

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 490 Session of 2011

INTRODUCED BY M. SMITH, BRENNAN, CALTAGIRONE, CARROLL, D. COSTA, HARKINS, KORTZ, LONGIETTI, M. O'BRIEN, PAYTON, PETRARCA, PYLE, SCAVELLO, K. SMITH, STURLA, SWANGER, WAGNER, YOUNGBLOOD, FABRIZIO, BRIGGS AND BRADFORD, FEBRUARY 4, 2011

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 4, 2011

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," authorizing the green roof tax credit.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
14 the Tax Reform Code of 1971, is amended by adding an article to  
15 read:

16 ARTICLE XIX-B

17 GREEN ROOF TAX CREDIT

18 Section 1901-B. Scope of article.

19 This article relates to green roof tax credits.

20 Section 1902-B. Definitions.

21 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Department." The Department of Revenue of the Commonwealth.

4 "Eligible rooftop space." The total space available to  
5 support a green roof, as certified by a structural engineer.

6 "Green roof." An addition to a roof that supports living  
7 vegetation and includes a synthetic, high-quality waterproof  
8 membrane, drainage layer, soil layer and lightweight medium  
9 plants.

10 "Tax credit." The green roof tax credit.

11 "Tax liability." For a taxpayer who is an individual, taxes  
12 imposed under Article III and for all other taxpayers, taxes  
13 imposed under Articles III, IV and VI.

14 Section 1903-B. Application.

15 A business or individual seeking a tax credit must file an  
16 application with the department that includes the following:

17 (1) The address location of the proposed green roof.

18 (2) The total square footage of the rooftop.

19 (3) The total square footage of the eligible rooftop  
20 space.

21 (4) The total square footage of the proposed green roof.

22 (5) The total projected costs to construct the green  
23 roof.

24 (6) Proof that the applicant has received all required  
25 permits and approvals to construct the green roof, after  
26 first submitting to the local building code official the  
27 plans for the green roof and a written analysis conducted by  
28 a roof engineer that confirms and certifies the following:

29 (i) The condition of the roof is satisfactory for  
30 green roof construction.

1           (ii) The structural capacity of the roof would  
2           support the proposed green roof.

3           (iii) There is appropriate and safe access to the  
4           roof for maintenance purposes.

5           (iv) The weight of the proposed green roof is  
6           appropriate for the roof.

7           (v) The plans include appropriate irrigation and  
8           drainage measures.

9   Section 1904-B. Commitment agreement.

10   The department shall approve an application for a tax credit  
11   if it contains all of the required information. After approval,  
12   the applicant must execute a commitment agreement with the  
13   department setting forth the following:

14           (1) The plans for the green roof, as approved by the  
15           local building code official, which plans must provide for a  
16           green roof covering at least 50% of the building's rooftop or  
17           75% of eligible rooftop space.

18           (2) The total projected costs for the construction of  
19           the green roof.

20           (3) The maximum tax credit the applicant may claim.

21           (4) The applicant's commitment to maintain the green  
22           roof for a period of five years after the date of its  
23           completion and the applicant's acknowledgment that if the  
24           taxpayer claims a tax credit and fails to incur the amount of  
25           qualified construction or maintenance costs for a green roof  
26           in that taxable year, the taxpayer shall repay to the  
27           Commonwealth the amount of the tax credit claimed under this  
28           article for the green roof.

29   Section 1905-B. Certification and credit.

30   (a) General rule.--After the applicant and the department

1 have executed a commitment agreement, and upon certifying to the  
2 department the total costs actually incurred and proof of  
3 completion of the green roof in accordance with the plans set  
4 forth in the commitment agreement, the applicant may claim a  
5 credit against the tax liability of the applicant equal to 25%  
6 of all costs initially incurred to construct the green roof and  
7 for maintenance in the years after.

8 (b) Limitations.--

9 (1) The amount of tax credits awarded to an individual  
10 or business may not exceed \$100,000 in any fiscal year.

11 (2) The tax credit shall be applied against the  
12 applicant's total tax liability subject to the tax credit for  
13 the fiscal year during which the applicant certifies the  
14 completion of the green roof.

15 (3) Any unused credits may be carried forward until  
16 fully used.

17 (4) The credit is not a refundable credit.

18 (5) The credit is nontransferable.

19 Section 1906-B. Repayment of tax credits.

20 A business or individual that has received and taken the  
21 credit must repay the credit to the Commonwealth if it fails to  
22 maintain the green roof in accordance with the provisions of the  
23 commitment agreement.

24 Section 2. This act shall take effect in 60 days.