abatement must be applied within five years of the tax year in which the tax abatement was initially taken.

(d) Notwithstanding paragraph (b) or (c) of this subdivision, the aggregate amount of tax abatements allowed under this subdivision for the tax year commencing July first, two thousand fourteen and ending June thirtieth two thousand fifteen shall be a maximum of seven hundred fifty thousand dollars, and the aggregate amount of tax abatements allowed under this subdivision for any tax year commencing on or after July first, two thousand fifteen and ending on or before June thirtieth, two thousand [~~nineteen~~] twenty-four shall be a maximum of one million dollars. No tax abatements shall be allowed under this subdivision for

any tax year commencing on or after July first, two thousand [~~nineteen.~~] twenty-four.

(e) Such aggregate amount of tax abatements including enhanced tax abatements, shall be allocated by the department of finance on a pro rata basis among applicants whose applications have been approved by a designated agency. If such allocation is not made prior to the date that the real property tax bill, statement of account or other similar bill or statement is prepared, then the department of finance shall, as necessary, after such allocation is made, submit an amended real property tax bill, statement of account or other similar bill or statement to any applicant whose abatement must be adjusted to reflect such allocation. Nothing in this paragraph shall be deemed to affect the obligation of any taxpayer under applicable law with respect to the payment of any installment of real property tax for the fiscal year as to which such allocation is made, which was due and payable prior to the date such amended real property tax bills are sent, and the department of finance shall be authorized to determine the date on which amended bills are to be sent and the installments of real property tax which are to be reflected therein.

2. Such tax abatement shall commence on July first following the approval of an application for tax abatement by a designated agency[~~, and shall not exceed one year~~].

3. With respect to any eligible building held in the condominium form of ownership that receive a tax abatement pursuant to this title, such tax abatement benefits shall be apportioned among all of the condominium tax lots within such eligible building.

4. If, as a result of application to the tax commission or a court order or action by the department of finance, the billable assessed value for the fiscal year in which the tax abatement is taken is reduced after the assessment roll becomes final, the department of finance shall recalculate the abatement so that the abatement granted shall not exceed the annual tax liability as so reduced. The amount equal to the difference between the abatement originally granted and the abatement as so recalculated shall be deducted from any refund otherwise payable or remission otherwise due as a result of such reduction in billable assessed value.

5. Buildings located within specifically designated New York city community districts, as identified by an agency designated by the mayor of the city of New York, shall be eligible for the enhanced tax abatement described in paragraph (c) of subdivision one of this section. No building located outside of a designated area shall be eligible to receive an enhanced abatement. An agency designated by the mayor of the city of New York shall select community districts on a rolling basis over a period of three years. In selecting community districts, such agency shall prioritize areas in the priority combined sewage overflow tributary areas identified by the city of New York, with particular emphasis on those portions of such city that have been identified by an agency designated by the mayor of such city as lacking green space.

§ 3. Subdivision 1 of section 499-ccc of the real property tax law, as amended by chapter 524 of the laws of 2013, is amended to read as follows:

1. To obtain a tax abatement pursuant to this title, an applicant must file an application for tax abatement, which may be filed on or after January first, two thousand nine, and on or before March fifteenth, two thousand [~~eighteen~~] twenty-three.

§ 4. This act shall take effect June 30, 2019; provided, however, that if this act shall have become a law after such date, this act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 30, 2019.