

# STATE OF NEW YORK

4740--A

2019-2020 Regular Sessions

## IN ASSEMBLY

February 5, 2019

Introduced by M. of A. ROZIC, LENTOL -- read once and referred to the Committee on Real Property Taxation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Subdivision 10 of section 499-aaa of the real property tax  
2 law, as amended by chapter 524 of the laws of 2013, is amended to read  
3 as follows:  
4 10. "Green roof" shall mean an addition to a roof of an eligible  
5 building that covers at least fifty percent of such building's eligible  
6 rooftop space and includes (a) a weatherproof and waterproof roofing  
7 membrane layer that complies with local construction and fire codes, (b)  
8 a root barrier layer, (c) ~~[an insulation layer that complies with the~~  
9 ~~Energy Conservation Construction Code of New York state and local~~  
10 ~~construction and fire codes, (d)]~~ a drainage layer that complies with  
11 local construction and fire codes and is designed so the drains can be  
12 inspected and cleaned, (d) a filter or separation fabric, (e) a growth  
13 medium, including natural or simulated soil, with a depth of at least  
14 [~~two~~] four inches, [~~(f) if the depth of the growth medium is less than~~  
15 ~~three inches, an independent water holding layer that is designed to~~  
16 ~~prevent the rapid drying of the growth medium, such as a non-woven~~  
17 ~~fabric, pad or foam mat or controlled flow roof drain, unless the green~~  
18 ~~roof is certified not to need regular irrigation to maintain live~~  
19 ~~plants, and (g)] and (f) a vegetation layer, at least eighty percent of  
20 which must be covered by live plants such as (i) sedum or equally  
21 drought resistant and hardy plant species, (ii) native plant species,  
22 and/or (iii) agricultural plant species.~~

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

LBD07591-08-9

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

4 § 499-bbb. Real property tax abatement. An eligible building shall  
5 receive an abatement of real property taxes as provided in this title  
6 and the rules promulgated hereunder.

7 1. (a) The amount of such tax abatement for any tax year commencing on  
8 or after July first, two thousand nine and ending on or before June  
9 thirtieth, two thousand fourteen shall be four dollars and fifty cents  
10 per square foot of a green roof pursuant to an approved application for  
11 tax abatement; provided, however, that the amount of such tax abatement  
12 shall not exceed the lesser of (i) one hundred thousand dollars or (ii)  
13 the tax liability for the eligible building in the tax year in which the  
14 tax abatement is taken.

15 (b) The total amount of such tax abatement [~~for any tax year~~] commencing  
16 on or after July first, two thousand fourteen and ending on or  
17 before June thirtieth, two thousand [~~nineteen~~] twenty-four, shall be  
18 five dollars and twenty-three cents per square foot of a green roof  
19 pursuant to an approved application for tax abatement; provided, howev-  
20 er, that the amount of such tax abatement shall not exceed [~~the lesser~~  
21 ~~of (i)~~] two hundred thousand dollars [~~or (ii) the tax liability for the~~  
22 ~~eligible building in the tax year in which the tax abatement is taken~~].  
23 To the extent the amount of such tax abatement exceeds the total tax  
24 liability in any tax year, any remaining amount may be applied to the  
25 tax liability in succeeding tax years, provided that such abatement must  
26 be applied within five years of the tax year in which the tax abatement  
27 was initially taken.

28 (c) Notwithstanding paragraph (b) of this subdivision, property  
29 located within specifically designated New York city community  
30 districts, selected by an agency designated by the mayor of the city of  
31 New York pursuant to subdivision five of this section, shall receive an  
32 enhanced tax abatement. The total amount of such enhanced tax abatement  
33 commencing on or after July first, two thousand nineteen and ending on  
34 or before June thirtieth, two thousand twenty-four, shall be fifteen  
35 dollars per square foot of a green roof pursuant to an approved applica-  
36 tion for enhanced tax abatement: provided, however, that the amount of  
37 such enhanced tax abatement shall not exceed two hundred thousand  
38 dollars. To the extent the amount of such enhanced tax abatement exceeds  
39 the total tax liability in any tax year, any remaining amount may be  
40 applied to the tax liability in succeeding tax years, provided that such  
41 abatement must be applied within five years of the tax year in which the  
42 tax abatement was initially taken.

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

54 (e) Such aggregate amount of tax abatements including enhanced tax  
55 abatements, shall be allocated by the department of finance on a pro  
56 rata basis among applicants whose applications have been approved by a

1 designated agency. If such allocation is not made prior to the date that  
2 the real property tax bill, statement of account or other similar bill  
3 or statement is prepared, then the department of finance shall, as  
4 necessary, after such allocation is made, submit an amended real proper-  
5 ty tax bill, statement of account or other similar bill or statement to  
6 any applicant whose abatement must be adjusted to reflect such allo-  
7 cation. Nothing in this paragraph shall be deemed to affect the obli-  
8 gation of any taxpayer under applicable law with respect to the payment  
9 of any installment of real property tax for the fiscal year as to which  
10 such allocation is made, which was due and payable prior to the date  
11 such amended real property tax bills are sent, and the department of  
12 finance shall be authorized to determine the date on which amended bills  
13 are to be sent and the installments of real property tax which are to be  
14 reflected therein.

15 2. Such tax abatement shall commence on July first following the  
16 approval of an application for tax abatement by a designated agency[~~7~~  
17 ~~and shall not exceed one year~~].

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

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

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

45 § 3. Subdivision 1 and paragraph (c) of subdivision 3 of section 499-  
46 ccc of the real property tax law, subdivision 1 as amended by chapter  
47 524 of the laws of 2013 and paragraph (c) of subdivision 3 as added by  
48 chapter 461 of the laws of 2008, are amended to read as follows:

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

53 (c) Certifications, in a form prescribed by a designated agency, from  
54 an engineer or architect or other certified or licensed professional  
55 whom a designated agency designates by rule (i) of eligible roof top  
56 space, (ii) that a green roof has been constructed on an eligible build-

1 ing in accordance with this title, the rules promulgated hereunder, and  
2 local construction and fire codes, **and** (iii) that a structural analysis  
3 of such building has been performed establishing that the building can  
4 sustain the load of the green roof in a fully saturated condition[~~, and~~  
5 ~~(iv) pursuant to paragraph (f) of subdivision ten of section four~~  
6 ~~hundred ninety nine aaa of this title, if required~~]. All certifications  
7 required by this title or the rules hereunder shall set forth the  
8 specific findings upon which the certification is based, and shall  
9 include information sufficient to identify the eligible building, the  
10 certifying engineer, architect or other professional, and such other  
11 information as may be prescribed by a designated agency.  
12 § 4. This act shall take effect immediately and shall be deemed to  
13 have been in full force and effect on and after June 30, 2019.