



General Assembly

Substitute Bill No. 1033

January Session, 2009

* SB01033PD 031709 *

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) architectural and
6 engineering fees allocable to construction or rehabilitation, including
7 energy modeling; (D) site costs, such as temporary electric wiring,
8 scaffolding, demolition costs and fencing and security facilities; and (E)
9 costs of carpeting, partitions, walls and wall coverings, ceilings,
10 lighting, plumbing, electrical wiring, mechanical, heating, cooling and
11 ventilation but "allowable costs" does not include the purchase of land,
12 any remediation costs or the cost of telephone systems or computers;

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

15 (3) "Eligible project" means a real estate development project that is
16 designed to meet or exceed the applicable LEED Green Building
17 Rating System gold certification or other certification determined by
18 the Commissioner of Environmental Protection to be equivalent but if
19 a single project has more than one building, "eligible project" means
20 only the building or buildings within such project that is designed to

21 meet or exceed the applicable LEED Green Building Rating System
22 gold certification or other certification determined by the
23 Commissioner of Environmental Protection to be equivalent;

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

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

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

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

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

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

50 (10) "Site improvements" means any construction work on, or

51 improvement to, streets, roads, parking facilities, sidewalks, drainage
52 structures and utilities.

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

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

68 (2) The credit shall be equivalent to a base credit as follows: (A) For
69 new construction or major renovation of a building but not other site
70 improvements certified by the LEED Green Building Rating System or
71 other system determined by the Commissioner of Environmental
72 Protection to be equivalent, (i) eight per cent of allowable costs for a
73 gold rating or other rating determined by the Commissioner of
74 Environmental Protection to be equivalent, and (ii) ten and one-half
75 per cent of allowable costs for a platinum rating or other rating
76 determined by the Commissioner of Environmental Protection to be
77 equivalent; and (B) for core and shell or commercial interior projects,
78 (i) five per cent of allowable costs for a gold rating or other rating
79 determined by the Commissioner of Environmental Protection to be
80 equivalent, and (ii) seven per cent of allowable costs for a platinum
81 rating or other rating determined by the Commissioner of
82 Environmental Protection to be equivalent. There shall be added to the
83 base credit one-half of one per cent of allowable costs for a

84 development project that is (I) a mixed-use development, (II) located in
85 a brownfield or enterprise zone, (III) does not require a sewer
86 extension of more than one-eighth of a mile, or (IV) located within one-
87 quarter of a mile walking distance of publicly available bus transit
88 service or within one-half of a mile walking distance of adequate rail,
89 light rail, streetcar or ferry transit service, provided, if a single project
90 has more than one building, at least one building shall be located
91 within either such distance. Allowable costs shall not exceed two
92 hundred fifty dollars per square foot for new construction or one
93 hundred fifty dollars for renovation or rehabilitation of a building.

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

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

107 (3) For each income year for which a taxpayer claims a credit under
108 this section, the taxpayer shall obtain an eligibility certificate from an
109 architect or professional engineer licensed to practice in this state and
110 accredited through the LEED Accredited Professional Program or
111 other program determined by the Commissioner of Environmental
112 Protection to be equivalent. Such certificate shall consist of a
113 certification, under the seal of such architect or engineer, that the
114 building, base building or tenant space with respect to which the credit
115 is claimed, meets or exceeds the applicable LEED Green Building
116 Rating System gold certification, or other certification determined by

117 the Commissioner of Environmental Protection to be equivalent in
118 effect at the time such certification is made. Such certification shall set
119 forth the specific findings upon which the certification is based and
120 shall state that the architect or engineer is accredited through the LEED
121 Accredited Professional Program or other program determined by the
122 Commissioner of Environmental Protection to be equivalent.

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

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

136 (2) Tax credits are fully assignable and transferable. A project
137 owner, including, but not limited to, a nonprofit or institutional project
138 organization, may transfer a tax credit to a pass-through partner in
139 return for a lump sum cash payment.

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

149 previous tenant.

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

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

Changes were made throughout the bill for clarity and consistency with the intent of the bill.

PD *Joint Favorable Subst.*