

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 14

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO TAXATION; EXTENDING THE SUSTAINABLE BUILDING TAX
CREDIT FOR THREE YEARS; CHANGING PROVISIONS FOR APPLICATION OF
THE CREDIT AGAINST TAX LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-2-18.19 NMSA 1978 (being Laws 2007,
Chapter 204, Section 3, as amended) is amended to read:

"7-2-18.19. SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be
referred to as the "sustainable building tax credit". The
sustainable building tax credit shall be available for the
construction in New Mexico of a sustainable building, the
renovation of an existing building in New Mexico into a
sustainable building or the permanent installation of
manufactured housing, regardless of where the housing is

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underscored material = new
[bracketed material] = delete

1 manufactured, that is a sustainable building. The tax credit
 2 provided in this section may not be claimed with respect to the
 3 same sustainable building for which the sustainable building
 4 tax credit provided in the Corporate Income and Franchise Tax
 5 Act has been claimed.

6 B. A taxpayer who files an income tax return is
 7 eligible to be granted a sustainable building tax credit by the
 8 department if the taxpayer submits a document issued pursuant
 9 to Subsection I of this section with the taxpayer's income tax
 10 return.

11 C. ~~[The amount of]~~ For taxable years ending on or
 12 before December 31, 2016, the sustainable building tax credit
 13 ~~[that]~~ may be claimed with respect to a sustainable commercial
 14 building. The credit shall be calculated based on the
 15 certification level the building has achieved in the LEED green
 16 building rating system and the amount of qualified occupied
 17 square footage in the building, as indicated on the following
 18 chart:

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75
	Over 50,000 up to 500,000	\$.70

underscored material = new
 [bracketed material] = delete

1	LEED-NC Gold	First 10,000	\$4.75
2		Next 40,000	\$2.00
3		Over 50,000	
4		up to 500,000	\$1.00
5	LEED-NC Platinum	First 10,000	\$6.25
6		Next 40,000	\$3.25
7		Over 50,000	
8		up to 500,000	\$2.00
9	LEED-EB or CS Silver	First 10,000	\$2.50
10		Next 40,000	\$1.25
11		Over 50,000	
12		up to 500,000	\$.50
13	LEED-EB or CS Gold	First 10,000	\$3.35
14		Next 40,000	\$1.40
15		Over 50,000	
16		up to 500,000	\$.70
17	LEED-EB or CS Platinum	First 10,000	\$4.40
18		Next 40,000	\$2.30
19		Over 50,000	
20		up to 500,000	\$1.40
21	LEED-CI Silver	First 10,000	\$1.40
22		Next 40,000	\$.70
23		Over 50,000	
24		up to 500,000	\$.30
25	LEED-CI Gold	First 10,000	\$1.90

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1		Next 40,000	\$.80
2		Over 50,000	
3		up to 500,000	\$.40
4	LEED-CI Platinum	First 10,000	\$2.50
5		Next 40,000	\$1.30
6		Over 50,000	
7		up to 500,000	\$.80.

8 D. ~~[The amount of]~~ For taxable years ending on or
 9 before December 31, 2016, the sustainable building tax credit
 10 ~~[that]~~ may be claimed with respect to a sustainable residential
 11 building. The credit shall be calculated based on the amount
 12 of qualified occupied square footage, as indicated on the
 13 following chart:

14	Rating System/Level	Qualified	Tax Credit
15		Occupied	per Square
16		Square Footage	Foot
17	LEED-H Silver or Build	First 2,000	\$5.00
18	Green NM Silver	Next 1,000	\$2.50
19	LEED-H Gold or Build	First 2,000	\$6.85
20	Green NM Gold	Next 1,000	\$3.40
21	LEED-H Platinum or Build	First 2,000	\$9.00
22	Green NM Emerald	Next 1,000	\$4.45
23	EPA ENERGY STAR		
24	Manufactured Housing	Up to 3,000	\$3.00.

25 E. A person that is a building owner may apply for

underscored material = new
 [bracketed material] = delete

1 la certificate of eligibility for the sustainable building tax
2 credit from the energy, minerals and natural resources
3 department after the construction, installation or renovation
4 of the sustainable building is complete. Applications shall be
5 considered in the order received. If the energy, minerals and
6 natural resources department determines that the building owner
7 meets the requirements of this subsection and that the building
8 with respect to which the tax credit application is made meets
9 the requirements of this section as a sustainable residential
10 building or a sustainable commercial building, the energy,
11 minerals and natural resources department may issue a
12 certificate of eligibility to the building owner, subject to
13 the limitation in Subsection F of this section. The
14 certificate shall include the rating system certification level
15 awarded to the building, the amount of qualified occupied
16 square footage in the building and a calculation of the maximum
17 amount of sustainable building tax credit for which the
18 building owner would be eligible. The energy, minerals and
19 natural resources department may issue rules governing the
20 procedure for administering the provisions of this subsection.
21 If the certification level for the sustainable residential
22 building is awarded on or after January 1, 2007, the energy,
23 minerals and natural resources department may issue a
24 certificate of eligibility to a building owner who is:

25 (1) the owner of the sustainable residential

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1 building at the time the certification level for the building
2 is awarded; or

3 (2) the subsequent purchaser of a sustainable
4 residential building with respect to which no tax credit has
5 been previously claimed.

6 F. The energy, minerals and natural resources
7 department may issue a certificate of eligibility only if the
8 total amount of sustainable building tax credits represented by
9 certificates of eligibility issued by the energy, minerals and
10 natural resources department pursuant to this section and
11 pursuant to the Corporate Income and Franchise Tax Act shall
12 not exceed in any calendar year an aggregate amount of [~~five~~
13 ~~million dollars (\$5,000,000)~~] one million dollars (\$1,000,000)
14 with respect to sustainable commercial buildings and an
15 aggregate amount of [~~five million dollars (\$5,000,000)~~] four
16 million dollars (\$4,000,000) with respect to sustainable
17 residential buildings; provided that no more than one million
18 two hundred fifty thousand dollars (\$1,250,000) of the
19 aggregate amount with respect to sustainable residential
20 buildings shall be for manufactured housing. If for any
21 taxable year the energy, minerals and natural resources
22 department determines that the applications for sustainable
23 building tax credits with respect to sustainable residential
24 buildings for that taxable year exceed the aggregate limit set
25 in this section, the energy, minerals and natural resources

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1 department may issue certificates of eligibility under the
2 aggregate annual limit for sustainable commercial buildings to
3 ~~[building]~~ owners of ~~[multifamily dwelling units]~~ sustainable
4 residential buildings that meet the requirements of the energy,
5 minerals and natural resources department and of this section;
6 provided that applications for sustainable building credits for
7 other sustainable commercial buildings total less than the full
8 amount allocated for tax credits for sustainable commercial
9 buildings.

10 G. Installation of a solar thermal system or a
11 photovoltaic system eligible for the solar market development
12 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
13 used as a component of qualification for the rating system
14 certification level used in determining eligibility for the
15 sustainable building tax credit, unless a solar market
16 development tax credit pursuant to Section 7-2-18.14 NMSA 1978
17 has not been claimed with respect to that system and the
18 building owner and the taxpayer claiming the sustainable
19 building tax credit certify that such a tax credit will not be
20 claimed with respect to that system.

21 H. To be eligible for the sustainable building tax
22 credit, the building owner shall provide to the taxation and
23 revenue department a certificate of eligibility issued by the
24 energy, minerals and natural resources department pursuant to
25 the requirements of Subsection E of this section and any other

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1 information the taxation and revenue department may require to
2 determine the amount of the tax credit for which the building
3 owner is eligible.

4 I. If the requirements of this section have been
5 complied with, the department shall issue to the building owner
6 a document granting a sustainable building tax credit. The
7 document shall be numbered for identification and declare its
8 date of issuance and the amount of the tax credit allowed
9 pursuant to this section. The document may be submitted by the
10 building owner with that taxpayer's income tax return, if
11 applicable, or may be sold, exchanged or otherwise transferred
12 to another taxpayer. The parties to such a transaction shall
13 notify the department of the sale, exchange or transfer within
14 ten days of the sale, exchange or transfer.

15 ~~[J. Except as provided in Subsection K of this~~
16 ~~section, the sustainable building tax credit represented by the~~
17 ~~document issued pursuant to Subsection I of this section shall~~
18 ~~be applied against the taxpayer's income tax liability for the~~
19 ~~taxable year for which the credit is approved and the three~~
20 ~~subsequent taxable years, in increments of twenty-five percent~~
21 ~~of the total credit amount in each of the four taxable years.~~
22 ~~If the amount of the credit available in a taxable year exceeds~~
23 ~~the taxpayer's income tax liability for that taxable year, the~~
24 ~~excess may be carried forward for up to seven years.~~

25 K. ~~If the total amount of a sustainable building~~

1 ~~tax credit approved by the department is less than twenty-~~
 2 ~~five thousand dollars (\$25,000), the entire amount of the~~
 3 ~~credit may be applied against the taxpayer's income tax~~
 4 ~~liability for the taxable year for which the credit is~~
 5 ~~approved. If the amount of the credit exceeds the taxpayer's~~
 6 ~~income tax liability for that taxable year, the excess may be~~
 7 ~~carried forward for up to seven years.]~~

8 J. If the total approved amount of all sustainable
 9 building tax credits for a taxpayer in a taxable year
 10 represented by the documents issued pursuant to Subsection I of
 11 this section is:

12 (1) less than one hundred thousand dollars
 13 (\$100,000), a maximum of twenty-five thousand dollars (\$25,000)
 14 shall be applied against the taxpayer's income tax liability
 15 for the taxable year for which the credit is approved and the
 16 next three subsequent taxable years as needed depending on the
 17 amount of credit; or

18 (2) one hundred thousand dollars (\$100,000) or
 19 more, increments of twenty-five percent of the total credit
 20 amount in each of the four taxable years, including the taxable
 21 year for which the credit is approved and the three subsequent
 22 taxable years, shall be applied against the taxpayer's income
 23 tax liability.

24 K. If the sum of all sustainable building tax
 25 credits that can be applied to a taxable year for a taxpayer,

1 calculated according to Paragraph (1) or (2) of Subsection J of
2 this section, exceeds the taxpayer's income tax liability for
3 that taxable year, the excess may be carried forward for a
4 period of up to seven years.

5 L. A taxpayer who otherwise qualifies and claims a
6 sustainable building tax credit with respect to a sustainable
7 building owned by a partnership or other business association
8 of which the taxpayer is a member may claim a credit only in
9 proportion to that taxpayer's interest in the partnership or
10 association. The total credit claimed in the aggregate by all
11 members of the partnership or association with respect to the
12 sustainable building shall not exceed the amount of the credit
13 that could have been claimed by a sole owner of the property.

14 M. A husband and wife who file separate returns for
15 a taxable year in which they could have filed a joint return
16 may each claim only one-half of the sustainable building tax
17 credit that would have been allowed on a joint return.

18 N. For the purposes of this section:

19 (1) "build green New Mexico rating system"
20 means the certification standards adopted by the homebuilders
21 association of central New Mexico;

22 (2) "LEED-CI" means the LEED rating system for
23 commercial interiors;

24 (3) "LEED-CS" means the LEED rating system for
25 the core and shell of buildings;

1 (4) "LEED-EB" means the LEED rating system for
2 existing buildings;

3 (5) "LEED gold" means the rating in compliance
4 with, or exceeding, the second-highest rating awarded by the
5 LEED certification process;

6 (6) "LEED" means the most current leadership
7 in energy and environmental design green building rating system
8 guidelines developed and adopted by the United States green
9 building council;

10 (7) "LEED-H" means the LEED rating system for
11 homes;

12 (8) "LEED-NC" means the LEED rating system for
13 new buildings and major renovations;

14 (9) "LEED platinum" means the rating in
15 compliance with, or exceeding, the highest rating awarded by
16 the LEED certification process;

17 (10) "LEED silver" means the rating in
18 compliance with, or exceeding, the third-highest rating awarded
19 by the LEED certification process;

20 (11) "manufactured housing" means a
21 multisectioned home that is:

22 (a) a manufactured home or modular home;

23 (b) a single-family dwelling with a
24 heated area of at least thirty-six feet by twenty-four feet and
25 a total area of at least eight hundred sixty-four square feet;

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1 (c) constructed in a factory to the
2 standards of the United States department of housing and urban
3 development, the National Manufactured Housing Construction and
4 Safety Standards Act of 1974 and the Housing and Urban
5 Development Zone Code 2 or New Mexico construction codes up to
6 the date of the unit's construction; and

7 (d) installed consistent with the
8 Manufactured Housing Act and rules adopted pursuant to that act
9 relating to permanent foundations;

10 (12) "qualified occupied square footage" means
11 the occupied spaces of the building as determined by:

12 (a) the United States green building
13 council for those buildings obtaining LEED certification;

14 (b) the administrators of the build
15 green New Mexico rating system for those homes obtaining build
16 green New Mexico certification; and

17 (c) the United States environmental
18 protection agency for ENERGY STAR-certified manufactured homes;

19 (13) "person" does not include state, local
20 government, public school district or tribal agencies;

21 (14) "sustainable building" means either a
22 sustainable commercial building or a sustainable residential
23 building;

24 (15) "sustainable commercial building" means a
25 multifamily dwelling unit, as registered and certified under

1 the LEED-H or build green New Mexico rating system, that is
 2 certified by the United States green building council as LEED-H
 3 silver or higher or by build green New Mexico as silver or
 4 higher and has achieved a home energy rating system index of
 5 sixty or lower as developed by the residential energy services
 6 network or a building that has been registered and certified
 7 under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system
 8 and that:

9 (a) is certified by the United States
 10 green building council at LEED silver or higher;

11 (b) achieves any prerequisite for and at
 12 least one point related to commissioning under LEED "energy and
 13 atmosphere", if included in the applicable rating system; and

14 (c) has reduced energy consumption, as
 15 follows: 1) through 2011, a fifty percent energy reduction
 16 will be required based on the national average for that
 17 building type as published by the United States department of
 18 energy; and beginning January 1, 2012, a sixty percent energy
 19 reduction will be required based on the national average for
 20 that building type as published by the United States department
 21 of energy; and 2) is substantiated by the United States
 22 environmental protection agency target finder energy
 23 performance results form, dated no sooner than the schematic
 24 design phase of development;

25 (16) "sustainable residential building" means:

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1 (a) a building used as a single-family
2 residence as registered and certified under the build green New
3 Mexico or LEED-H rating system that: 1) is certified by the
4 United States green building council as LEED-H silver or higher
5 or by build green New Mexico as silver or higher; and 2) has
6 achieved a home energy rating system index of sixty or lower as
7 developed by the residential energy services network; or

8 [~~(b) a multifamily dwelling unit, as~~
9 ~~registered and certified under the LEED-H or build green New~~
10 ~~Mexico rating system that: 1) is certified by the United~~
11 ~~States green building council as LEED-H silver or higher or by~~
12 ~~build green New Mexico as silver or higher; and 2) has achieved~~
13 ~~a home energy rating system index of sixty or lower as~~
14 ~~developed by the residential energy services network; or~~

15 ~~(c)]~~ (b) manufactured housing that is
16 ENERGY STAR-qualified by the United States environmental
17 protection agency; and

18 (17) "tribal" means of, belonging to or
19 created by a federally recognized Indian nation, tribe or
20 pueblo."

21 SECTION 2. Section 7-2A-21 NMSA 1978 (being Laws 2007,
22 Chapter 204, Section 4, as amended) is amended to read:

23 "7-2A-21. SUSTAINABLE BUILDING TAX CREDIT.--

24 A. The tax credit provided by this section may be
25 referred to as the "sustainable building tax credit". The

1 sustainable building tax credit shall be available for the
 2 construction in New Mexico of a sustainable building, the
 3 renovation of an existing building in New Mexico into a
 4 sustainable building or the permanent installation of
 5 manufactured housing, regardless of where the housing is
 6 manufactured, that is a sustainable building. The tax credit
 7 provided in this section may not be claimed with respect to the
 8 same sustainable building for which the sustainable building
 9 tax credit provided in the Income Tax Act has been claimed.

10 B. A taxpayer that files a corporate income tax
 11 return is eligible to be granted a sustainable building tax
 12 credit by the department if the taxpayer submits a document
 13 issued pursuant to Subsection I of this section with the
 14 taxpayer's corporate income tax return.

15 C. ~~[The amount of]~~ For taxable years ending on or
 16 before December 31, 2016, the sustainable building tax credit
 17 ~~[that]~~ may be claimed with respect to a sustainable commercial
 18 building. The credit shall be calculated based on the
 19 certification level the building has achieved in the LEED green
 20 building rating system and the amount of qualified occupied
 21 square footage in the building, as indicated on the following
 22 chart:

LEED Rating Level	Qualified	Tax Credit per
	Occupied	Square Foot
	Square Footage	

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1	LEED-NC Silver	First 10,000	\$3.50
2		Next 40,000	\$1.75
3		Over 50,000	
4		up to 500,000	\$.70
5	LEED-NC Gold	First 10,000	\$4.75
6		Next 40,000	\$2.00
7		Over 50,000	
8		up to 500,000	\$1.00
9	LEED-NC Platinum	First 10,000	\$6.25
10		Next 40,000	\$3.25
11		Over 50,000	
12		up to 500,000	\$2.00
13	LEED-EB or CS Silver	First 10,000	\$2.50
14		Next 40,000	\$1.25
15		Over 50,000	
16		up to 500,000	\$.50
17	LEED-EB or CS Gold	First 10,000	\$3.35
18		Next 40,000	\$1.40
19		Over 50,000	
20		up to 500,000	\$.70
21	LEED-EB or CS		
22	Platinum	First 10,000	\$4.40
23		Next 40,000	\$2.30
24		Over 50,000	
25		up to 500,000	\$1.40

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1	LEED-CI Silver	First 10,000	\$1.40
2		Next 40,000	\$.70
3		Over 50,000	
4		up to 500,000	\$.30
5	LEED-CI Gold	First 10,000	\$1.90
6		Next 40,000	\$.80
7		Over 50,000	
8		up to 500,000	\$.40
9	LEED-CI Platinum	First 10,000	\$2.50
10		Next 40,000	\$1.30
11		Over 50,000	
12		up to 500,000	\$.80.

13 D. ~~[The amount of]~~ For taxable years ending on or
14 before December 31, 2016, the sustainable building tax credit
15 ~~[that]~~ may be claimed with respect to a sustainable residential
16 building. The credit shall be calculated based on the amount
17 of qualified occupied square footage, as indicated on the
18 following chart:

19	Rating System/Level	Qualified	Tax Credit
20		Occupied	per Square
21		Square Footage	Foot
22	LEED-H Silver or Build	First 2,000	\$5.00
23	Green NM Silver	Next 1,000	\$2.50
24	LEED-H Gold or Build	First 2,000	\$6.85
25	Green NM Gold	Next 1,000	\$3.40

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1	LEED-H Platinum or Build	First 2,000	\$9.00
2	Green NM Emerald	Next 1,000	\$4.45
3	EPA ENERGY STAR		
4	Manufactured Housing	Up to 3,000	\$3.00.

5 E. A person that is a building owner may apply for
6 a certificate of eligibility for the sustainable building tax
7 credit from the energy, minerals and natural resources
8 department after the construction, installation or renovation
9 of the sustainable building is complete. Applications shall be
10 considered in the order received. If the energy, minerals and
11 natural resources department determines that the building owner
12 meets the requirements of this subsection and that the building
13 with respect to which the tax credit application is made meets
14 the requirements of this section as a sustainable residential
15 building or a sustainable commercial building, the energy,
16 minerals and natural resources department may issue a
17 certificate of eligibility to the building owner, subject to
18 the limitation in Subsection F of this section. The
19 certificate shall include the rating system certification level
20 awarded to the building, the amount of qualified occupied
21 square footage in the building and a calculation of the maximum
22 amount of sustainable building tax credit for which the
23 building owner would be eligible. The energy, minerals and
24 natural resources department may issue rules governing the
25 procedure for administering the provisions of this subsection.

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1 If the certification level for the sustainable residential
 2 building is awarded on or after January 1, 2007, the energy,
 3 minerals and natural resources department may issue a
 4 certificate of eligibility to a building owner who is:

5 (1) the owner of the sustainable residential
 6 building at the time the certification level for the building
 7 is awarded; or

8 (2) the subsequent purchaser of a sustainable
 9 residential building with respect to which no tax credit has
 10 been previously claimed.

11 F. The energy, minerals and natural resources
 12 department may issue a certificate of eligibility only if the
 13 total amount of sustainable building tax credits represented by
 14 certificates of eligibility issued by the energy, minerals and
 15 natural resources department pursuant to this section and
 16 pursuant to the Income Tax Act shall not exceed in any calendar
 17 year an aggregate amount of [~~five million dollars (\$5,000,000)~~]
 18 one million dollars (\$1,000,000) with respect to sustainable
 19 commercial buildings and an aggregate amount of [~~five million~~
 20 ~~dollars (\$5,000,000)~~] four million dollars (\$4,000,000) with
 21 respect to sustainable residential buildings; provided that no
 22 more than one million two hundred fifty thousand dollars
 23 (\$1,250,000) of the aggregate amount with respect to
 24 sustainable residential buildings shall be for manufactured
 25 housing. If for any taxable year the energy, minerals and

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1 natural resources department determines that the applications
2 for sustainable building tax credits with respect to
3 sustainable residential buildings for that taxable year exceed
4 the aggregate limit set in this section, the energy, minerals
5 and natural resources department may issue certificates of
6 eligibility under the aggregate annual limit for sustainable
7 commercial buildings to [~~building~~] owners of [~~multifamily~~
8 ~~dwelling units~~] sustainable residential buildings that meet the
9 requirements of the energy, minerals and natural resources
10 department and of this section; provided that applications for
11 sustainable building credits for other sustainable commercial
12 buildings total less than the full amount allocated for tax
13 credits for sustainable commercial buildings.

14 G. Installation of a solar thermal system or a
15 photovoltaic system eligible for the solar market development
16 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
17 used as a component of qualification for the rating system
18 certification level used in determining eligibility for the
19 sustainable building tax credit, unless a solar market
20 development tax credit pursuant to Section 7-2-18.14 NMSA 1978
21 has not been claimed with respect to that system and the
22 building owner and the taxpayer claiming the sustainable
23 building tax credit certify that such a tax credit will not be
24 claimed with respect to that system.

25 H. To be eligible for the sustainable building tax

1 credit, the building owner shall provide to the taxation and
2 revenue department a certificate of eligibility issued by the
3 energy, minerals and natural resources department pursuant to
4 the requirements of Subsection E of this section and any other
5 information the taxation and revenue department may require to
6 determine the amount of the tax credit for which the building
7 owner is eligible.

8 I. If the requirements of this section have been
9 complied with, the department shall issue to the building owner
10 a document granting a sustainable building tax credit. The
11 document shall be numbered for identification and declare its
12 date of issuance and the amount of the tax credit allowed
13 pursuant to this section. The document may be submitted by the
14 building owner with that taxpayer's income tax return, if
15 applicable, or may be sold, exchanged or otherwise transferred
16 to another taxpayer. The parties to such a transaction shall
17 notify the department of the sale, exchange or transfer within
18 ten days of the sale, exchange or transfer.

19 ~~[J. Except as provided in Subsection K of this~~
20 ~~section, the sustainable building tax credit represented by the~~
21 ~~document issued pursuant to Subsection I of this section shall~~
22 ~~be applied against the taxpayer's corporate income tax~~
23 ~~liability for the taxable year for which the credit is approved~~
24 ~~and the three subsequent taxable years, in increments of~~
25 ~~twenty-five percent of the total credit amount in each of the~~

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1 ~~four taxable years. If the amount of the credit available in a~~
2 ~~taxable year exceeds the taxpayer's corporate income tax~~
3 ~~liability for that taxable year, the excess may be carried~~
4 ~~forward for up to seven years.~~

5 ~~K. If the total amount of a sustainable building~~
6 ~~tax credit approved by the department is less than~~
7 ~~twenty-five thousand dollars (\$25,000), the entire amount of~~
8 ~~the credit may be applied against the taxpayer's corporate~~
9 ~~income tax liability for the taxable year for which the credit~~
10 ~~is approved. If the amount of the credit exceeds the~~
11 ~~taxpayer's corporate income tax liability for that taxable~~
12 ~~year, the excess may be carried forward for up to seven years.]~~

13 J. If the total approved amount of all sustainable
14 building tax credits for a taxpayer in a taxable year
15 represented by the documents issued pursuant to Subsection I of
16 this section is:

17 (1) less than one hundred thousand dollars
18 (\$100,000), a maximum of twenty-five thousand dollars (\$25,000)
19 shall be applied against the taxpayer's corporate income tax
20 liability for the taxable year for which the credit is approved
21 and the next three subsequent taxable years as needed depending
22 on the amount of credit; or

23 (2) one hundred thousand dollars (\$100,000) or
24 more, increments of twenty-five percent of the total credit
25 amount in each of the four taxable years, including the taxable

1 year for which the credit is approved and the three subsequent
2 taxable years, shall be applied against the taxpayer's
3 corporate income tax liability.

4 K. If the sum of all sustainable building tax
5 credits that can be applied to a taxable year for a taxpayer,
6 calculated according to Paragraph (1) or (2) of Subsection J of
7 this section, exceeds the taxpayer's corporate income tax
8 liability for that taxable year, the excess may be carried
9 forward for a period of up to seven years.

10 L. A taxpayer that otherwise qualifies and claims a
11 sustainable building tax credit with respect to a sustainable
12 building owned by a partnership or other business association
13 of which the taxpayer is a member may claim a credit only in
14 proportion to that taxpayer's interest in the partnership or
15 association. The total credit claimed in the aggregate by all
16 members of the partnership or association with respect to the
17 sustainable building shall not exceed the amount of the credit
18 that could have been claimed by a sole owner of the property.

19 M. For the purposes of this section:

- 20 (1) "build green New Mexico rating system"
21 means the certification standards adopted by the homebuilders
22 association of central New Mexico;
- 23 (2) "LEED-CI" means the LEED rating system for
24 commercial interiors;
- 25 (3) "LEED-CS" means the LEED rating system for

1 the core and shell of buildings;

2 (4) "LEED-EB" means the LEED rating system for
3 existing buildings;

4 (5) "LEED gold" means the rating in compliance
5 with, or exceeding, the second-highest rating awarded by the
6 LEED certification process;

7 (6) "LEED" means the most current leadership
8 in energy and environmental design green building rating system
9 guidelines developed and adopted by the United States green
10 building council;

11 (7) "LEED-H" means the LEED rating system for
12 homes;

13 (8) "LEED-NC" means the LEED rating system for
14 new buildings and major renovations;

15 (9) "LEED platinum" means the rating in
16 compliance with, or exceeding, the highest rating awarded by
17 the LEED certification process;

18 (10) "LEED silver" means the rating in
19 compliance with, or exceeding, the third-highest rating awarded
20 by the LEED certification process;

21 (11) "manufactured housing" means a
22 multisectioned home that is:

23 (a) a manufactured home or modular home;

24 (b) a single-family dwelling with a
25 heated area of at least thirty-six feet by twenty-four feet and

1 a total area of at least eight hundred sixty-four square feet;

2 (c) constructed in a factory to the
3 standards of the United States department of housing and urban
4 development, the National Manufactured Housing Construction and
5 Safety Standards Act of 1974 and the Housing and Urban
6 Development Zone Code 2 or New Mexico construction codes up to
7 the date of the unit's construction; and

8 (d) installed consistent with the
9 Manufactured Housing Act and rules adopted pursuant to that act
10 relating to permanent foundations;

11 (12) "qualified occupied square footage" means
12 the occupied spaces of the building as determined by:

13 (a) the United States green building
14 council for those buildings obtaining LEED certification;

15 (b) the administrators of the build
16 green New Mexico rating system for those homes obtaining build
17 green New Mexico certification; and

18 (c) the United States environmental
19 protection agency for ENERGY STAR-certified manufactured homes;

20 (13) "person" does not include state, local
21 government, public school district or tribal agencies;

22 (14) "sustainable building" means either a
23 sustainable commercial building or a sustainable residential
24 building;

25 (15) "sustainable commercial building" means a

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1 multifamily dwelling unit, as registered and certified under
2 the LEED-H or build green New Mexico rating system, that is
3 certified by the United States green building council as LEED-H
4 silver or higher or by build green New Mexico as silver or
5 higher and has achieved a home energy rating system index of
6 sixty or lower as developed by the residential energy services
7 network or a building that has been registered and certified
8 under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system
9 and that:

10 (a) is certified by the United States
11 green building council at LEED silver or higher;

12 (b) achieves any prerequisite for and at
13 least one point related to commissioning under LEED "energy and
14 atmosphere", if included in the applicable rating system; and

15 (c) has reduced energy consumption, as
16 follows: 1) through 2011, a fifty percent energy reduction
17 will be required based on the national average for that
18 building type as published by the United States department of
19 energy; and beginning January 1, 2012, a sixty percent energy
20 reduction will be required based on the national average for
21 that building type as published by the United States department
22 of energy; and 2) is substantiated by the United States
23 environmental protection agency target finder energy
24 performance results form, dated no sooner than the schematic
25 design phase of development;

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1 (16) "sustainable residential building" means:

2 (a) a building used as a single-family
3 residence as registered and certified under the build green New
4 Mexico or LEED-H rating systems that: 1) is certified by the
5 United States green building council as LEED-H silver or higher
6 or by build green New Mexico as silver or higher; and 2) has
7 achieved a home energy rating system index of sixty or lower as
8 developed by the residential energy services network; or

9 ~~[(b) a multifamily dwelling unit, as
10 registered and certified under the LEED-H or build green New
11 Mexico rating system that: 1) is certified by the United
12 States green building council as LEED-H silver or higher or by
13 build green New Mexico as silver or higher; and 2) has achieved
14 a home energy rating system index of sixty or lower as
15 developed by the residential energy services network; or~~

16 ~~(e)]~~ (b) manufactured housing that is
17 ENERGY STAR-qualified by the United States environmental
18 protection agency; and

19 (17) "tribal" means of, belonging to or
20 created by a federally recognized Indian nation, tribe or
21 pueblo."

22 SECTION 3. Laws 2007, Chapter 204, Section 21 is
23 amended to read:

24 "Section 21. APPLICABILITY.--

25 A. The provisions of Sections ~~[1 and 2 of this~~

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underscored material = new
[bracketed material] = delete

1 ~~act]~~ 7-2-18.18 and 7-2A-19 NMSA 1978 apply to taxable years
2 beginning on or after January 1, 2008.

3 ~~[B. The provisions of Sections 3 and 4 of this~~
4 ~~act apply to taxable years beginning on or after January 1,~~
5 ~~2007 through December 31, 2013.~~

6 ~~G.]~~ B. The provisions of Sections ~~[5 and 6 of~~
7 ~~this act]~~ 7-2-18.20 and 7-2A-22 NMSA 1978 apply to taxable
8 years beginning on or after January 1, 2008 and ending on or
9 before December 31, 2012."

10 **SECTION 4. EFFECTIVE DATE.**--The effective date of the
11 provisions of this act is January 1, 2014.

underscoring material = new
~~[bracketed material] = delete~~