



General Assembly

Amendment

January Session, 2009

LCO No. 9197

SB0103309197SR0

Offered by:
SEN. FASANO, 34th Dist.

To: Subst. Senate Bill No. 1033 File No. 986 Cal. No. 337

"AN ACT ESTABLISHING A TAX CREDIT FOR GREEN BUILDINGS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

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

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

18 (3) "Eligible project" means a real estate development project that is
19 designed to meet or exceed the applicable (A) LEED Green Building
20 Rating System gold certification, (B) National Green Building Standard
21 gold performance level, (C) Green Globes three globe certification
22 rating system, or (D) other certification determined by the
23 Commissioner of Environmental Protection to be equivalent, except if
24 a single project has more than one building, "eligible project" means
25 only the building or buildings within such project that is designed to
26 meet or exceed the applicable certification or other certification
27 determined by the Commissioner of Environmental Protection to be
28 equivalent;

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

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

37 (6) "Green Globes" means the green building initiative green
38 building guidance and assessment program that advances
39 environmental performance and sustainability of buildings;

40 (7) "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 (8) "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 (9) "Mixed-use development" means a development consisting of
50 one or more buildings that includes residential use and in which no
51 more than seventy-five per cent of the interior square footage has at
52 least one of the following uses: (A) Commercial use; (B) office use; (C)
53 retail use; or (D) any other nonresidential use that the Secretary of the
54 Office of Policy and Management determines does not pose a public
55 health threat or nuisance to nearby residential areas;

56 (10) "National Green Building Standard" means the standard
57 adopted by the National Association of Home Builders and approved
58 by the American National Standards Institute;

59 (11) "Secretary" means the Secretary of the Office of Policy and
60 Management; and

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

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

71 (c) (1) To be eligible for a tax credit under this section a project shall:
72 (A) Not have energy use that exceeds (i) seventy per cent of the energy
73 use permitted by the State Building Code for new construction, or (ii)
74 eighty per cent of the energy use permitted by the energy efficiency
75 provisions of such code for renovation or rehabilitation of a building;
76 and (B) use equipment and appliances that meet Energy Star
77 standards, if applicable, including, but not limited to, refrigerators,

78 dishwashers and washing machines.

79 (2) The credit shall be equivalent to a base credit as follows: (A) For
80 new construction or major renovation of a building but not other site
81 improvements certified by the LEED Green Building Rating System,
82 Green Globes Rating System, National Green Building Standard or any
83 other system determined by the Commissioner of Environmental
84 Protection to be equivalent, (i) eight per cent of allowable costs for a
85 LEED gold rating, Green Globes three globe rating, National Green
86 Building Standard gold rating or any other rating determined by the
87 Commissioner of Environmental Protection to be equivalent, and (ii)
88 ten and one-half per cent of allowable costs for a LEED platinum
89 rating, Green Globes four globes rating, National Green Building
90 Standard emerald rating or any other rating determined by the
91 Commissioner of Environmental Protection to be equivalent; and (B)
92 for core and shell or commercial interior projects, (i) five per cent of
93 allowable costs for a LEED gold rating, Green Globes three globe
94 rating, National Green Building Standard gold rating or any other
95 rating determined by the Commissioner of Environmental Protection
96 to be equivalent, and (ii) seven per cent of allowable costs for a LEED
97 platinum rating, Green Globes four globe rating, emerald rating or any
98 other rating determined by the Commissioner of Environmental
99 Protection to be equivalent. There shall be added to the base credit
100 one-half of one per cent of allowable costs for a development project
101 that is (I) a mixed-use development, (II) located in a brownfield or
102 enterprise zone, (III) does not require a sewer extension of more than
103 one-eighth of a mile, or (IV) located within one-quarter of a mile
104 walking distance of publicly available bus transit service or within
105 one-half of a mile walking distance of adequate rail, light rail, streetcar
106 or ferry transit service, provided, if a single project has more than one
107 building, at least one building shall be located within either such
108 distance. Allowable costs shall not exceed two hundred fifty dollars
109 per square foot for new construction or one hundred fifty dollars per
110 square feet for renovation or rehabilitation of a building.

111 (d) (1) The Secretary of the Office of Policy and Management shall

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

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

124 (3) For each income year for which a taxpayer claims a credit under
125 this section, the taxpayer shall obtain an eligibility certificate from an
126 architect or professional engineer licensed to practice in this state and
127 accredited through the LEED Accredited Professional Program, the
128 Green Globes program or any other program determined by the
129 Commissioner of Environmental Protection to be equivalent. In the
130 case of a credit claimed under the National Green Building Standard
131 system, the taxpayer shall obtain an eligibility certificate from a person
132 accredited as a National Green Building Standard verifier. Such
133 certificate shall consist of a certification, under the seal of such
134 architect or engineer or the signature of the verifier, that the building,
135 base building or tenant space, with respect to which the credit is
136 claimed, meets or exceeds the applicable LEED Green Building Rating
137 System gold certification, the Green Globe three globes certification
138 rating system, the applicable National Green Building Standard gold
139 performance level or any other certification determined by the
140 Commissioner of Environmental Protection to be equivalent in effect at
141 the time such certification is made. Such certification shall set forth the
142 specific findings upon which the certification is based and shall state
143 that the architect or engineer is accredited through the LEED
144 Accredited Professional Program, the Green Globes program or any
145 other program determined by the Commissioner of Environmental

146 Protection to be equivalent or, in the case of a credit claimed for using
147 the National Green Building Standard system, the National Green
148 Building Standard verifier as approved through the National Green
149 Building Standard program.

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

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

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

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

177 (g) The Secretary of the Office of Policy and Management shall

178 establish a uniform application fee, in an amount not to exceed ten
 179 thousand dollars, which shall cover all direct costs of administering the
 180 tax credit program established pursuant to this section. Said secretary
 181 may hire a private consultant or outside firm to administer and review
 182 applications for said tax credit program.

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

188 Sec. 3. (*Effective July 1, 2009*) On or before July 1, 2013, the Secretary
 189 of the Office of Policy and Management, in consultation with the
 190 Commissioner of Revenue Services, shall prepare and submit to the
 191 Governor and the joint standing committees of the General Assembly
 192 having cognizance of matters relating to planning and development
 193 and finance, revenue and bonding, a written report containing (1) the
 194 number of taxpayers applying for the credits provided in section 1 of
 195 this act; (2) the amount of such credits granted; (3) the geographical
 196 distribution of such credits granted; and (4) any other information the
 197 secretary deems appropriate. A preliminary draft of the report shall be
 198 submitted on or before July 1, 2012, to the Governor and the joint
 199 standing committees of the General Assembly having cognizance of
 200 matters relating to planning and development and finance, revenue
 201 and bonding. Such reports shall be submitted in accordance with the
 202 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