

# STATE OF NEW YORK

4740--B

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 -- reported and referred to the Committee on Rules -- reported and referred to the Committee on Ways and Means -- 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 inches, (f) if the depth of the growth medium is less than three  
15 inches, an independent water holding layer that is designed to prevent  
16 the rapid drying of the growth medium, such as a non-woven fabric, pad  
17 or foam mat or controlled flow roof drain, unless the green roof is  
18 certified not to need regular irrigation to maintain live plants, and  
19 (g) a vegetation layer, at least eighty percent of which must be covered  
20 by live plants such as (i) sedum or equally drought resistant and hardy  
21 plant species, (ii) native plant species, and/or (iii) agricultural  
22 plant species.

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

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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 for any green roof with a growth medium with a  
33 depth of at least four inches. The total amount of such enhanced tax  
34 abatement commencing on or after July first, two thousand nineteen and  
35 ending on or before June thirtieth, two thousand twenty-four, shall be  
36 fifteen dollars per square foot of a green roof pursuant to an approved  
37 application for enhanced tax abatement: provided, however, that the  
38 amount of such enhanced tax abatement shall not exceed two hundred thou-  
39 sand dollars. To the extent the amount of such enhanced tax abatement  
40 exceeds the total tax liability in any tax year, any remaining amount  
41 may be applied to the tax liability in succeeding tax years, provided  
42 that such abatement must be applied within five years of the tax year in  
43 which the tax abatement was initially taken.

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

55 (e) Such aggregate amount of tax abatements including enhanced tax  
56 abatements, shall be allocated by the department of finance on a pro

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

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

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

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

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

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

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

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