

# STATE OF NEW YORK

6901--A

2023-2024 Regular Sessions

## IN ASSEMBLY

May 8, 2023

Introduced by M. of A. ROZIC, DICKENS, EPSTEIN, SIMONE, COLTON, ZINERMAN, REYES -- 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 raising the tax abatement rate and extending certain deadlines for purposes of the green roof tax abatement for certain properties in a city of one million or more persons

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 79 of the laws of 2019, is amended to read as  
3 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) a drainage layer that complies with local  
9 construction and fire codes and is designed so the drains can be  
10 inspected and cleaned, (d) a filter or separation fabric, (e) a growth  
11 medium, including natural or simulated soil, with a depth of at least  
12 [~~two~~] one and one-half inches, (f) if the depth of the growth medium is  
13 less than three inches, an independent water holding layer that is  
14 designed to prevent the rapid drying of the growth medium, such as a  
15 non-woven fabric, pad or foam mat [~~or controlled flow roof drain, unless~~  
16 ~~the green roof is certified not to need regular irrigation to maintain~~  
17 ~~live plants~~], and (g) a vegetation layer, at least eighty percent of  
18 which must be covered by live plants such as (i) sedum or equally  
19 drought resistant and hardy plant species, (ii) native plant species,  
20 and/or (iii) agricultural plant species.

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

LBD07437-03-3

1 § 2. Subdivision 1 of section 499-bbb of the real property tax law, as  
2 amended by chapter 79 of the laws of 2019, is amended to read as  
3 follows:

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

12 (b) The total amount of such tax abatement commencing on or after July  
13 first, two thousand fourteen and ending on or before June thirtieth, two  
14 thousand [~~twenty-four~~] twenty-seven, shall be [~~five~~] ten dollars [~~and~~  
15 ~~twenty-three cents~~] per square foot of a green roof pursuant to an  
16 approved application for tax abatement; provided, however, that the  
17 amount of such tax abatement shall not exceed two hundred thousand  
18 dollars. To the extent the amount of such tax abatement exceeds the  
19 total tax liability in any tax year, any remaining amount may be applied  
20 to the tax liability in succeeding tax years, provided that such abate-  
21 ment must be applied within five years of the tax year in which the tax  
22 abatement was initially taken.

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

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

50 (e) Such aggregate amount of tax abatements including enhanced tax  
51 abatements, shall be allocated by the department of finance on a [~~pro~~  
52 ~~rata~~] first come first serve basis among applicants whose applications  
53 have been approved by a designated agency. If such allocation is not  
54 made prior to the date that the real property tax bill, statement of  
55 account or other similar bill or statement is prepared, then the depart-  
56 ment of finance shall, as necessary, after such allocation is made,

1 submit an amended real property tax bill, statement of account or other  
2 similar bill or statement to any applicant whose abatement must be  
3 adjusted to reflect such allocation. Nothing in this paragraph shall be  
4 deemed to affect the obligation of any taxpayer under applicable law  
5 with respect to the payment of any installment of real property tax for  
6 the fiscal year as to which such allocation is made, which was due and  
7 payable prior to the date such amended real property tax bills are sent,  
8 and the department of finance shall be authorized to determine the date  
9 on which amended bills are to be sent and the installments of real prop-  
10 erty tax which are to be reflected therein.

11 § 3. Subdivision 1 and paragraph (c) of subdivision 3 of section 499-  
12 ccc of the real property tax law, subdivision 1 as amended by chapter 79  
13 of the laws of 2019 and paragraph (c) of subdivision 3 as added by chap-  
14 ter 461 of the laws of 2008, are amended to read as follows:

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

19 (c) Certifications, in a form prescribed by a designated agency, from  
20 an engineer or architect or other certified or licensed professional  
21 whom a designated agency designates by rule (i) [~~of eligible roof top~~  
22 ~~space, (ii)~~] that a green roof has been constructed on an eligible  
23 building in accordance with this title, the rules promulgated hereunder,  
24 and local construction and fire codes, [~~(iii)~~] (ii) that a structural  
25 analysis of such building has been performed establishing that the  
26 building can sustain the load of the green roof in a fully saturated  
27 condition, and [~~(iv)~~] (iii) pursuant to paragraph (f) of subdivision ten  
28 of section four hundred ninety-nine-aaa of this title, if required. All  
29 certifications required by this title or the rules hereunder shall set  
30 forth the specific findings upon which the certification is based, and  
31 shall include information sufficient to identify the eligible building,  
32 the certifying engineer, architect or other professional, and such other  
33 information as may be prescribed by a designated agency.

34 § 4. This act shall take effect immediately.