

# HOUSE . . . . . No. 3024

By Mr. Marzilli of Arlington, petition of J. James Marzilli, Jr., and others for legislation to provide certain tax credits for construction that meets certain standards for energy efficiency and environmental protections. Revenue.

## The Commonwealth of Massachusetts

### PETITION OF:

J. James Marzilli, Jr.  
Mary E. Grant

Peter V. Kocot  
Gloria L. Fox

In the Year Two Thousand and Seven.

AN ACT TO ESTABLISH A GREEN BUILDING INCOME AND EXCISE TAX CREDIT.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Declaration of policy and statement of purpose.
- 2 (a) It is the policy of Massachusetts to encourage the construction,
- 3 rehabilitation and maintenance of buildings in this state in such a
- 4 manner as to:—
- 5 (1) promote better environmental standards for the construction,
- 6 rehabilitation and maintenance of buildings in this state;
- 7 (2) improve energy efficiency and increase generation of energy
- 8 through renewable and clean energy technologies;
- 9 (3) increase the demand for environmentally preferable building
- 10 materials, finishes, and furnishings;
- 11 (4) improve the environment by decreasing the discharge of pol-
- 12 lutants from buildings; and
- 13 (5) create industry and public awareness of new technologies that
- 14 can improve the quality of life from building occupants.
- 15 (b) In order to facilitate the foregoing policies, the legislature
- 16 hereby creates a business and personal income tax credit to promote
- 17 the construction, rehabilitation and maintenance of buildings that
- 18 meet the criteria set forth in this act.

1 SECTION 2. Section 6 of Chapter 62 of the General Laws, as  
2 amended by Sections 120 and 121 of Chapter 159 of the acts of  
3 2000, is hereby further amended by inserting the following para-  
4 graph:—

5 (1) A tenant or owner of property located in the Commonwealth  
6 who is not a dependant of another taxpayer may take a tax credit  
7 against the income tax this chapter imposes in an amount equal to  
8 the sum of the credit components specified in 31N of Chapter 63  
9 provided that:—

10 (1) for the credit allowance year, a taxpayer shall obtain and file  
11 an initial credit component certificate and an eligibility certificate  
12 the division of energy resources shall issue pursuant to Section 31O  
13 of Chapter 63;

14 (2) for each of the four years succeeding the credit allowance  
15 year, a taxpayer shall obtain and file an eligibility certificate pur-  
16 suant to Section 31O of Chapter 63;

17 (3) the amount of each credit component does not exceed the limit  
18 set forth in the initial credit component certificate the corporation  
19 obtains pursuant to Section 31O of Chapter 63;

20 (4) a taxpayer may use a particular cost paid or incurred to deter-  
21 mine the amount of only one credit component;

22 (5) where applicable, a taxpayer shall obtain a certificate of occu-  
23 pancy for the building for which the taxpayer intends to take the  
24 credit;

25 (6) in the case of a fuel cell or photovoltaic module, the property  
26 for which the taxpayer takes the credit remains in service;

27 (7) where the credit allowance year is the first taxable year in  
28 which a taxpayer may claim the credit pursuant to the initial credit  
29 component certificate, the green building remains in service during  
30 the year;

31 (8) a taxpayer shall not take a credit under this section unless the  
32 taxpayer complies with the requirements of Section 31O of Chapter  
33 63, relating to reports to the division of energy resources;

34 (9) in the construction of a green building, a green base building,  
35 and a green tenant space, or the rehabilitation of a building, base  
36 building or tenant space to make a green building, green base  
37 building or green tenant space a taxpayer shall adhere to the regula-  
38 tions the commissioner promulgates and adopts under Section 31P  
39 of Chapter 63;

40 (10) a tenant or owner shall take a tax credit pursuant to the provi-  
41 sions of paragraphs (b), (c) and (d) of Section 31M of Chapter 63;  
42 and

43 (11) a taxpayer shall not take a credit under this section if the tax-  
44 payer is eligible for the credit under paragraph (a) of Section 31M of  
45 Chapter 63.

1 SECTION 3. Chapter 63 of the General Laws is hereby amended  
2 by inserting the following sections:—

3 Section 31L.

4 As used in this section and Sections 31M, 31N, 31O and 31P of  
5 this chapter and Section 6 paragraph (l) of Chapter 62, the following  
6 terms shall have the following meanings:—

7 (a) “Allowable costs” means amounts properly chargeable to a  
8 capital account, other than for land, which a tenant or owner pays or  
9 incurs for:—

10 (1) construction or rehabilitation;

11 (2) commissioning costs;

12 (3) interest paid or incurred during the construction or rehabilita-  
13 tion period;

14 (4) legal, architectural, engineering and other professional fees  
15 allocable to construction or rehabilitation;

16 (5) closing costs for construction, rehabilitation or mortgage  
17 loans;

18 (6) recording taxes and filing fees incurred in construction or  
19 rehabilitation;

20 (7) site costs, including but not limited to, temporary electric  
21 wiring, scaffolding, demolition costs, and fencing and security facili-  
22 ties; and

23 (8) furniture, carpeting, partitions, walls, wall coverings, ceilings,  
24 drapes, blinds, lighting, plumbing, electrical wiring and ventilation;  
25 but

26 (9) not including telephone systems, computers, fuel cells and  
27 photovoltaic modules.

28 (b) “Base building” means area of a building not intended for  
29 occupancy, including but not limited to:—

30 (1) structural components of the building;

31 (2) exterior walls;

32 (3) floors;

- 33 (4) windows;
- 34 (5) roofs;
- 35 (6) foundations;
- 36 (7) chimneys and stacks;
- 37 (8) parking areas;
- 38 (9) mechanical rooms, mechanical systems and owner controlled
- 39 and operated service spaces;
- 40 (10) sidewalks;
- 41 (11) main lobby;
- 42 (12) shafts and vertical transportation mechanisms;
- 43 (13) stairways; and
- 44 (14) corridors.
- 45 (c) “Credit allowance year” means the later of:—
- 46 (1) the taxable year during which a tenant or owner place a green
- 47 building, a green base building or green tenant space in service or
- 48 receives a final certificate of occupancy; or
- 49 (2) the first taxable year for which a tenant or owner may claim a
- 50 credit pursuant to the initial credit component certificate that the
- 51 division of energy resources issues.
- 52 (d) “Commissioner” means the commissioner of the division of
- 53 energy resources,
- 54 (e) “Commissioning” means the testing and fine-tuning of heat,
- 55 ventilating, air conditioning and other systems to assure proper func-
- 56 tioning and adherence to design criteria, the preparation of system
- 57 operation manuals, and the instruction of maintenance personnel.
- 58 (f) “Division” means the Massachusetts division of energy
- 59 resources.
- 60 (g) “Economic development area” means an area as defined by
- 61 Section 1 of Chapter 121C, or an empowerment zone or enterprise
- 62 community as defined by Section 1391 of the Internal Revenue
- 63 Code.
- 64 (h) “Eligible building” means a building located in the Common-
- 65 wealth that:—
- 66 (1) contains at least 20,000 square feet of interior space;
- 67 (2) meets or exceeds or upon completion will meet or exceed all
- 68 federal, state and local:—
- 69 (i) zoning requirements;
- 70 (ii) building codes;
- 71 (iii) environmental laws, regulations and industry guidelines;

72 (o) “Incremental cost of building-integrated photovoltaic mod-  
73 ules” means:—

74 (1) the cost of a building-integrated photovoltaic module and  
75 associated inverter, additional wiring or other electrical equipment or  
76 mounting or structural materials, less the cost of spandrel glass or  
77 other building material the tenant or owner would have used in the  
78 event that the building-integrated photovoltaic module was not  
79 installed;

80 (2) labor costs properly allocable to on-site preparation, assembly  
81 and original installation of a photovoltaic module; and

82 (3) architectural and engineering services, designs and plans  
83 directly related to the construction or installation of the photovoltaic  
84 module.

85 (p) “LEED rating system” means the leadership in energy and  
86 environmental design green building rating system that the United  
87 States Green Building Council is developing.

88 (q) “Tenant improvements” means necessary and appropriate  
89 improvements needed to support or conduct the business of a tenant  
90 or occupying owner.

91 (r) “Tenant space” means the portion of a building designed or  
92 intended for the occupancy of the tenant or owner.

93 Section 31M.

94 (a) A corporation subject to tax under this chapter may take a  
95 credit against the excise this chapter imposes, in an amount equal to  
96 the sum of the credit components specified in Section 31N for the  
97 credit allowance year and each of the four succeeding years, pro-  
98 vided that:—

99 (1) for the credit allowance year, a taxpayer shall obtain and file  
100 an initial credit component certificate and an eligibility certificate  
101 the division of energy resources shall issue pursuant to Section 31O;

102 (2) for each of the four years succeeding the credit allowance  
103 year, a taxpayer shall obtain and file an eligibility certificate pur-  
104 suant to Section 31O;

105 (3) the amount of each credit component does not exceed the limit  
106 set forth in the initial credit component certificate the corporation  
107 obtains pursuant to Section 31O;

108 (4) a taxpayer may use a particular cost paid or incurred to deter-  
109 mine the amount of only one credit component;

110 (5) where applicable, a taxpayer shall obtain a certificate of occu-  
111 pancy for the building for which the taxpayer intends to take the  
112 credit;

113 (6) in the case of a fuel cell or photovoltaic module, the property  
114 for which the taxpayer takes the credit remains in service;

115 (7) where the credit allowance year is the first taxable year in  
116 which a taxpayer may claim the credit pursuant to the initial credit  
117 component certificate, the green building remains in service during  
118 the year;

119 (8) a taxpayer shall not take a credit under this section unless the  
120 taxpayer complies with the requirements of Section 310, relating to  
121 reports to the division of energy resources; and

122 (9) in the construction of a green building, a green base building,  
123 and a green tenant space, or the rehabilitation of a building, base  
124 building or tenant space to make a green building, green base  
125 building or green tenant space a taxpayer shall adhere to the regula-  
126 tions the commissioner promulgates and adopts under Section 31P.

127 (b) A successor owner of property, for which the prior owner  
128 could have taken a tax credit pursuant to this section, may take a  
129 credit against the excise tax, provided that:—

130 (1) the subsequent owner may take a credit for the period allow-  
131 able had the prior owner not sold the property; and

132 (2) for a taxable year, the prior and successor owners shall allo-  
133 cate the credit between themselves based on the number of days  
134 during the year that each party held property.

135 (c) A successor tenant, assuming tenancy in place of a prior tenant  
136 who could have taken a taken a tax credit pursuant to this section,  
137 may take a credit against the excise take, provided that:—

138 (1) the property upon which the successor tenant bases the credit  
139 remains in the building;

140 (2) the successor tenant may take a credit for the period allowable  
141 had the prior tenancy not been terminated; and

142 (3) for a taxable year, the prior and successor tenants shall allo-  
143 cate the credit between themselves based on the number of days  
144 during the year each party used the property.

145 (d) The commissioner may reveal to the successor owner or  
146 tenant information with respect to the credit of the prior owner or  
147 tenant that leads to the denial, in whole or part, of the credit the suc-

148 cessor owner or tenant claims under paragraphs (b) or (c) of this  
149 section.

150 Section 31N.

151 (a) A tenant or owner of a green building may take a credit equal  
152 to the applicable percentage of the allowable costs the tenant or  
153 owner pays or incurs in constructing a green building or rehabili-  
154 tating a building to make it a green building, provided that:—

155 (1) the applicable percentage a tenant or owner shall use to calcu-  
156 late the credit is 1.4 percent, except where the building is located in  
157 an economic development area, in which case the applicable per-  
158 centage a tenant or owner shall use is 1.6 percent;

159 (2) a tenant or owner shall not claim a credit on costs in excess of  
160 150 dollars per square foot for the portion of the building that com-  
161 prises the base building;

162 (3) a tenant or owner shall not claim a credit on cost in excess of  
163 75 dollars per square foot for the portion of the building that com-  
164 prises tenant space.

165 (b) A tenant or owner of green tenant space may take a credit  
166 equal to the applicable percentage of the allowable costs a tenant or  
167 owner pays or incurs in constructing green tenant space or rehabili-  
168 tating tenant space to make it green tenant space, provided that:—

169 (1) a tenant or owner shall not claim a credit for green tenant  
170 space smaller than 10,000 feet unless the base building in which the  
171 tenant space is located is a green base building;

172 (2) the applicable percentage a tenant or owner shall use to calcu-  
173 late the credit is 1 percent, except where the building is located in an  
174 economic development area, in which case the applicable percentage  
175 a taxpayer shall use is 1.2 percent;

176 (3) a tenant or owner shall not claim a credit on cost in excess of  
177 75 dollars per square foot; and

178 (4) where a tenant and an owner both incur costs for the creation  
179 of a green tenant space, and such costs exceed 75 dollars per square  
180 foot, the owner shall have priority in claiming the owner's costs as  
181 the basis for the green tenant space credit component.

182 (c) A tenant or owner may take a credit equal to the applicable  
183 percentage of the allowable costs a tenant or owner pays or incurs in  
184 installing a fuel cell to serve a green building, green base building or  
185 green tenant space, provided that:—

186 (1) the fuel cell is a qualifying alternate energy source;

187 (2) the applicable percentage a tenant or owner shall use to calcu-  
188 late the credit is 6 percent of the sum of the capitalized costs a tax-  
189 payer pays or incurs for a fuel cell, including the cost of the  
190 foundation or platform and the labor cost associated with installa-  
191 tion;

192 (3) the tenant or owner shall not claim a credit for capitalized  
193 costs in excess of 1,000 dollars per kilowatt of installed dc rated  
194 capacity; and

195 (4) the tenant or owner shall not include as part of the cost paid or  
196 incurred, a federal, state or local grant the tenant or owner receives  
197 for purchase and installation of a fuel cell, unless the tenant or owner  
198 includes the amount of the grant as part of the tenant or owner's fed-  
199 eral gross income.

200 (d) A tenant or owner may take a credit equal to the applicable  
201 percentage of the allowable costs a tenant or owner pays or incurs in  
202 installing a photovoltaic module to serve a green building, green  
203 base building or green tenant space, provided that:—

204 (1) the photovoltaic module constitutes a qualifying alternate  
205 energy source;

206 (2) the applicable percentage a taxpayer shall use to calculate the  
207 credit is 20 percent of the incremental cost a taxpayer pays or incurs  
208 for building integrated photovoltaic modules;

209 (3) the applicable percentage a tenant or owner shall use to calcu-  
210 late the credit is 5 percent of the costs of non-building-integrated  
211 photovoltaic modules;

212 (4) the tenant or owner shall not claim a credit for costs in excess  
213 of the product of (1) three dollars and (2) the number of watts  
214 included in the dc rated capacity of the photovoltaic module;

215 (5) the tenant or owner shall not include as part of the cost paid or  
216 incurred, a federal, state or local grant the tenant or owner receives  
217 for purchase and installation of a photovoltaic module, unless the  
218 tenant or owner includes the amount of the grant as part of the tenant  
219 or owner's federal gross income.

220 (e) A tenant or owner of a green base building may take a credit  
221 equal to the applicable percentage of the allowable costs the tenant  
222 or owner pays or incurs in constructing a green base building or  
223 rehabilitating a building to make it a green base building, provided  
224 that:—

225 (1) the applicable percentage a tenant or owner shall use to calcu-  
226 late the credit is 1 percent, except where the building is located in an  
227 economic development area, in which case the applicable percentage  
228 a tenant or owner shall use is 1.2 percent;

229 (2) a tenant or owner shall not claim a credit on costs in excess of  
230 150 dollars per square foot for the portion of the building that com-  
231 prises the base building.

232 Section 31O.

233 (a) Upon a tenant or owner's application and showing that the  
234 tenant or owner is likely to place in service, in a reasonable time,  
235 property that qualifies for the tax credit under this section, the divi-  
236 sion shall issue an initial credit component certificate identifying:—

237 (1) the first taxable year for which the tenant or owner may claim  
238 a credit;

239 (2) the expiration date of the certificate, which the division may  
240 extend to avoid hardship;

241 (3) the property to which the certificate applies; and

242 (4) the maximum amount of the credit component allowable for  
243 each of the five taxable years for which the certificate allows the  
244 credit.

245 (b) In a taxable year for which a tenant or owner claims a tax  
246 credit under this section, the tenant or owner shall obtain an eligi-  
247 bility certificate from an architect or professional engineer licensed  
248 to practice in the Commonwealth. The architect or engineer shall  
249 certify, under the seal of the architect or engineer, that, based upon  
250 the standards and guidelines in effect at the time in which the prop-  
251 erty was placed in service, the building, base building or tenant  
252 space for which the tenant or owner claims the credit is a green  
253 building, green base building or green tenant space, and that the fuel  
254 cell or photovoltaic module constitutes a qualifying energy source  
255 and remains in service. The architect or engineer shall set forth spe-  
256 cific findings upon which the architect or engineer based certifica-  
257 tion and provide sufficient information to identify a building or  
258 space.

259 (c) Immediately following occupancy, and in a taxable year for  
260 which a tenant or owner claims a tax credit under this section, the  
261 tenant or owner shall hire to perform indoor air quality testing and  
262 record baseline readings, an engineer or industrial hygienist licensed  
263 or certified to practice in the Commonwealth or other professional

- 264 (iv) land use and erosion control requirements; and  
265 (v) storm water management;
- 266 (3) the Massachusetts state building code or a subsequent code  
267 classifies as commercial and has a ventilation system that:—  
268 (i) can replace 100 percent of air on any floor on a minimum of  
269 two floors at a time; and  
270 (ii) has fresh air intakes located a minimum of 25 feet away from  
271 loading areas, building exhaust fans, cooling towers, and other  
272 points of source contamination;
- 273 (4) is a residential multi-family building with at least 12 units;  
274 (5) is a residential multi-family building with at least 2 units that  
275 are part of a single or phased construction project with at least  
276 10,000 square feet under construction or rehabilitation in any single  
277 phase; or  
278 (6) is a combination of buildings described in (3), (4) and (5); and  
279 (7) is not a building located on freshwater wetlands or tidal wet-  
280 lands as defined by Section 40 and 40A of Chapter 131, or on wet-  
281 lands that require a permit for construction pursuant to Section 404  
282 of the federal clean water act (33 U.S.C.A 1344).
- 283 (i) “Energy code” means a chapter within the Massachusetts state  
284 building code that addresses energy or energy related issues.
- 285 (j) “EPA” means the United States Environmental Protection  
286 Agency.
- 287 (k) “Fuel cell” means a device that produces electricity directly  
288 from hydrogen or hydrocarbon fuel through a non-combustive elec-  
289 trochemical process.
- 290 (l) “Green base building” means a base building that is part of an  
291 eligible building and meets the standards for energy efficiency,  
292 zoning, indoor air quality, and building material, finishes and fur-  
293 nishing uses the commissioner establishes through regulations under  
294 this section.
- 295 (m) “Green building” means a building in which the base building  
296 is a green base building and the tenant space is green tenant space.
- 297 (n) “Green tenant space” means tenant space in an eligible  
298 building that meets the standards for energy efficiency, code require-  
299 ments, indoor air quality, and building material, finishes and fur-  
300 nishing uses the commissioner establishes through regulations under  
301 this section.

302 the commissioner may approve. The engineer, industrial hygienist or  
303 other professional shall monitor supply and return air and ambient  
304 air for carbon monoxide, carbon dioxide, total volatile organic com-  
305 pounds, radon and particulate matter; provided that once radon mea-  
306 surements meet the standards the commissioner establishes, annual  
307 testing is not required.

308 (d) For each taxable year for which a tenant or owner claims a tax  
309 credit under this section, the tenant or owner shall maintain records  
310 for:—

311 (1) annual energy consumption for building, base building or  
312 tenant space;

313 (2) annual results of air monitoring for building, base building or  
314 tenant space;

315 (3) annual confirmation that the building, base building or tenant  
316 space continues to meet requirements regarding smoking area;

317 (4) written notifications from tenants regarding, and requests to  
318 remedy indoor air problems;

319 (5) monthly results of performance validation for photovoltaic  
320 modules and fuel cells; and

321 (6) certification as to off-gassing and other contamination, as pre-  
322 scribed in subsection paragraph 10 of this subsection.

323 (e) A tenant or owner claiming a tax credit under this section shall  
324 file the initial credit component certificate and the eligibility certifi-  
325 cate with the department of revenue and shall file a duplicate with  
326 the division. In addition, when claiming a credit under this section,  
327 the tenant or owner shall provide the information collected pursuant  
328 to paragraph 3 of this subsection to the division. The commissioner  
329 shall specify the time and form in which the tenant or owner must  
330 provide the collected information.

331 (f) If the division has reason to believe that an architect or engi-  
332 neer engaged in professional misconduct when making a certifica-  
333 tion under this section, the division shall inform the board of  
334 registration of architects or the board of registration of engineers and  
335 land surveyors.

336 (g) An owner of a green tenant space claiming the tax credit under  
337 this section shall:—

338 (1) prior to initial occupancy and upon a tenant's request, provide  
339 a tenant with:—

340 (i) written notification of the opportunity to apply for a tax credit  
341 pursuant to this section; and

342 (ii) written guidelines regarding opportunities to improve the  
343 energy efficiency and air quality of tenant space and reduce and  
344 recycle waste stream; and

345 (2) in an owner occupied building, make all tenant space green  
346 tenant space.

347 (h) A tenant or owner claiming the tax credit under this section  
348 shall provide separate waste disposal chutes or a carousel compactor  
349 system for recyclable materials or otherwise facilitate recycling by  
350 providing a readily accessible collection area with sufficient space to  
351 store recyclable materials between collection dates.

352 (i) If a tenant or owner claiming the tax credit under this section  
353 permits smoking, the tenant or owner shall provide separate air ven-  
354 tilation and circulation systems for smoking and non-smoking areas.

355 (j) Prior to occupancy or re-occupancy, a tenant or owner  
356 claiming the tax credit under this section shall purge the air for a  
357 period of one week on every floor. A tenant or owner may purge for  
358 less time if the tenant or owner obtains certification from an engi-  
359 neer, industrial hygienist or other professional verifying that off-  
360 gassing and other contamination can be reduced to acceptable levels  
361 in less than one week.

362 Section 31P.

363 (a) The commissioner may promulgate and adopt regulations  
364 that:—

365 (1) encourage the development of green buildings, green base  
366 buildings and green tenant space;

367 (2) establish high, commercially reasonable standards for  
368 obtaining the tax credits under this section;

369 (3) establish a reasonable time or period of time for submission of  
370 an application;

371 (4) establish a method for allocating initial credit component cer-  
372 tificates among eligible applicants; and

373 (5) apply only to a green building, green base building, or green  
374 tenant space as defined in this section.

375 (b) Within 6 months of the effective date of this section, the com-  
376 missioner shall promulgate and adopt regulations that establish:—

377 (1) standards for energy, including:—

378 (i) standards for energy use for eligible buildings provided that;

379 (A) energy use for a newly constructed green building, green base  
380 building or green tenant space cannot exceed 65 percent of the use  
381 permitted under the energy code; and

382 (B) energy use for a building, base building or tenant space reha-  
383 bilitated to make a green building, green base building or tenant  
384 space cannot exceed 75 percent of the use permitted under the  
385 energy code;

386 (ii) standards for appliances and heating, cooling and water  
387 heating equipment for which, as of the effective date of this section,  
388 the United States department of energy, the environmental protection  
389 agency or some other federal agency provides specifications; and

390 (iii) standards for the commissioning of the mechanical plant of a  
391 building. The commissioner shall use documents such as the Amer-  
392 ican Society of Heating, Refrigerating and Air Conditioning Engi-  
393 neers G-1 and the United States General Services Administration  
394 “Model Commissioning Plan and Guide Specifications” as a guide  
395 for the regulation;

396 (2) standards for indoor air quality in base buildings, including:—

397 (i) ventilation and exchange of indoor and outdoor air;

398 (ii) indoor air quality management plans for the construction or  
399 rehabilitation process, including provisions to protect ventilation  
400 system components and pathways from contamination;

401 (iii) clean procedures for a project that fails to follow a proper air  
402 quality management plan; and

403 (iv) levels of carbon monoxide, carbon dioxide and total volatile  
404 organic compounds, radon and particulate matter for indoor air;

405 (3) the minimum percentage of recycled content and renewable  
406 source material and maximum levels of toxicity and volatile organic  
407 compounds in building materials, finishes and furnishings, including  
408 but not limited to concrete and concrete masonry units, wood and  
409 wood products, millwork substrates, insulation, ceramic, glass and  
410 cementitious tiles, ceiling tiles and panels, flooring and carpet,  
411 paints, coatings, sealants, adhesives, and furniture. The commis-  
412 sioner shall use the LEED rating system as a guide for the regula-  
413 tions;

414 (4) standards for a building located in an area where water use is  
415 not metered that require:—

- 416 (i) a gray water system that recovers non-sewage waste water or  
417 uses roof or ground storm water collection systems, or recovers  
418 ground water from a sump pump;
- 419 (ii) a delimiter for cooling tower systems, to reduce drift and  
420 evaporation; and
- 421 (iii) exterior plants to be tolerant of climate, soils and natural  
422 water availability and restricts the use of municipal potable water for  
423 watering exterior plants;
- 424 (5) standards for a building located in an area that does not have  
425 sewers or that has designated storm sewers that require:—
- 426 (i) an oil grit separator or water quality pond for pretreatment of  
427 runoff from any surface parking area; or
- 428 (ii) at least 50 percent of non-landscape areas, including road-  
429 ways, surface parking area, plazas and pathways, must utilize per-  
430 vious paving materials; and
- 431 (6) a methodology by which a tenant or owner shall demonstrate  
432 compliance with the standards for energy efficiency, material use,  
433 water use, and storm water runoff included in this section and devel-  
434 oped by the commissioner.
- 435 (c) The commissioner shall review and update regulations pro-  
436 mulgated under this section every two years from the date on which  
437 the commissioner adopts the regulations.
- 438 (d) The commissioner shall design and conduct state-wide, educa-  
439 tional seminars and programs to assist developers, tenants, and  
440 others who may participate in the green building tax credit program.  
441 The commissioner shall also design written guidelines that owners  
442 of green tenant space can provide their tenants that explain opportu-  
443 nities to improve energy efficiency and air quality of tenant space  
444 and reduce and recycle waste stream.
- 445 (e) On or before April 1, 2008 the commissioner shall submit a  
446 written report to the governor, the president of the senate, the  
447 speaker of the house, the chairman of the senate finance committee  
448 and the chairman of the house ways and means committee, identi-  
449 fying:—
- 450 (1) the number of certifications filed with the division;
- 451 (2) the number of taxpayers claiming the credit under this section;
- 452 (3) the amount of the credits taxpayers have claimed; and
- 453 (4) other information the commissioner believes meaningful and  
454 appropriate in evaluating the tax credit under this section.

455 (f) Funding

456 (1) Sufficient funds shall be appropriated to the division to fill 3  
457 full-time staff positions at the division for the administration of this  
458 section.

459 (2) Additional funding of 150,000 dollars shall be appropriated  
460 to the division for state-wide, educational seminars and programs to  
461 assist developers, tenants, and others who may participate in the  
462 green building tax credit program.

463 (3) Upon application by a taxpayer, the Division shall issue an  
464 initial credit component certificate where the taxpayer has made a  
465 showing that the taxpayer is likely within a reasonable time to place  
466 in service property which would warrant the allowance of a credit  
467 under this section. Such certificate shall state the first taxable year  
468 for which the credit may be claimed and an expiration date, and shall  
469 apply only to property placed in service by such expiration date.  
470 Such expiration date may be extended at the discretion of the Divi-  
471 sion, in order to avoid unwarranted hardship. Such certificates may  
472 be issued in years 2006-2010. Such certificates shall state the max-  
473 imum amount of credit component allowable for each of the five  
474 taxable years for which the credit component is allowed, under  
475 Section 31N.

476 (i) Period one. Initial credit component certificates for period one  
477 may be issued in years 2006-2010. Such certificates for period one  
478 shall not be issued, in the aggregate, for more than twenty-five mil-  
479 lion dollars worth of credit components. The total amount of credit  
480 component allowable for the five taxable years for which the credit  
481 components are allowed, as set forth on any one initial credit compo-  
482 nent certificate, shall be limited to two million dollars. However, a  
483 taxpayer that is the owner or tenant of more than one building that  
484 qualifies for the credits provided for under this section may be  
485 issued initial credit component certificates with respect to each such  
486 building with the aggregate amount of credit components permitted  
487 for each such certificate being two million dollars. In addition, such  
488 certificates for period one shall be limited in their applicability, as  
489 follows:—

490	Credit components in the	With respect to taxable
491	aggregate shall not	years beginning in:—
492	be allowed for more than:—	
493	\$ 1 million	2007
494	\$ 2 million	2008
495	\$ 3 million	2009
496	\$ 4 million	2010
497	\$ 5 million	2011
498	\$ 4 million	2012
499	\$ 3 million	2013
500	\$ 2 million	2014
501	\$ 1 million	2015

502 Provided, however, that if as of the end of a calendar year, certi-  
 503 cates for credit component amounts totaling less than the amount  
 504 permitted with respect to taxable years commencing in such calendar  
 505 year have been issued, then the amount permitted with respect to  
 506 taxable years commencing in the subsequent calendar year shall be  
 507 augmented by the amount of such shortfall.

508 (ii) Period two. Initial credit component certificates for period two  
 509 may be issued in years 2011-2015. Such certificates for period two  
 510 shall not be issued, in the aggregate, for more than twenty-five mil-  
 511 lion dollars worth of credit components. The total amount of credit  
 512 component allowable for the five taxable years for which the credit  
 513 components are allowed, as set forth on any one initial credit compo-  
 514 nent certificate, shall be limited to two million dollars. However, a  
 515 taxpayer that is the owner or tenant of more than one building that  
 516 qualifies for the credits provided for under this section may be  
 517 issued initial credit component certificates with respect to each such  
 518 building with the aggregate amount of credit components permitted  
 519 for each such certificate being two million dollars. Provided further,  
 520 a taxpayer that is the owner or tenant of a building for which an ini-  
 521 tial credit component certificate was issued for period one, shall not  
 522 be issued an initial credit component certificate with respect to such  
 523 building for period two. In addition, such certificates for period two  
 524 shall be limited in their applicability, as follows:—

525	Credit components in the	With respect to taxable
526	aggregate shall not	years beginning in:—
527	be allowed for more than:—	
528	\$ 1 million	2012
529	\$ 2 million	2013
530	\$ 3 million	2014
531	\$ 4 million	2015
532	\$ 5 million	2016
533	\$ 4 million	2017
534	\$ 3 million	2018
535	\$ 2 million	2019
536	\$ 1 million	2020

537 Provided, however, that if as of the end of a calendar year, certifi-  
538 cates for credit component amounts totaling less than the amount  
539 permitted with respect to taxable years commencing in such calendar  
540 year have been issued, then the amount permitted with respect to  
541 taxable years commencing in the subsequent calendar year shall be  
542 augmented by the amount of such shortfall. Provided, further, that if  
543 at the end of calendar year two thousand nine, certificates for credit  
544 component amounts issued by the Division have totaled less than  
545 twenty-five million dollars for calendar years 2011-2015, then the  
546 period to issue initial credit component certificates shall be extended  
547 to the end of calendar year two thousand sixteen and the Division  
548 shall be permitted to issue in two thousand sixteen initial credit com-  
549 ponent certificates for amounts that equal the difference between the  
550 amounts issued for calendar years 2011-2015 and twenty-five mil-  
551 lion dollars.