

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Linda Dorcena Forry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to establish a green building income and excise tax credit.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Linda Dorcena Forry	12th Suffolk
Stephen L. DiNatale	3rd Worcester
Anthony D. Galluccio	Middlesex, Suffolk and Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2902 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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

16

17 SECTION 2. Section 6 of chapter 62 of the General Laws, as appearing in the 2006 Official
18 Edition, is hereby amended by inserting the following paragraph:-

19 (m) A tenant or owner of property located in the commonwealth who is not a dependant of
20 another taxpayer may take a tax credit against the income tax this chapter imposes in an
21 amount equal to the sum of the credit components specified in section 31N of chapter 63
22 provided that:

23 (1) for the credit allowance year, a taxpayer shall obtain and file an initial credit component
24 certificate and an eligibility certificate the division of energy resources shall issue pursuant to
25 section 31O of chapter 63;

26 (2) for each of the four years succeeding the credit allowance year, a taxpayer shall obtain and
27 file an eligibility certificate pursuant to section 31O of chapter 63;

28 (3) the amount of each credit component does not exceed the limit set forth in the initial credit
29 component certificate the corporation obtains pursuant to section 31O of chapter 63;

30 (4) a taxpayer may use a particular cost paid or incurred to determine the amount of only one
31 credit component;

32 (5) where applicable, a taxpayer shall obtain a certificate of occupancy for the building for
33 which the taxpayer intends to take the credit;

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

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

39 (8) a taxpayer shall not take a credit under this section unless the taxpayer complies with the
40 requirements of section 31O of chapter 63, relating to reports to the division of energy
41 resources;

42 (9) in the construction of a green building, a green base building, and a green tenant space, or
43 the rehabilitation of a building, base building or tenant space to make a green building, green
44 base building or green tenant space a taxpayer shall adhere to the regulations the
45 commissioner promulgates and adopts under section 31P of chapter 63;

46 (10) a tenant or owner shall take a tax credit pursuant to the provisions of paragraphs (b), (c)
47 and (d) of section 31M of chapter 63; and

48 (11) a taxpayer shall not take a credit under this section if the taxpayer is eligible for the credit
49 under paragraph (a) of section 31M of chapter 63.

50

51 SECTION 3. Chapter 63 of the General Laws, as so appearing, is hereby amended by inserting
52 the following sections:-

53

54 Section 31L.

55 As used in this section and sections 31M, 31N, 31O and 31P of this chapter and section 6
56 paragraph (l) of chapter 62, the following terms shall have the following meanings:

57 (a) "Allowable costs" means amounts properly chargeable to a capital account, other than for
58 land, which a tenant or owner pays or incurs for:

59 (1) construction or rehabilitation; (2) commissioning costs; (3) interest paid or incurred during
60 the construction or rehabilitation period; (4) legal, architectural, engineering and other
61 professional fees allocable to construction or rehabilitation; (5) closing costs for construction,
62 rehabilitation or mortgage loans; (6) recording taxes and filing fees incurred in construction or
63 rehabilitation; (7) site costs, including but not limited to, temporary electric wiring, scaffolding,
64 demolition costs, and fencing and security facilities; and

65 (8) furniture, carpeting, partitions, walls, wall coverings, ceilings, drapes, blinds, lighting,
66 plumbing, electrical wiring and ventilation; but (9) not including telephone systems, computers,
67 fuel cells and photovoltaic modules.

68

69 (b) "Base building" means area of a building not intended for occupancy, including but not
70 limited to: (1) structural components of the building; (2) exterior walls; (3) floors; (4) windows;
71 (5) roofs; (6) foundations; (7) chimneys and stacks; (8) parking areas; (9) mechanical rooms,
72 mechanical systems and owner controlled and operated service spaces; (10) sidewalks; (11)
73 main lobby; (12) shafts and vertical transportation mechanisms; (13) stairways; and (14)
74 corridors.

75

76 (c) "Credit allowance year" means the later of: (1) the taxable year during which a tenant or
77 owner place a green building, a green base building or green tenant space in service or receives
78 a final certificate of occupancy; or (2) the first taxable year for which a tenant or owner may
79 claim a credit pursuant to the initial credit component certificate that the division of energy
80 resources issues.

81

82 (d) "Commissioner" means the commissioner of the division of energy resources,

83

84 (e) "Commissioning" means the testing and fine-tuning of heat, ventilating, air conditioning and
85 other systems to assure proper functioning and adherence to design criteria, the preparation of
86 system operation manuals, and the instruction of maintenance personnel.

87 (f) "Division" means the Massachusetts division of energy resources.

88

89 (g) "Economic development area" means an area as defined by section 1 of chapter 121C, or an
90 empowerment zone or enterprise community as defined by section 1391 of the Internal
91 Revenue Code.

92

93 (h) "Eligible building" means a building located in the commonwealth that: (1) contains at least
94 20,000 square feet of interior space; (2) meets or exceeds or upon completion will meet or
95 exceed all federal, state and local: (i) zoning requirements; (ii) building codes; (iii)
96 environmental laws, regulations and industry guidelines; (iv) land use and erosion control
97 requirements; and (v) storm water management; (3) the Massachusetts state building code or
98 a subsequent code classifies as commercial and has a ventilation system that: (i) can replace
99 100 percent of air on any floor on a minimum of two floors at a time; and (ii) has fresh air
100 intakes located a minimum of 25 feet away from loading areas, building exhaust fans, cooling
101 towers, and other points of source contamination; (4) is a residential multi-family building with
102 at least 12 units; (5) is a residential multi-family building with at least 2 units that are part of a
103 single or phased construction project with at least 10,000 square feet under construction or
104 rehabilitation in any single phase; or

105 (6) is a combination of buildings described in (3), (4) and (5); and (7) is not a building located on
106 freshwater wetlands or tidal wetlands as defined by section 40 and 40A of chapter 131, or on

107 wetlands that require a permit for construction pursuant to section 404 of the federal clean
108 water act (33 U.S.C.A 1344).

109

110 (i) "Energy code" means a chapter within the Massachusetts state building code that addresses
111 energy or energy related issues.

112 (j) "EPA" means the United States Environmental Protection Agency.

113 (k) "Fuel cell" means a device that produces electricity directly from hydrogen or hydrocarbon
114 fuel through a non-combustive electrochemical process.

115 (l) "Green base building" means a base building that is part of an eligible building and meets the
116 standards for energy efficiency, zoning, indoor air quality, and building material, finishes and
117 furnishing uses the commissioner establishes through regulations under this section.

118 (m) "Green building" means a building in which the base building is a green base building and
119 the tenant space is green tenant space.

120 (n) "Green tenant space" means tenant space in an eligible building that meets the standards
121 for energy efficiency, code requirements, indoor air quality, and building material, finishes and
122 furnishing uses the commissioner establishes through regulations under this section.

123 (o) "Incremental cost of building-integrated photovoltaic modules" means: (1) the cost of a
124 building-integrated photovoltaic module and associated inverter, additional wiring or other
125 electrical equipment or mounting or structural materials, less the cost of spandrel glass or other
126 building material the tenant or owner would have used in the event that the building-
127 integrated photovoltaic module was not installed; (2) labor costs properly allocable to on-site
128 preparation, assembly and original installation of a photovoltaic module; and (3) architectural
129 and engineering services, designs and plans directly related to the construction or installation of
130 the photovoltaic module.

131 (p) "LEED rating system" means the leadership in energy and environmental design green
132 building rating system that the United States Green Building Council is developing

133 (q) "Tenant improvements" means necessary and appropriate improvements needed to
134 support or conduct the business of a tenant or occupying owner.

135 (r) "Tenant space" means the portion of a building designed or intended for the occupancy of
136 the tenant or owner.

137

138 Section 31M.

139 (a) A corporation subject to tax under this chapter may take a credit against the excise this
140 chapter imposes, in an amount equal to the sum of the credit components specified in section
141 31N for the credit allowance year and each of the four succeeding years, provided that: (1) for
142 the credit allowance year, a taxpayer shall obtain and file an initial credit component certificate
143 and an eligibility certificate the division of energy resources shall issue pursuant to section 31O;
144 (2) for each of the four years succeeding the credit allowance year, a taxpayer shall obtain and
145 file an eligibility certificate pursuant to section 31O; (3) the amount of each credit component
146 does not exceed the limit set forth in the initial credit component certificate the corporation
147 obtains pursuant to section 31O;

148 (4) a taxpayer may use a particular cost paid or incurred to determine the amount of only one
149 credit component; (5) where applicable, a taxpayer shall obtain a certificate of occupancy for
150 the building for which the taxpayer intends to take the credit; (6) in the case of a fuel cell or
151 photovoltaic module, the property for which the taxpayer takes the credit remains in service;
152 (7) where the credit allowance year is the first taxable year in which a taxpayer may claim the
153 credit pursuant to the initial credit component certificate, the green building remains in service
154 during the year; (8) a taxpayer shall not take a credit under this section unless the taxpayer
155 complies with the requirements of section 310, relating to reports to the division of energy
156 resources; and (9) in the construction of a green building, a green base building, and a green
157 tenant space, or the rehabilitation of a building, base building or tenant space to make a green
158 building, green base building or green tenant space a taxpayer shall adhere to the regulations
159 the commissioner promulgates and adopts under section 31P.

160

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

163 (1) the successor owner may take a credit for the period allowable had the prior owner not sold
164 the property; and (2) for a taxable year, the prior and successor owners shall allocate the credit
165 between themselves based on the number of days during the year that each party held
166 property.

167

168 (c) A successor tenant, assuming tenancy in place of a prior tenant who could have taken a
169 taken a tax credit pursuant to this section, may take a credit against the excise take, provided
170 that: (1) the property upon which the successor tenant bases the credit remains in the building;
171 (2) the successor tenant may take a credit for the period allowable had the prior tenancy not

172 been terminated; and (3) for a taxable year, the prior and successor tenants shall allocate the
173 credit between themselves based on the number of days during the year each party used the
174 property.

175 (d) The commissioner may reveal to the successor owner or tenant information with respect to
176 the credit of the prior owner or tenant that leads to the denial, in whole or part, of the credit
177 the successor owner or tenant claims under paragraphs (b) or (c) of this section.

178

179 Section 31N.

180 (a) A tenant or owner of a green building may take a credit equal to the applicable percentage
181 of the allowable costs the tenant or owner pays or incurs in constructing a green building or
182 rehabilitating a building to make it a green building, provided that:

183 (1) the applicable percentage a tenant or owner shall use to calculate the credit is 1.4 percent,
184 except where the building is located in an economic development area, in which case the
185 applicable percentage a tenant or owner shall use is 1.6 percent; (2) a tenant or owner shall not
186 claim a credit on costs in excess of 150 dollars per square foot for the portion of the building
187 that comprises the base building; (3) a tenant or owner shall not claim a credit on cost in excess
188 of 75 dollars per square foot for the portion of the building that comprises tenant space.

189

190 (b) A tenant or owner of green tenant space may take a credit equal to the applicable
191 percentage of the allowable costs a tenant or owner pays or incurs in constructing green tenant
192 space or rehabilitating tenant space to make it green tenant space, provided that:

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

195 (2) the applicable percentage a tenant or owner shall use to calculate the credit is 1 percent,
196 except where the building is located in an economic development area, in which case the
197 applicable percentage a taxpayer shall use is 1.2 percent; (3) a tenant or owner shall not claim a
198 credit on cost in excess of 75 dollars per square foot; and (4) where a tenant and an owner both
199 incur costs for the creation of a green tenant space, and such costs exceed 75 dollars per square
200 foot, the owner shall have priority in claiming the owner's costs as the basis for the green
201 tenant space credit component.

202

203 (c) A tenant or owner may take a credit equal to the applicable percentage of the allowable
204 costs a tenant or owner pays or incurs in installing a fuel cell to serve a green building, green
205 base building or green tenant space, provided that: (1) the fuel cell is a qualifying alternate
206 energy source; (2) the applicable percentage a tenant or owner shall use to calculate the credit
207 is 6 percent of the sum of the capitalized costs a taxpayer pays or incurs for a fuel cell, including
208 the cost of the foundation or platform and the labor cost associated with installation; (3) the
209 tenant or owner shall not claim a credit for capitalized costs in excess of 1,000 dollars per
210 kilowatt of installed dc rated capacity; and (4) the tenant or owner shall not include as part of
211 the cost paid or incurred, a federal, state or local grant the tenant or owner receives for
212 purchase and installation of a fuel cell, unless the tenant or owner includes the amount of the
213 grant as part of the tenant or owner's federal gross income.

214

215 (d) A tenant or owner may take a credit equal to the applicable percentage of the allowable
216 costs a tenant or owner pays or incurs in installing a photovoltaic module to serve a green
217 building, green base building or green tenant space, provided that: (1) the photovoltaic module
218 constitutes a qualifying alternate energy source; (2) the applicable percentage a taxpayer shall
219 use to calculate the credit is 20 percent of the incremental cost a taxpayer pays or incurs for
220 building integrated photovoltaic modules; (3) the applicable percentage a tenant or owner shall
221 use to calculate the credit is 5 percent of the costs of non-building-integrated photovoltaic
222 modules; (4) the tenant or owner shall not claim a credit for costs in excess of the product of (1)
223 three dollars and (2) the number of watts included in the dc rated capacity of the photovoltaic
224 module; (5) the tenant or owner shall not include as part of the cost paid or incurred, a federal,
225 state or local grant the tenant or owner receives for purchase and installation of a photovoltaic
226 module, unless the tenant or owner includes the amount of the grant as part of the tenant or
227 owner's federal gross income.

228

229 (e) A tenant or owner of a green base building may take a credit equal to the applicable
230 percentage of the allowable costs the tenant or owner pays or incurs in constructing a green
231 base building or rehabilitating a building to make it a green base building, provided that: (1) the
232 applicable percentage a tenant or owner shall use to calculate the credit is 1 percent, except
233 where the building is located in an economic development area, in which case the applicable
234 percentage a tenant or owner shall use is 1.2 percent; (2) a tenant or owner shall not claim a
235 credit on costs in excess of 150 dollars per square foot for the portion of the building that
236 comprises the base building.

237

238 Section 310.

239 (a) Upon a tenant or owner's application and showing that the tenant or owner is likely to place
240 in service, in a reasonable time, property that qualifies for the tax credit under this section, the
241 division shall issue an initial credit component certificate identifying: (1) the first taxable year
242 for which the tenant or owner may claim a credit; (2) the expiration date of the certificate,
243 which the division may extend to avoid hardship; (3) the property to which the certificate
244 applies; and (4) the maximum amount of the credit component allowable for each of the five
245 taxable years for which the certificate allows the credit.

246

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

257

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

261 or certified to practice in the commonwealth or other professional the commissioner may
262 approve. The engineer, industrial hygienist or other professional shall monitor supply and
263 return air and ambient air for carbon monoxide, carbon dioxide, total volatile organic
264 compounds, radon and particulate matter; provided that once radon measurements meet the
265 standards the commissioner establishes, annual testing is not required.

266

267 (d) For each taxable year for which a tenant or owner claims a tax credit under this section, the
268 tenant or owner shall maintain records for: (1) annual energy consumption for building, base
269 building or tenant space; (2) annual results of air monitoring for building, base building or
270 tenant space; (3) annual confirmation that the building, base building or tenant space continues

271 to meet requirements regarding smoking area; (4) written notifications from tenants regarding,
272 and requests to remedy indoor air problems; (5) monthly results of performance validation for
273 photovoltaic modules and fuel cells; and (6) certification as to off-gassing and other
274 contamination, as prescribed in subsection paragraph 10 of this subsection.

275

276 (e) A tenant or owner claiming a tax credit under this section shall file the initial credit
277 component certificate and the eligibility certificate with the department of revenue and shall
278 file a duplicate with the division. In addition, when claiming a credit under this section, the
279 tenant or owner shall provide the information collected pursuant to paragraph 3 of this
280 subsection to the division. The commissioner shall specify the time and form in which the
281 tenant or owner must provide the collected information.

282

283 (f) If the division has reason to believe that an architect or engineer engaged in professional
284 misconduct when making a certification under this section, the division shall inform the board
285 of registration of architects or the board of registration of engineers and land surveyors.

286 (g) An owner of a green tenant space claiming the tax credit under this section shall: (1) prior to
287 initial occupancy and upon a tenant's request, provide a tenant with: (i) written notification of
288 the opportunity to apply for a tax credit pursuant to this section; and

289 (ii) written guidelines regarding opportunities to improve the energy efficiency and air quality
290 of tenant space and reduce and recycle waste stream; and (2) in an owner occupied building,
291 make all tenant space green tenant space.

292

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

297 (i) If a tenant or owner claiming the tax credit under this section permits smoking, the tenant or
298 owner shall provide separate air ventilation and circulation systems for smoking and non-
299 smoking areas.

300 (j) Prior to occupancy or re-occupancy, a tenant or owner claiming the tax credit under this
301 section shall purge the air for a period of one week on every floor. A tenant or owner may
302 purge for less time if the tenant or owner obtains certification from an engineer, industrial

303 hygienist or other professional verifying that off-gassing and other contamination can be
304 reduced to acceptable levels in less than one week.

305

306

307 Section 31P.

308 (a) The commissioner may promulgate and adopt regulations that: (1) encourage the
309 development of green buildings, green base buildings and green tenant space; (2) establish
310 high, commercially reasonable standards for obtaining the tax credits under this section; (3)
311 establish a reasonable time or period of time for submission of an application;

312 (4) establish a method for allocating initial credit component certificates among eligible
313 applicants; and (5) apply only to a green building, green base building, or green tenant space as
314 defined in this section.

315

316 (b) Within 6 months of the effective date of this section, the commissioner shall promulgate
317 and adopt regulations that establish:

318 (1) standards for energy, including:

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

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

323 (B) energy use for a building, base building or tenant space rehabilitated
324 to make a green building, green base building or tenant space cannot exceed 75 percent of the
325 use permitted under the energy code;

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

329 (iii) standards for the commissioning of the mechanical plant of a building. The
330 commissioner shall use documents such as the American Society of Heating, Refrigerating and
331 Air Conditioning Engineers G-1 and the United States General Services Administration "Model
332 Commissioning Plan and Guide Specifications" as a guide for the regulation;

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

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

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

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

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

342 (3) the minimum percentage of recycled content and renewable source material and
343 maximum levels of toxicity and volatile organic compounds in building materials, finishes and
344 furnishings, including but not limited to concrete and concrete masonry units, wood and wood
345 products, millwork substrates, insulation, ceramic, glass and cementitious tiles, ceiling tiles and
346 panels, flooring and carpet, paints, coatings, sealants, adhesives, and furniture. The
347 commissioner shall use the LEED rating system as a guide for the regulations;

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

350 (i) a gray water system that recovers non-sewage waste water or uses roof or
351 ground storm water collection systems, or recovers ground water from a sump pump;

352 (ii) a delimiter for cooling tower systems, to reduce drift and evaporation; and

353 (iii) exterior plants to be tolerant of climate, soils and natural water availability
354 and restricts the use of municipal potable water for watering exterior plants;

355 (5) standards for a building located in an area that does not have sewers or that has
356 designated storm sewers that require:

357 (i) an oil grit separator or water quality pond for pretreatment of runoff from any
358 surface parking area; or

359 (ii) at least 50 percent of non-landscape areas, including roadways, surface
360 parking area, plazas and pathways, must utilize pervious paving materials; and

361 (6) a methodology by which a tenant or owner shall demonstrate compliance with the
362 standards for energy efficiency, material use, water use, and storm water runoff included in this
363 section and developed by the commissioner.

364 (c) The commissioner shall review and update regulations promulgated under this section every
365 two years from the date on which the commissioner adopts the regulations.

366 (d) The commissioner shall design and conduct state-wide, educational seminars and programs
367 to assist developers, tenants, and others who may participate in the green building tax credit
368 program. The commissioner shall also design written guidelines that owners of green tenant
369 space can provide their tenants that explain opportunities to improve energy efficiency and air
370 quality of tenant space and reduce and recycle waste stream.

371 (e) On or before April 1, 2010 the commissioner shall submit a written report to the governor,
372 the president of the senate, the speaker of the house, the chairman of the senate finance
373 committee and the chairman of the house ways and means committee, identifying:

374 (1) the number of certifications filed with the division;

375 (2) the number of taxpayers claiming the credit under this section;

376 (3) the amount of the credits taxpayers have claimed; and

377 (4) other information the commissioner believes meaningful and appropriate in
378 evaluating the tax credit under this section.

379 (f) Funding

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

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

385 (3) Upon application by a taxpayer, the Division shall issue an initial credit component
386 certificate where the taxpayer has made a showing that the taxpayer is likely within a
387 reasonable time to place in service property which would warrant the allowance of a credit
388 under this section. Such certificate shall state the first taxable year for which the credit may be
389 claimed and an expiration date, and shall apply only to property placed in service by such
390 expiration date. Such expiration date may be extended at the discretion of the Division, in order
391 to avoid unwarranted hardship. Such certificates may be issued in years 2009-2012. Such

392 certificates shall state the maximum amount of credit component allowable for each of the five
393 taxable years for which the credit component is allowed, under section 31N.

394 (i) Period one. Initial credit component certificates for period one may be issued in years 2009-
395 2012 Such certificates for period one shall not be issued, in the aggregate, for more than
396 twenty-five million dollars worth of credit components. The total amount of credit component
397 allowable for the five taxable years for which the credit components are allowed, as set forth
398 on any one initial credit component certificate, shall be limited to two million dollars. However,
399 a taxpayer that is the owner or tenant of more than one building that qualifies for the credits
400 provided for under this section may be issued initial credit component certificates with respect
401 to each such building with the aggregate amount of credit components permitted for each such
402 certificate being two million dollars. In addition, such certificates for period one shall be limited
403 in their applicability, as follows:

404 Credit components in	With respect to taxable
405 the aggregate shall not	years beginning in:
406 be allowed for more than:	

407

408 \$ 1 million	2009
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409 \$ 2 million	2010
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410 \$ 3 million	2011
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411 \$ 4 million	2012
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412 \$ 5 million	2013
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413 \$ 4 million	2014
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414 \$ 3 million	2015
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415 \$ 2 million	2016
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416 \$ 1 million	2017
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417

418 Provided, however, that if as of the end of a calendar year, certificates for credit component
419 amounts totaling less than the amount permitted with respect to taxable years commencing in
420 such calendar year have been issued, then the amount permitted with respect to taxable years

421 commencing in the subsequent calendar year shall be augmented by the amount of such
422 shortfall.

423 (ii) Period two. Initial credit component certificates for period two may be issued in years 2011-
424 2015. Such certificates for period two shall not be issued, in the aggregate, for more than
425 twenty-five million dollars worth of credit components. The total amount of credit component
426 allowable for the five taxable years for which the credit components are allowed, as set forth
427 on any one initial credit component certificate, shall be limited to two million dollars. However,
428 a taxpayer that is the owner or tenant of more than one building that qualifies for the credits
429 provided for under this section may be issued initial credit component certificates with respect
430 to each such building with the aggregate amount of credit components permitted for each such
431 certificate being two million dollars. Provided further, a taxpayer that is the owner or tenant of
432 a building for which an initial credit component certificate was issued for period one, shall not
433 be issued an initial credit component certificate with respect to such building for period two. In
434 addition, such certificates for period two shall be limited in their applicability, as follows:

435 Credit components in the With respect to taxable
436 aggregate shall not be years beginning in:

437 allowed for more than:

438	\$ 1 million	2014
439	\$ 2 million	2015
440	\$ 3 million	2016
441	\$ 4 million	2017
442	\$ 5 million	2018
443	\$ 4 million	2019
444	\$ 3 million	2020
445	\$ 2 million	2021
446	\$ 1 million	2022

447

448 Provided, however, that if as of the end of a calendar year, certificates for credit component
449 amounts totaling less than the amount permitted with respect to taxable years commencing in

450 such calendar year have been issued, then the amount permitted with respect to taxable years
451 commencing in the subsequent calendar year shall be augmented by the amount of such
452 shortfall. Provided, further, that if at the end of calendar year two thousand nine, certificates
453 for credit component amounts issued by the Division have totaled less than twenty-five million
454 dollars for calendar years 2011-2015, then the period to issue initial credit component
455 certificates shall be extended to the end of calendar year two thousand sixteen and the Division
456 shall be permitted to issue in two thousand sixteen initial credit component certificates for
457 amounts that equal the difference between the amounts issued for calendar years 2014-2022
458 and twenty-five million dollars.

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