STATE OF NEW YORK

6409

2023-2024 Regular Sessions

IN SENATE

April 18, 2023

Introduced by Sen. LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to eligibility requirements, 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:

Section 1. Subdivisions 7 and 10 of section 499-aaa of the real property tax law, subdivision 7 as added by chapter 461 of the laws of 2008 and subdivision 10 as amended by chapter 79 of the laws of 2019, are amended to read as follows:

7. "Eligible building" shall mean a class one, class two or class four real property, as defined in subdivision one of section eighteen hundred two of this chapter, located within a city having a population of one million or more persons. [~~No building shall be eligible for more than one tax abatement pursuant to this title.~~]

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) 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~~] **one and one-half** 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 (g) a vegetation layer, at least eighty percent of

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

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

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 commencing on or after July first, two thousand fourteen and ending on or before June thirtieth, two thousand [~~twenty-four~~] twenty-seven, shall be [~~five~~] ten 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 two hundred thousand dollars. 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~~] twenty-seven, 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 [~~twenty-four~~] twenty-seven shall be a maximum of [~~one~~] ten million dollars. No tax abatements shall be allowed under this subdivision for any tax year commencing on or after July first, two thousand [~~twenty-four~~] twenty-seven.

(e) Such aggregate amount of tax abatements including enhanced tax abatements, shall be allocated by the department of finance on a [~~pro rata~~] first come first serve 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.

§ 3. Subdivision 1 and paragraph (c) of subdivision 3 of section 499-ccc of the real property tax law, subdivision 1 as amended by chapter 79 of the laws of 2019 and paragraph (c) of subdivision 3 as added by chapter 461 of the laws of 2008, are 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 [~~twenty-three~~] **twenty-six**.

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

§ 4. This act shall take effect immediately.