



Substitute Senate Bill No. 1033

Public Act No. 09-202

AN ACT ESTABLISHING A TAX CREDIT FOR GREEN BUILDINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2009, and applicable to income years commencing on or after January 1, 2012*) (a) As used in this section:

(1) "Allowable costs" means the amounts chargeable to a capital account, including, but not limited to: (A) Construction or rehabilitation costs; (B) commissioning costs; (C) architectural and engineering fees allocable to construction or rehabilitation, including energy modeling; (D) site costs, such as temporary electric wiring, scaffolding, demolition costs and fencing and security facilities; and (E) costs of carpeting, partitions, walls and wall coverings, ceilings, lighting, plumbing, electrical wiring, mechanical, heating, cooling and ventilation but "allowable costs" does not include the purchase of land, any remediation costs or the cost of telephone systems or computers;

(2) "Brownfield" has the same meaning as in subsection (g) of section 32-9cc of the general statutes;

(3) "Eligible project" means a real estate development project that is designed to meet or exceed the applicable LEED Green Building Rating System gold certification or other certification determined by

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the Commissioner of Environmental Protection to be equivalent but if a single project has more than one building, "eligible project" means only the building or buildings within such project that is designed to meet or exceed the applicable LEED Green Building Rating System gold certification or other certification determined by the Commissioner of Environmental Protection to be equivalent;

(4) "Energy Star" means the voluntary labeling program administered by the United States Environmental Protection Agency designed to identify and promote energy-efficient products, equipment and buildings;

(5) "Enterprise zone" means an area in a municipality designated by the Commissioner of Economic and Community Development as an enterprise zone in accordance with the provisions of section 32-70 of the general statutes;

(6) "LEED Accredited Professional Program" means the professional accreditation program for architects, engineers and other building professionals as administered by the United States Green Building Council;

(7) "LEED Green Building Rating System" means the Leadership in Energy and Environmental Design green building rating system developed by the United States Green Building Council as of the date that the project is registered with the United States Green Building Council;

(8) "Mixed-use development" means a development consisting of one or more buildings that includes residential use and in which no more than seventy-five per cent of the interior square footage has at least one of the following uses: (A) Commercial use; (B) office use; (C) retail use; or (D) any other nonresidential use that the Secretary of the Office of Policy and Management determines does not pose a public

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health threat or nuisance to nearby residential areas;

(9) "Secretary" means the Secretary of the Office of Policy and Management; and

(10) "Site improvements" means any construction work on, or improvement to, streets, roads, parking facilities, sidewalks, drainage structures and utilities.

(b) For income years commencing on and after January 1, 2012, there shall be allowed a credit for all taxpayers against any tax due under the provisions of chapter 207, 208, 209, 210, 212 or 229 of the general statutes for the construction or renovation of an eligible project that meets the requirements of subsection (c) of this section, and, in the case of a newly constructed building, for which a certificate of occupancy has been issued not earlier than January 1, 2010.

(c) (1) To be eligible for a tax credit under this section a project shall: (A) Not have energy use that exceeds (i) seventy per cent of the energy use permitted by the state building code for new construction, or (ii) eighty per cent of the energy use permitted by the state energy code for renovation or rehabilitation of a building; and (B) use equipment and appliances that meet Energy Star standards, if applicable, including, but not limited to, refrigerators, dishwashers and washing machines.

(2) The credit shall be equivalent to a base credit as follows: (A) For new construction or major renovation of a building but not other site improvements certified by the LEED Green Building Rating System or other system determined by the Commissioner of Environmental Protection to be equivalent, (i) eight per cent of allowable costs for a gold rating or other rating determined by the Commissioner of Environmental Protection to be equivalent, and (ii) ten and one-half per cent of allowable costs for a platinum rating or other rating

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determined by the Commissioner of Environmental Protection to be equivalent; and (B) for core and shell or commercial interior projects, (i) five per cent of allowable costs for a gold rating or other rating determined by the Commissioner of Environmental Protection to be equivalent, and (ii) seven per cent of allowable costs for a platinum rating or other rating determined by the Commissioner of Environmental Protection to be equivalent. There shall be added to the base credit one-half of one per cent of allowable costs for a development project that is (I) a mixed-use development, (II) located in a brownfield or enterprise zone, (III) does not require a sewer extension of more than one-eighth of a mile, or (IV) located within one-quarter of a mile walking distance of publicly available bus transit service or within one-half of a mile walking distance of adequate rail, light rail, streetcar or ferry transit service, provided, if a single project has more than one building, at least one building shall be located within either such distance. Allowable costs shall not exceed two hundred fifty dollars per square foot for new construction or one hundred fifty dollars for renovation or rehabilitation of a building.

(d) (1) The Secretary of the Office of Policy and Management shall issue an initial credit voucher upon determination that the applicant is likely, within a reasonable time, to place in service property qualifying for a credit under this section. Such voucher shall state: (A) The first taxable year for which the credit may be claimed, (B) the maximum amount of credit allowable, and (C) the expiration date by which such property shall be placed in service. The expiration date may be extended at the discretion of the secretary. Such voucher shall reserve the credit allowable for the applicant named in the application until the expiration date. If the expiration date is extended, the reservation of the tax credit may also be extended at the discretion of the secretary.

(2) The aggregate amount of all tax credits in initial credit vouchers issued by the secretary shall not exceed twenty-five million dollars.

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(3) For each income year for which a taxpayer claims a credit under this section, the taxpayer shall obtain an eligibility certificate from an architect or professional engineer licensed to practice in this state and accredited through the LEED Accredited Professional Program or other program determined by the Commissioner of Environmental Protection to be equivalent. Such certificate shall consist of a certification, under the seal of such architect or engineer, that the building, base building or tenant space with respect to which the credit is claimed, meets or exceeds the applicable LEED Green Building Rating System gold certification, or other certification determined by the Commissioner of Environmental Protection to be equivalent in effect at the time such certification is made. Such certification shall set forth the specific findings upon which the certification is based and shall state that the architect or engineer is accredited through the LEED Accredited Professional Program or other program determined by the Commissioner of Environmental Protection to be equivalent.

(4) To obtain the credit, the taxpayer shall file the initial credit voucher described in subdivision (1) of this subsection, the eligibility certificate described in subdivision (3) of this subsection and an application to claim the credit with the Commissioner of Revenue Services. The commissioner shall approve the claim upon determination that the taxpayer has submitted the voucher and certification required under this subdivision. The applicant shall send a copy of all such documents to the secretary.

(e) (1) A taxpayer may claim not more than a total of twenty-five per cent of allowable costs in any income year, and any percentage of tax credit that the taxpayer would otherwise be entitled to in accordance with subsection (c) of this section may be carried forward for a period of not more than five years.

(2) Tax credits are fully assignable and transferable. A project owner, including, but not limited to, a nonprofit or institutional project

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organization, may transfer a tax credit to a pass-through partner in return for a lump sum cash payment.

(f) Notwithstanding any provision of the general statutes, any subsequent successor in interest to the property that is eligible for a credit in accordance with subsection (c) of this section may claim such credit if the deed transferring the property assigns the subsequent successor such right, unless the deed specifies that the seller shall retain the right to claim such credit. Any subsequent tenant of a building for which a credit was granted to a taxpayer pursuant to this section may claim the credit for the period after the termination of the previous tenancy that such credit would have been allowable to the previous tenant.

(g) The Secretary of the Office of Policy and Management shall establish a uniform application fee, in an amount not to exceed ten thousand dollars, which shall cover all direct costs of administering the tax credit program established pursuant to this section. Said secretary may hire a private consultant or outside firm to administer and review applications for said program.

Sec. 2. (NEW) (*Effective July 1, 2009*) Not later than January 1, 2011, the Secretary of the Office of Policy and Management, in consultation with the Commissioner of Revenue Services, shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, as necessary to implement the provisions of section 1 of this act.

Sec. 3. (*Effective July 1, 2009*) On or before July 1, 2013, the Secretary of the Office of Policy and Management, in consultation with the Commissioner of Revenue Services, shall prepare and submit to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and finance, revenue and bonding, a written report containing (1) the number of taxpayers applying for the credits provided in section 1 of

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this act; (2) the amount of such credits granted; (3) the geographical distribution of such credits granted; and (4) any other information the secretary deemed appropriate. A preliminary draft of the report shall be submitted on or before July 1, 2012, to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and finance, revenue and bonding. Such reports shall be submitted in accordance with the provisions of section 11-4a of the general statutes.

Vetoed July 9, 2009