



General Assembly

January Session, 2009

Raised Bill No. 1033

LCO No. 3531

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Referred to Committee on Planning and Development

Introduced by:
(PD)

AN ACT ESTABLISHING A TAX CREDIT FOR GREEN BUILDINGS.

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

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

3 (1) "Allowable costs" means the amounts chargeable to a capital
4 account, including, but not limited to: (A) Construction or
5 rehabilitation costs; (B) commissioning costs; (C) interest paid during
6 the construction or rehabilitation period; (D) legal, architectural,
7 engineering and other professional fees allocable to construction or
8 rehabilitation, including energy modeling; (E) closing costs for
9 construction or mortgage loans; (F) recording taxes and filing fees for
10 construction or rehabilitation; (G) site costs, such as temporary electric
11 wiring, scaffolding, demolition costs and fencing and security facilities;
12 and (H) costs of carpeting, partitions, walls and wall coverings,
13 ceilings, lighting, plumbing, electrical wiring, mechanical, heating,
14 cooling and ventilation but "allowable costs" does not include the
15 purchase of land, any remediation costs or the cost of telephone
16 systems or computers;

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

19 (3) "Eligible project" means a real estate development project located
20 in the state that is designed to meet or exceed the applicable LEED
21 Green Building Rating System gold certification and located within
22 one-quarter of a mile walking distance of publicly available bus transit
23 service or within one-half of a mile walking distance of adequate rail,
24 light rail, streetcar or ferry transit service; provided if a single project
25 comprises more than one building, "eligible project" means only that
26 building or buildings within such project that is designed to meet or
27 exceed the applicable LEED Green Building Rating System gold
28 certification and located within one-quarter of a mile walking distance
29 of publicly available bus transit service or within one-half of a mile
30 walking distance of adequate rail, light rail, streetcar or ferry transit
31 service;

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

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

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

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

48 Council;

49 (8) "Mixed-use development" means a development of one or more
50 buildings that includes residential use and no more than seventy-five
51 per cent of interior square footage with one or more of the following
52 uses: (A) Commercial space; (B) office space; (C) retail space; or (D)
53 any other nonresidential use that the Office of Policy and Management
54 has determined does not pose a public health threat or nuisance to
55 nearby residential areas;

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

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

61 (b) For income years commencing on and after January 1, 2012,
62 there shall be allowed a credit for all taxpayers against any tax due
63 under the provisions of chapter 207, 208, 209, 210, 212 or 229 of the
64 general statutes for the construction or renovation of an eligible project
65 that meets the requirements of subsection (c) of this section, and, in the
66 case of a newly constructed building, for which a certificate of
67 occupancy has been issued not earlier than January 1, 2010. The
68 amount of the credit shall not exceed twenty-five million dollars in the
69 aggregate for the duration of the program.

70 (c) (1) To be eligible for a tax credit under this section any project
71 shall: (A) Not require a sewer extension of more than one-eighth of a
72 mile, (B) not have energy use exceeding the energy use permitted by
73 the state energy code by (i) seventy per cent for new construction, or
74 (ii) eighty per cent for renovation of a building, and (C) use equipment
75 and appliances that meet Energy Star standards, if applicable,
76 including, but not limited to, refrigerators, dishwashers and washing
77 machines.

78 (2) The credit shall be equivalent to a base credit as follows: (A) for
79 new construction or major renovation of a building but not other site
80 improvements certified by the LEED Green Building Rating System, (i)
81 eight per cent of allowable costs for a gold rating, and (ii) ten and one-
82 half per cent of allowable costs for a platinum rating, (B) for core and
83 shell or commercial interior projects, (i) five per cent of allowable costs
84 for a gold rating, and (ii) seven per cent of allowable costs for a
85 platinum rating, (C) for a mixed-use development, one-half of one per
86 cent of allowable costs, and (D) for development in a brownfield or
87 enterprise zone, one-half of one per cent of allowable costs.

88 (d) (1) The Secretary of the Office of Policy and Management shall
89 issue an initial credit certificate if the secretary determines that the
90 applicant is likely, within a reasonable time, to place in service
91 property which would warrant the allowance of a credit under this
92 section. Such certificate shall state: (A) The first taxable year for which
93 the credit may be claimed, (B) the maximum amount of credit
94 allowable, and (C) an expiration date by which such property must be
95 placed in service, which expiration date may be extended at the
96 discretion of the secretary. Such certificate shall reserve the credit
97 allowable for the applicant named in the application until the
98 expiration date. The reservation of the tax credit may be extended at
99 the discretion of the secretary.

100 (2) No initial credit certificates in the aggregate for more than
101 twenty-five million dollars shall be issued by the secretary.

102 (3) For each income year for which a taxpayer claims a credit under
103 this section, the taxpayer shall obtain an eligibility certificate from an
104 architect or professional engineer licensed to practice in this state and
105 accredited through the LEED Accredited Professional Program. Such
106 certificate shall consist of a certification, under the seal of such
107 architect or engineer, that the building, base building or tenant space
108 with respect to which the credit is claimed, meets or exceeds the
109 applicable LEED Green Building Rating System gold certification in

110 effect at the time such certification is made. Such certification shall set
111 forth the specific findings upon which the certification is based and
112 shall state that the architect or engineer is accredited through the LEED
113 Accredited Professional Program.

114 (4) To obtain the credit, the taxpayer shall file the initial credit
115 certificate described in subdivision (1) of subsection (d) of this section,
116 the eligibility certificate described in subdivision (2) of said subsection
117 (d) and an application to claim the credit with the Commissioner of the
118 Department of Revenue Services. The applicant shall send a copy of all
119 such documents to the secretary.

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

125 (2) Any credit allowed pursuant to this section may be sold,
126 assigned or otherwise transferred to one or more taxpayers. If an
127 applicant sells, assigns or otherwise transfers such credit, the
128 transferor and transferee shall jointly submit written notification of
129 such transfer to the Commissioner of Revenue Services not later than
130 thirty days after such transfer. The notification shall include any
131 information required by said commissioner. Failure to comply with
132 this subdivision shall result in a disallowance of such credit until there
133 is full compliance by the transferor and transferee.

134 (f) Notwithstanding any provision of the general statutes, any
135 subsequent successor in interest to the property that is eligible for a
136 credit in accordance with subsection (c) of this section may claim such
137 credit if the deed transferring the property assigns the subsequent
138 successor such right, unless the deed specifies that the seller shall
139 retain the right to claim such credit. Any subsequent tenant of a
140 building for which a credit was granted to a taxpayer pursuant to this
141 section may claim the credit for the period after the termination of the

142 previous tenancy that such credit would have been allowable to the
 143 previous tenant.

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

149 Sec. 3. (*Effective July 1, 2009*) On or before July 1, 2013, the Secretary
 150 of the Office of Policy and Management, in consultation with the
 151 Commissioner of the Department of Revenue Services, shall prepare
 152 and submit to the Governor and the joint standing committees of the
 153 General Assembly having cognizance of matters relating to planning
 154 and development and to finance, revenue and bonding, a written
 155 report containing (1) the number of taxpayers applying for the credits
 156 provided in section 1 of this act; (2) the amount of such credits granted;
 157 (3) the geographical distribution of such credits granted; and (4) any
 158 other information deemed appropriate. A preliminary draft of the
 159 report shall be submitted on or before July 1, 2012, to the Governor and
 160 the joint standing committees of the General Assembly having
 161 cognizance of matters relating to planning and development and to
 162 finance, revenue and bonding. Such reports shall be submitted in
 163 accordance with the provisions of section 11-4a of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009, and applicable to income years commencing on or after January 1, 2012</i>	New section
Sec. 2	<i>July 1, 2009</i>	New section
Sec. 3	<i>July 1, 2009</i>	New section

Statement of Purpose:

To establish a tax credit for projects that meet or exceed LEED Green Building Rating System Certification.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]