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AN ACT

RELATING TO TAXATION; CLARIFYING PROVISIONS OF THE SUSTAINABLE BUILDING TAX CREDITS; ALLOWING BUILDING OWNERS TO QUALIFY TO RECEIVE THE SUSTAINABLE BUILDING TAX CREDITS THROUGH TRANSFERABILITY; PROVIDING GREATER FLEXIBILITY TO MULTIFAMILY RESIDENTIAL BUILDINGS REGARDING OPPORTUNITIES TO BE QUALIFIED FOR SUSTAINABLE BUILDING TAX CREDITS.

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

B. A taxpayer who files an income tax return is

1 eligible to be granted a sustainable building tax credit by
 2 the department if the taxpayer submits a document issued
 3 pursuant to Subsection I of this section with the taxpayer's
 4 income tax return.

5 C. The amount of the sustainable building tax
 6 credit that may be claimed with respect to a sustainable
 7 commercial building shall be calculated based on the
 8 certification level the building has achieved in the LEED
 9 green building rating system and the amount of qualified
 10 occupied square footage in the building, as indicated on the
 11 following chart:

12	LEED Rating Level	Qualified	Tax Credit
13		Occupied	per Square
14		Square Footage	Foot
15	LEED-NC Silver	First 10,000	\$3.50
16		Next 40,000	\$1.75
17		Over 50,000	
18		up to 500,000	\$.70
19	LEED-NC Gold	First 10,000	\$4.75
20		Next 40,000	\$2.00
21		Over 50,000	
22		up to 500,000	\$1.00
23	LEED-NC Platinum	First 10,000	\$6.25
24		Next 40,000	\$3.25
25		Over 50,000	

1		up to 500,000	\$2.00
2	LEED-EB or CS Silver	First 10,000	\$2.50
3		Next 40,000	\$1.25
4		Over 50,000	
5		up to 500,000	\$.50
6	LEED-EB or CS Gold	First 10,000	\$3.35
7		Next 40,000	\$1.40
8		Over 50,000	
9		up to 500,000	\$.70
10	LEED-EB or CS Platinum	First 10,000	\$4.40
11		Next 40,000	\$2.30
12		Over 50,000	
13		up to 500,000	\$1.40
14	LEED-CI Silver	First 10,000	\$1.40
15		Next 40,000	\$.70
16		Over 50,000	
17		up to 500,000	\$.30
18	LEED-CI Gold	First 10,000	\$1.90
19		Next 40,000	\$.80
20		Over 50,000	
21		up to 500,000	\$.40
22	LEED-CI Platinum	First 10,000	\$2.50
23		Next 40,000	\$1.30
24		Over 50,000	
25		up to 500,000	\$.80.

1 D. The amount of the sustainable building tax
 2 credit that may be claimed with respect to a sustainable
 3 residential building shall be calculated based on the amount
 4 of qualified occupied square footage, as indicated on the
 5 following chart:

6 Rating System/Level	7 Qualified 8 Occupied 9 Square Footage	10 Tax Credit 11 per Square 12 Foot
13 LEED-H Silver or Build	14 First 2,000	15 \$5.00
16 Green NM Silver	17 Next 1,000	18 \$2.50
19 LEED-H Gold or Build	20 First 2,000	21 \$6.85
22 Green NM Gold	23 Next 1,000	24 \$3.40
25 LEED-H Platinum or Build	First 2,000	\$9.00
Green NM Emerald	Next 1,000	\$4.45
EPA ENERGY STAR		
Manufactured Housing	Up to 3,000	\$3.00.

17 E. A person that is a building owner may apply for
 18 a certificate of eligibility for the sustainable building tax
 19 credit from the energy, minerals and natural resources
 20 department after the construction, installation or renovation
 21 of the sustainable building is complete. Applications shall
 22 be considered in the order received. If the energy, minerals
 23 and natural resources department determines that the building
 24 owner meets the requirements of this subsection and that the
 25 building with respect to which the tax credit application is

1 made meets the requirements of this section as a sustainable
2 residential building or a sustainable commercial building,
3 the energy, minerals and natural resources department may
4 issue a certificate of eligibility to the building owner,
5 subject to the limitation in Subsection F of this section.

6 The certificate shall include the rating system certification
7 level awarded to the building, the amount of qualified
8 occupied square footage in the building and a calculation of
9 the maximum amount of sustainable building tax credit for
10 which the building owner would be eligible. The energy,
11 minerals and natural resources department may issue rules
12 governing the procedure for administering the provisions of
13 this subsection. If the certification level for the
14 sustainable residential building is awarded on or after
15 January 1, 2007, the energy, minerals and natural resources
16 department may issue a certificate of eligibility to a
17 building owner who is:

18 (1) the owner of the sustainable residential
19 building at the time the certification level for the building
20 is awarded; or

21 (2) the subsequent purchaser of a
22 sustainable residential building with respect to which no tax
23 credit has been previously claimed.

24 F. The energy, minerals and natural resources
25 department may issue a certificate of eligibility only if the

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

1 G. Installation of a solar thermal system or a
2 photovoltaic system eligible for the solar market development
3 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
4 used as a component of qualification for the rating system
5 certification level used in determining eligibility for the
6 sustainable building tax credit, unless a solar market
7 development tax credit pursuant to Section 7-2-18.14 NMSA
8 1978 has not been claimed with respect to that system and the
9 building owner and the taxpayer claiming the sustainable
10 building tax credit certify that such a tax credit will not
11 be claimed with respect to that system.

12 H. To be eligible for the sustainable building tax
13 credit, the building owner shall provide to the taxation and
14 revenue department a certificate of eligibility issued by the
15 energy, minerals and natural resources department pursuant to
16 the requirements of Subsection E of this section and any
17 other information the taxation and revenue department may
18 require to determine the amount of the tax credit for which
19 the building owner is eligible.

20 I. If the requirements of this section have been
21 complied with, the department shall issue to the building
22 owner a document granting a sustainable building tax credit.
23 The document shall be numbered for identification and declare
24 its date of issuance and the amount of the tax credit allowed
25 pursuant to this section. The document may be submitted by

1 the building owner with that taxpayer's income tax return, if
2 applicable, or may be sold, exchanged or otherwise
3 transferred to another taxpayer. The parties to such a
4 transaction shall notify the department of the sale, exchange
5 or transfer within ten days of the sale, exchange or
6 transfer.

7 J. Except as provided in Subsection K of this
8 section, the sustainable building tax credit represented by
9 the document issued pursuant to Subsection I of this section
10 shall be applied against the taxpayer's income tax liability
11 for the taxable year for which the credit is approved and the
12 three subsequent taxable years, in increments of twenty-five
13 percent of the total credit amount in each of the four
14 taxable years. If the amount of the credit available in a
15 taxable year exceeds the taxpayer's income tax liability for
16 that taxable year, the excess may be carried forward for up
17 to seven years.

18 K. If the total amount of a sustainable building
19 tax credit approved by the department is less than
20 twenty-five thousand dollars (\$25,000), the entire amount of
21 the credit may be applied against the taxpayer's income tax
22 liability for the taxable year for which the credit is
23 approved. If the amount of the credit exceeds the taxpayer's
24 income tax liability for that taxable year, the excess may be
25 carried forward for up to seven years.

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

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

16 N. For the purposes of this section:

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

20 (2) "LEED-CI" means the LEED rating system
21 for commercial interiors;

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

24 (4) "LEED-EB" means the LEED rating system
25 for existing buildings;

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

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

8 (7) "LEED-H" means the LEED rating system
9 for homes;

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

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

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

18 (11) "manufactured housing" means a
19 multisectioned home that is:

20 (a) a manufactured home or modular
21 home;

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

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

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

10 (12) "qualified occupied square footage"
11 means 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
16 build green New Mexico certification; and

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

1 a building that has been registered and certified under the
2 LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

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

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

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

20 (16) "sustainable residential building"
21 means:

22 (a) a building used as a single-family
23 residence as registered and certified under the build green
24 New Mexico or LEED-H rating system that: 1) is certified by
25 the United States green building council as LEED-H silver or

1 higher or by build green New Mexico as silver or higher; and
2 2) has achieved a home energy rating system index of sixty or
3 lower as developed by the residential energy services
4 network;

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

12 (c) manufactured housing that is ENERGY
13 STAR-qualified by the United States environmental protection
14 agency; and

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

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

20 "7-2A-21. SUSTAINABLE BUILDING TAX CREDIT.--

21 A. The tax credit provided by this section may be
22 referred to as the "sustainable building tax credit". The
23 sustainable building tax credit shall be available for the
24 construction in New Mexico of a sustainable building, the
25 renovation of an existing building in New Mexico into a

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

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

13 C. The amount of the sustainable building tax
14 credit that may be claimed with respect to a sustainable
15 commercial building shall be calculated based on the
16 certification level the building has achieved in the LEED
17 green building rating system and the amount of qualified
18 occupied square footage in the building, as indicated on the
19 following chart:

20 LEED Rating Level	21 Qualified 22 Occupied 23 Square Footage	24 Tax Credit per 25 Square Foot
23 LEED-NC Silver	24 First 10,000	25 \$3.50
	Next 40,000	\$1.75
	Over 50,000	

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

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

10 D. The amount of the sustainable building tax
11 credit that may be claimed with respect to a sustainable
12 residential building shall be calculated based on the amount
13 of qualified occupied square footage, as indicated on the
14 following chart:

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

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

1 building owner who is:

2 (1) the owner of the sustainable residential
3 building at the time the certification level for the building
4 is awarded; or

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

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

1 minerals and natural resources department may issue
2 certificates of eligibility under the aggregate annual limit
3 for sustainable commercial buildings to building owners of
4 multifamily dwelling units that meet the requirements of the
5 energy, minerals and natural resources department and of this
6 section; provided that applications for sustainable building
7 credits for other sustainable commercial buildings total less
8 than the full amount allocated for tax credits for
9 sustainable commercial 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
17 1978 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
20 be 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

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

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

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

1 excess may be carried forward for up to seven years.

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

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

21 M. For the purposes of this section:

22 (1) "build green New Mexico rating system"
23 means the certification standards adopted by the homebuilders
24 association of central New Mexico;

25 (2) "LEED-CI" means the LEED rating system

1 for commercial interiors;

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

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

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

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

13 (7) "LEED-H" means the LEED rating system
14 for homes;

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

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

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

23 (11) "manufactured housing" means a
24 multisectioned home that is:

25 (a) a manufactured home or modular

1 home;

2 (b) a single-family dwelling with a
3 heated area of at least thirty-six feet by twenty-four feet
4 and a total area of at least eight hundred sixty-four square
5 feet;

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

12 (d) installed consistent with the
13 Manufactured Housing Act and rules adopted pursuant to that
14 act relating to permanent foundations;

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

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

19 (b) the administrators of the build
20 green New Mexico rating system for those homes obtaining
21 build green New Mexico certification; and

22 (c) the United States environmental
23 protection agency for ENERGY STAR-certified manufactured
24 homes;

25 (13) "person" does not include state, local

1 government, public school district or tribal agencies;

2 (14) "sustainable building" means either a
3 sustainable commercial building or a sustainable residential
4 building;

5 (15) "sustainable commercial building" means
6 a building that has been registered and certified under the
7 LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

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

10 (b) achieves any prerequisite for and
11 at least one point related to commissioning under LEED
12 "energy and atmosphere", if included in the applicable rating
13 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
21 department of energy; and 2) is substantiated by the United
22 States 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"

1 means:

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

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

17 (c) manufactured housing that is ENERGY
18 STAR-qualified by the United States environmental protection
19 agency; and

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

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