



General Assembly

**Amendment**

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LCO No. 7833

\*SB0103307833SR0\*

Offered by:

SEN. MCKINNEY, 28<sup>th</sup> Dist.

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To: Subst. Senate Bill No. 1033

File No. 986

Cal. No. 337

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

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1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 12-217ii of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective July 1, 2009, and*  
5 *applicable to income years commencing on or after January 1, 2009*):

6 (a) As used in this section:

7 (1) "Commissioner" means the Commissioner of Economic and  
8 Community Development;

9 (2) "Income year" means, with respect to entities subject to the  
10 insurance premiums tax under chapter 207, the corporation business  
11 tax under this chapter or the utilities company tax under chapter 212,

12 the income year as determined under each of said chapters, as the case  
13 may be;

14 (3) "Taxpayer" means a person subject to tax under chapter 207, this  
15 chapter or chapter 212;

16 (4) "New job" means a full-time job which (A) did not exist in this  
17 state prior to a taxpayer's application to the commissioner for an  
18 eligibility certificate under this section for a job creation credit, and (B)  
19 is filled by a new employee;

20 (5) "New employee" means a person hired by the taxpayer to fill a  
21 new full-time job. A new employee does not include a person who was  
22 employed in Connecticut by a related person with respect to the  
23 taxpayer during the prior twelve months;

24 (6) "Full-time job" means a job in which an employee is required to  
25 work at least thirty-five or more hours per week. A full-time job does  
26 not include a temporary or seasonal job;

27 (7) "Related person" means (A) a corporation, limited liability  
28 company, partnership, association or trust controlled by the taxpayer,  
29 (B) an individual, corporation, limited liability company, partnership,  
30 association or trust that is in control of the taxpayer, (C) a corporation,  
31 limited liability company, partnership, association or trust controlled  
32 by an individual, corporation, limited liability company, partnership,  
33 association or trust that is in control of the taxpayer, or (D) a member  
34 of the same controlled group as the taxpayer; and

35 (8) "Control", with respect to a corporation, means ownership,  
36 directly or indirectly, of stock possessing fifty per cent or more of the  
37 total combined voting power of all classes of the stock of such  
38 corporation entitled to vote. "Control", with respect to a trust, means  
39 ownership, directly or indirectly, of fifty per cent or more of the  
40 beneficial interest in the principal or income of such trust. The  
41 ownership of stock in a corporation, of a capital or profits interest in a  
42 partnership, limited liability company or association or of a beneficial

43 interest in a trust shall be determined in accordance with the rules for  
44 constructive ownership of stock provided in Section 267(c) of the  
45 Internal Revenue Code of 1986, or any subsequent corresponding  
46 internal revenue code of the United States, as from time to time  
47 amended, other than paragraph (3) of said Section 267(c).

48 (b) (1) There is established a jobs creation tax credit program  
49 whereby a taxpayer who creates at least [ten new jobs] one new job in  
50 Connecticut may be allowed a credit against the tax imposed under  
51 chapter 207, this chapter or chapter 212, in an amount [up to sixty per  
52 cent of the income tax deducted and withheld from the wages of new  
53 employees and paid over to the state pursuant to chapter 229] equal to  
54 fifteen hundred dollars per new employee.

55 (2) For each new employee, credits may be granted for five  
56 successive years.

57 (3) The credit shall be claimed in the income year in which it is  
58 earned. Any credits not used in a tax year shall expire.

59 (c) Any taxpayer planning to claim a credit under the provisions of  
60 this section shall apply to the commissioner in accordance with the  
61 provisions of this section. The application shall be on a form provided  
62 by the commissioner, and shall contain sufficient information  
63 concerning the number of new jobs to be created, feasibility studies or  
64 business plans for the increased number of jobs, projected state and  
65 local revenue that might derive as a result of the job growth and other  
66 information necessary to demonstrate that there will be net benefits to  
67 the economy of the municipality and the state. The commissioner shall  
68 impose a fee for such application as the commissioner deems  
69 appropriate.

70 (d) The commissioner shall determine whether (1) the taxpayer  
71 making the application is eligible for the tax credit, and (2) the  
72 proposed job growth (A) is economically viable only with use of the  
73 tax credit, (B) would provide a net benefit to economic development  
74 and employment opportunities in the state, and (C) conforms to the

75 state plan of conservation and development prepared pursuant to  
76 section 16a-24. The commissioner may require the applicant to submit  
77 such additional information as may be necessary to evaluate the  
78 application.

79 (e) (1) The commissioner, upon consideration of the application and  
80 any additional information the commissioner requires, may approve  
81 the credit application, in whole or in part, if the commissioner  
82 concludes that the increase in the number of jobs is economically  
83 viable only with the use of the tax credit and that the revenue  
84 generated due to economic development and employment  
85 opportunities created in the state exceeds the credit and any other  
86 credits to be taken. If the commissioner disapproves an application, the  
87 commissioner shall specifically identify the defects in the application  
88 and specifically explain the reasons for the disapproval. The  
89 commissioner shall render a decision on an application not later than  
90 ninety days after the date of its receipt by the commissioner.

91 (2) The total amount of credits granted to all taxpayers pursuant to  
92 this section and to section 502 of this act, shall not exceed ten million  
93 dollars in any one fiscal year.

94 (3) A credit under this section may be [granted to] claimed by a  
95 taxpayer for not more than five successive income years.

96 [(4) The commissioner may combine approval of a credit application  
97 with the exercise of any of the commissioner's other powers, including,  
98 but not limited to, the provision of other forms of financial assistance.

99 (f) Upon approving a taxpayer's credit application, the  
100 commissioner shall issue a credit allocation notice certifying that the  
101 credits will be available to be claimed by the taxpayer if the taxpayer  
102 otherwise meets the requirements of this section. No later than thirty  
103 days after the close of the taxpayer's income year, the taxpayer shall  
104 provide information to the commissioner regarding the number of new  
105 jobs created for the year and the income tax deducted and withheld  
106 from the wages of such new employees and paid over to the state for

107 such year. The commissioner shall issue a certificate of eligibility that  
108 includes the taxpayer's name, the number of new jobs created, and the  
109 amount of the credit certified for the year. The certificate shall be  
110 issued by the commissioner sixty days after the close of the taxpayer's  
111 income year or thirty days after the information is provided,  
112 whichever comes first.

113 (g) The commissioner shall, upon request, provide a copy of the  
114 certificate of eligibility issued under subsection (f) of this section to the  
115 Commissioner of Revenue Services.]

116 [(h)] (f) (1) If (A) the number of new employees on account of which  
117 a taxpayer claimed the credit allowed by this section decreases to less  
118 than the number for which the [commissioner issued an eligibility  
119 certificate] taxpayer claimed a credit pursuant to this section during  
120 any of the four years succeeding the first full income year following  
121 [the issuance of an eligibility certificate] such year in which the credit  
122 was first taken, and (B) those employees are not replaced by other  
123 employees who have not been shifted from an existing location of the  
124 taxpayer or a related person in this state, the taxpayer shall be required  
125 to recapture a percentage of the credit allowed under this section on its  
126 tax return, as determined under the provisions of subdivision (2) of  
127 this subsection. [The commissioner shall provide notice of the required  
128 recapture amount to both the taxpayer and the Commissioner of  
129 Revenue Services.]

130 (2) If the taxpayer is required under the provisions of subdivision  
131 (1) of this subsection to recapture a portion of the credit during (A) the  
132 first of such four years, then ninety per cent of the credit allowed shall  
133 be recaptured on the tax return required to be filed for such year, (B)  
134 the second of such four years, then sixty-five per cent of the credit  
135 allowed for the entire period of eligibility shall be recaptured on the  
136 tax return required to be filed for such year, (C) the third of such four  
137 years, then fifty per cent of the credit allowed for the entire period of  
138 eligibility shall be recaptured on the tax return required to be filed for  
139 such year, (D) the fourth of such four years, then thirty per cent of the

140 credit allowed for the entire period of eligibility shall be recaptured on  
141 the tax return required to be filed for such year.

142 (g) (1) On and after July 1, 2009, and for income years commencing  
143 on or after January 1, 2009, any credit allowed pursuant to this section  
144 may be sold, assigned or otherwise transferred, in whole or in part, to  
145 one or more taxpayers, provided no credit, after issuance, may be sold,  
146 assigned or otherwise transferred, in whole or in part, more than three  
147 times.

148 (2) If a taxpayer sells, assigns or otherwise transfers a credit under  
149 this section to another taxpayer, the transferor and the transferee shall  
150 jointly submit written notification of such transfer to the commissioner  
151 not later than thirty days after such transfer. If such transferee sells,  
152 assigns or otherwise transfers a credit under this section to a  
153 subsequent transferee, such transferee and such subsequent transferee  
154 shall jointly submit written notification of such transfer to the  
155 commission not later than thirty days after such transfer. The  
156 notification after each transfer shall include the credit voucher number,  
157 the date of transfer, the amount of such credit transferred, the tax  
158 credit balance before and after the transfer, the tax identification  
159 numbers for both the transferor and the transferee, and any other  
160 information required by the commissioner. Failure to comply with this  
161 subdivision will result in a disallowance of the tax credit until there is  
162 full compliance on the part of the transferor and the transferee, and for  
163 a second or third transfer, on the part of all subsequent transferors and  
164 transferees.

165 (h) The provisions of section 12-233 shall apply to any tax return  
166 claiming the credit authorized pursuant to this section.

167 Sec. 502. (NEW) *(Effective July 1, 2009, and applicable to taxable years*  
168 *commencing on or after January 1, 2009)* (a) As used in this section:

169 (1) "Commissioner" means the Commissioner of Economic and  
170 Community Development;

171 (2) "Taxpayer" means a person subject to tax under chapter 229 of  
172 the general statutes;

173 (3) "New job" means a full-time job which (A) did not exist in this  
174 state prior to a taxpayer's application to the commissioner for an  
175 eligibility certificate under this section for a job creation credit, and (B)  
176 is filled by a new employee;

177 (4) "New employee" means a person hired by the taxpayer to fill a  
178 new full-time job. A new employee does not include a person who was  
179 employed in Connecticut by a related person with respect to the  
180 taxpayer during the prior twelve months;

181 (5) "Full-time job" means a job in which an employee is required to  
182 work at least thirty-five or more hours per week. A full-time job does  
183 not include a temporary or seasonal job;

184 (6) "Related person" means (A) a corporation, limited liability  
185 company, partnership, association or trust controlled by the taxpayer,  
186 (B) an individual, corporation, limited liability company, partnership,  
187 association or trust that is in control of the taxpayer, (C) a corporation,  
188 limited liability company, partnership, association or trust controlled  
189 by an individual, corporation, limited liability company, partnership,  
190 association or trust that is in control of the taxpayer, or (D) a member  
191 of the same controlled group as the taxpayer;

192 (7) "Control", with respect to a corporation, means ownership,  
193 directly or indirectly, of stock possessing fifty per cent or more of the  
194 total combined voting power of all classes of the stock of such  
195 corporation entitled to vote. "Control", with respect to a trust, means  
196 ownership, directly or indirectly, of fifty per cent or more of the  
197 beneficial interest in the principal or income of such trust. The  
198 ownership of stock in a corporation, of a capital or profits interest in a  
199 partnership, limited liability company or association or of a beneficial  
200 interest in a trust shall be determined in accordance with the rules for  
201 constructive ownership of stock provided in Section 267(c) of the  
202 Internal Revenue Code of 1986, or any subsequent corresponding

203 internal revenue code of the United States, as from time to time  
204 amended, other than paragraph (3) of said Section 267(c); and

205 (8) "Taxable year" means taxable year, for federal income tax  
206 purposes.

207 (b) (1) There is established a jobs creation tax credit program  
208 whereby a taxpayer who creates at least one new job in Connecticut  
209 may be allowed a credit against the tax imposed under chapter 229 of  
210 the general statutes, in an amount equal to fifteen hundred dollars per  
211 new employee.

212 (2) For each new employee, credits may be granted for five  
213 successive years.

214 (3) The credit shall be claimed in the taxable year in which it is  
215 earned. Any credits not used in a tax year shall expire.

216 (c) Any taxpayer planning to claim a credit under the provisions of  
217 this section shall apply to the commissioner in accordance with the  
218 provisions of this section. The application shall be on a form provided  
219 by the commissioner, and shall contain sufficient information  
220 concerning the number of new jobs to be created, feasibility studies or  
221 business plans for the increased number of jobs, projected state and  
222 local revenue that might derive as a result of the job growth and other  
223 information necessary to demonstrate that there will be net benefits to  
224 the economy of the municipality and the state. The commissioner shall  
225 impose a fee for such application as the commissioner deems  
226 appropriate.

227 (d) The commissioner shall determine whether (1) the taxpayer  
228 making the application is eligible for the tax credit, and (2) the  
229 proposed job growth (A) is economically viable only with use of the  
230 tax credit, (B) would provide a net benefit to economic development  
231 and employment opportunities in the state, and (C) conforms to the  
232 state plan of conservation and development prepared pursuant to  
233 section 16a-24 of the general statutes. The commissioner may require



234 the applicant to submit such additional information as may be  
235 necessary to evaluate the application.

236 (e) (1) The commissioner, upon consideration of the application and  
237 any additional information the commissioner requires, may approve  
238 the credit application, in whole or in part, if the commissioner  
239 concludes that the increase in the number of jobs is economically  
240 viable only with the use of the tax credit and that the revenue  
241 generated due to economic development and employment  
242 opportunities created in the state exceeds the credit and any other  
243 credits to be taken. If the commissioner disapproves an application, the  
244 commissioner shall specifically identify the defects in the application  
245 and specifically explain the reasons for the disapproval. The  
246 commissioner shall render a decision on an application not later than  
247 ninety days after the date of its receipt by the commissioner.

248 (2) The total amount of credits granted to all taxpayers pursuant to  
249 this section and section 12-217ii of the general statutes, as amended by  
250 this act, shall not exceed ten million dollars in any one fiscal year.

251 (3) A credit under this section may be claimed by a taxpayer for not  
252 more than five successive taxable years.

253 (f) (1) If (A) the number of new employees on account of which a  
254 taxpayer claimed the credit allowed by this section decreases to less  
255 than the number for which the taxpayer claimed a credit pursuant to  
256 this section during any of the four years succeeding the first full  
257 taxable year following such year in which the credit was first taken,  
258 and (B) those employees are not replaced by other employees who  
259 have not been shifted from an existing location of the taxpayer or a  
260 related person in this state, the taxpayer shall be required to recapture  
261 a percentage of the credit allowed under this section on its tax return,  
262 as determined under the provisions of subdivision (2) of this  
263 subsection.

264 (2) If the taxpayer is required under the provisions of subdivision  
265 (1) of this subsection to recapture a portion of the credit during (A) the

266 first of such four years, then ninety per cent of the credit allowed shall  
267 be recaptured on the tax return required to be filed for such year, (B)  
268 the second of such four years, then sixty-five per cent of the credit  
269 allowed for the entire period of eligibility shall be recaptured on the  
270 tax return required to be filed for such year, (C) the third of such four  
271 years, then fifty per cent of the credit allowed for the entire period of  
272 eligibility shall be recaptured on the tax return required to be filed for  
273 such year, (D) the fourth of such four years, then thirty per cent of the  
274 credit allowed for the entire period of eligibility shall be recaptured on  
275 the tax return required to be filed for such year.

276 (g) (1) On and after July 1, 2009, and for income years commencing  
277 on or after January 1, 2009, any credit allowed pursuant to this section  
278 may be sold, assigned or otherwise transferred, in whole or in part, to  
279 one or more taxpayers, provided no credit, after issuance, may be sold,  
280 assigned or otherwise transferred, in whole or in part, more than three  
281 times.

282 (2) If a taxpayer sells, assigns or otherwise transfers a credit under  
283 this section to another taxpayer, the transferor and the transferee shall  
284 jointly submit written notification of such transfer to the commissioner  
285 not later than thirty days after such transfer. If such transferee sells,  
286 assigns or otherwise transfers a credit under this section to a  
287 subsequent transferee, such transferee and such subsequent transferee  
288 shall jointly submit written notification of such transfer to the  
289 commission not later than thirty days after such transfer. The  
290 notification after each transfer shall include the credit voucher number,  
291 the date of transfer, the amount of such credit transferred, the tax  
292 credit balance before and after the transfer, the tax identification  
293 numbers for both the transferor and the transferee, and any other  
294 information required by the commissioner. Failure to comply with this  
295 subdivision will result in a disallowance of the tax credit until there is  
296 full compliance on the part of the transferor and the transferee, and for  
297 a second or third transfer, on the part of all subsequent transferors and  
298 transferees.

299       (h) The provisions of section 12-728 of the general statutes shall  
300       apply to any tax return claiming the credit authorized pursuant to this  
301       section."