

By Senator Aronberg

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1                   A bill to be entitled  
2           An act relating to green building construction; creating  
3           s. 212.099, F.S.; providing a purpose; providing  
4           definitions; providing for a sales tax credit for certain  
5           building construction; creating s. 220.194, F.S.;  
6           providing a purpose; providing definitions; providing for  
7           a corporate income tax credit for certain building  
8           construction; requiring the Department of Revenue to adopt  
9           certain standards by rule; providing requirements;  
10          requiring the department to issue initial credit  
11          certificates under certain circumstances; providing  
12          certificate requirements and limitations; requiring  
13          taxpayers claiming credits to obtain eligibility  
14          certificates; providing requirements; providing additional  
15          certification requirements; authorizing the Chief  
16          Financial Officer and the department to adopt rules;  
17          requiring the Chief Financial Officer and the department  
18          to submit a report to the Governor and the Legislature;  
19          providing report requirements; providing duties of the  
20          Chief Financial Officer; requiring the department to adopt  
21          certification rules; amending s. 553.74, F.S.; providing  
22          for an additional member of the Florida Building  
23          Commission; creating part IX of ch. 553, F.S., consisting  
24          of ss. 553.9991, 553.9993, and 553.9995, F.S.; creating  
25          the Florida Green Building Act; providing legislative  
26          findings; providing a legislative declaration; providing  
27          definitions; requiring certain state-funded projects to be  
28          constructed to meet certain energy and environmental  
29          design rating systems; requiring certain public buildings

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30 and educational facilities to be constructed to meet  
31 certain energy and environmental design rating systems;  
32 providing a legislative finding; requiring certain major  
33 facility projects receiving state funding to be  
34 constructed to meet certain energy and environmental  
35 design rating standards; providing public agency  
36 monitoring and reporting requirements; providing reporting  
37 requirements for the department; requiring the department  
38 to summarize certain reports and report to the  
39 Legislature; specifying absence of liability for failing  
40 to meet certain standards under certain circumstances;  
41 exempting certain affordable housing projects; requiring  
42 the Department of Community Affairs to develop a  
43 sustainable building program for certain affordable  
44 housing projects; providing requirements and limitations;  
45 providing performance review requirements for the Office  
46 of Program Policy Analysis and Government Accountability;  
47 providing performance audit requirements; requiring  
48 reports; creating the Florida Green Building Council in  
49 the Department of Community Affairs; providing for  
50 membership; providing for action by the council; providing  
51 that members shall serve without compensation; providing  
52 for per diem and travel expenses; providing for member  
53 accountability to the Governor; providing for  
54 investigation by the Governor of council actions or  
55 members; providing for removal of council members under  
56 certain circumstances; providing an effective date.

57  
58 Be It Enacted by the Legislature of the State of Florida:

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59  
60 Section 1. Section 212.099, Florida Statutes, is created to  
61 read:

62 212.099 Florida Green Building sales tax refund program.--

63 (1) The purpose of this section is to encourage the  
64 development and construction of facilities using environmentally  
65 conscious building practices.

66 (2) The definitions provided in s. 220.194 apply to this  
67 section.

68 (3) A property owner may claim a refund against the tax  
69 imposed by this chapter paid during the building or renovation of  
70 a residential structure that does not qualify for the green  
71 building corporate income tax credit under s. 220.194. The  
72 property owner shall submit to the department proof of having  
73 paid the sales tax on items used in the construction or  
74 improvement of the property and proof of the property's  
75 compliance with applicable green building standards as specified  
76 in s. 220.194. The tax refund shall not exceed \$5,000 per  
77 property.

78 Section 2. Section 220.194, Florida Statutes, is created to  
79 read:

80 220.194 Florida Green Building corporate income tax  
81 credit.--

82 (1) The purpose of this section is to encourage the  
83 development and construction of facilities using environmentally  
84 conscious building practices.

85 (2) As used in this section:

86 (a)1. "Allowable costs" means amounts properly chargeable  
87 to capital accounts, other than for land, that are paid or

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88 incurred on or after July 1, 2009, for:

89 a. Construction or rehabilitation;

90 b. Commissioning costs;

91 c. Interest paid or incurred during the construction or  
92 rehabilitation period;

93 d. Architectural, engineering, and other professional fees  
94 allocable to construction or rehabilitation;

95 e. Closing costs for construction, rehabilitation, or  
96 mortgage loans;

97 f. Recording taxes and filing fees incurred with respect to  
98 construction or rehabilitation; or

99 g. Finishes and furnishings, consistent with the rules  
100 adopted by the Department of Business and Professional  
101 Regulation, for lighting, plumbing, electrical wiring, and  
102 ventilation.

103 2. The term "allowable costs" does not include:

104 a. The cost of telephone systems and computers, other than  
105 electrical wiring costs;

106 b. Legal fees allocable to construction or rehabilitation;

107 c. Site costs, including temporary electric wiring,  
108 scaffolding, demolition costs, and fencing and security  
109 facilities;

110 d. Finishes or furnishings that are not consistent with the  
111 rules adopted by the Department of Business and Professional  
112 Regulation under this section; or

113 e. The cost of purchasing or installing fuel cells, wind  
114 turbines, or photovoltaic modules.

115 (b) "Applicable green building" means a building that:

116 1. Achieves at least a silver rating according to the

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117 United States Green Building Council's Leadership in Energy and  
118 Environmental Design (LEED) Green Building rating system as  
119 adopted by the Florida Green Building Council;

120 2. Achieves at least a Two Globes rating according to the  
121 Green Globes Program as adopted by the Green Building Initiative;

122 3. Achieves at least a comparable numeric rating according  
123 to a nationally recognized, accepted, and appropriate numeric  
124 sustainable development rating system, guideline, or standard; or

125 4. Meets nationally recognized, consensus-based, and  
126 accepted green building guidelines, standards, or systems  
127 approved by the state.

128 (c) "Base building" means all areas of a building not  
129 intended for occupancy by a tenant or owner, including the  
130 structural components of the building, exterior walls, floors,  
131 windows, roofs, foundations, chimneys and stacks, parking areas,  
132 mechanical rooms and mechanical systems, and owner-controlled or  
133 operated services spaces, sidewalks, main lobby, shafts and  
134 vertical transportation mechanisms, stairways, and corridors.

135 (d) "Commissioning" means:

136 1. The testing and fine-tuning of heating, ventilating, and  
137 air-conditioning systems and other systems to ensure proper  
138 functioning and adherence to design criteria.

139 2. The preparation of system operation manuals and  
140 instruction of maintenance personnel.

141 (e) "Credit allowance year" means the later of:

142 1. The taxable year during which:

143 a. The property, construction, completion, or  
144 rehabilitation on which the credit allowed under this section is  
145 based is originally placed in service; or

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- 146        b. A fuel cell, wind turbine, or photovoltaic module  
147 constitutes a qualifying alternate energy source and is fully  
148 operational; or
- 149        2. The earliest taxable year for which the credit may be  
150 claimed under the initial credit certificate issued under  
151 subsection (12).
- 152        (f) "Department" means the Department of Revenue.
- 153        (g) "Eligible building" means a building located in this  
154 state that:
- 155            1. Is a building used primarily for nonresidential purposes  
156 if the building contains at least 20,000 square feet of interior  
157 space;
- 158            2. Is a residential multifamily building with at least 12  
159 dwelling units that contains at least 20,000 square feet of  
160 interior space; or
- 161            3. Is any combination of buildings described in  
162 subparagraphs 1. and 2.
- 163        (h) "Fuel cell" means a device that produces electricity  
164 directly from hydrogen or hydrocarbon fuel through a  
165 noncombustive electrochemical process.
- 166        (i) "Green base building" means a base building that is  
167 part of an eligible building and meets the requirements set out  
168 in paragraph (b).
- 169        (j) "Green tenant space" means tenant space in a building  
170 if the building is an eligible building and the tenant space  
171 meets the requirements of paragraph (b).
- 172        (k) "Green whole building" means a building for which the  
173 base building is a green base building and all tenant space is  
174 green tenant space.

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175 (1) "Incremental cost of building-integrated photovoltaic  
176 modules" means:

177 1. The cost of building-integrated photovoltaic modules and  
178 any associated inverter, additional wiring or other electrical  
179 equipment for the photovoltaic modules, or additional mounting or  
180 structural materials, less the cost of spandrel glass or other  
181 building material that would have been used if building-  
182 integrated photovoltaic modules were not installed;

183 2. The incremental labor costs properly allocable to onsite  
184 preparation, assembly, and original installation of photovoltaic  
185 modules; and

186 3. The incremental costs of architectural and engineering  
187 services and designs and plans directly related to the  
188 construction or installation of photovoltaic modules.

189 (m) "Qualifying alternate energy sources" means building-  
190 integrated and nonbuilding-integrated photovoltaic modules, wind  
191 turbines, and fuel cells installed to serve a base building or  
192 tenant space that:

193 1. Have the capability to monitor their actual power  
194 output;

195 2. Are fully commissioned upon installation, and annually  
196 thereafter, to ensure that the systems meet the design  
197 specifications; and

198 3. In the case of wind turbines, meet any applicable noise  
199 ordinances.

200 (n) "Tenant improvements" means improvements that are  
201 necessary or appropriate to support or conduct the business of a  
202 tenant or occupying owner.

203 (o) "Tenant space" means the portion of a building intended

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204 for occupancy by a tenant or occupying owner.

205 (3) (a) A corporation may claim a credit against the tax  
206 imposed by this chapter as provided under this section for green  
207 buildings and green building components.

208 (b) If the credit authorized under this section exceeds the  
209 tax imposed by this chapter, any unused credit may be carried  
210 forward and applied for succeeding taxable years until the  
211 earlier of:

212 1. The full amount of the credit is used; or

213 2. The expiration of the 10th year after the taxable year  
214 for which the credit was allowed.

215 (c) For each of the credits authorized under subsections  
216 (4)-(9), the credit may not be allowed for any taxable year  
217 unless:

218 1. The taxpayer has obtained and filed an initial credit  
219 certificate and an eligibility certificate issued under  
220 subsection (12).

221 2. A certificate of occupancy for the building has been  
222 issued.

223 3. The property with respect to which the credit is claimed  
224 is in service during the taxable year.

225 (d) The total aggregate amount authorized for all credits  
226 under this section may not exceed the maximum set forth in the  
227 initial credit certificate obtained under subsection (12).

228 (e) In determining the amount of the credits under this  
229 section, a cost paid or incurred may not be the basis for more  
230 than one credit.

231 (4) (a) For the taxable year that is the credit allowance  
232 year, an owner or tenant may claim a credit in an amount equal to

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233 8 percent of the allowable costs paid or incurred by the owner or  
234 tenant for the construction of a green whole building or the  
235 rehabilitation of a building that is not a green whole building  
236 to become a green whole building.

237 (b) The allowable costs used to determine the credit amount  
238 allowed under this subsection for a green whole building may not  
239 exceed in the aggregate:

240 1. An amount equal to \$120 per square foot for that portion  
241 of the building that comprises the base building; and

242 2. An amount equal to \$60 per square foot for that portion  
243 of the building that comprises the tenant space.

244 (5) (a) For the taxable year that is the credit allowance  
245 year, an owner may claim a credit in an amount equal to 6 percent  
246 of the allowable costs paid or incurred by the owner for the  
247 construction of a green base building or the rehabilitation of a  
248 building that is not a green base building to become a green base  
249 building.

250 (b) The allowable costs used to determine the credit amount  
251 allowed under this subsection for a green base building may not  
252 exceed, in the aggregate, \$120 per square foot.

253 (6) (a) For the taxable year that is the credit allowance  
254 year, an owner or tenant may claim a credit in an amount equal to  
255 6 percent of the allowable costs for tenant improvements paid or  
256 incurred by the owner or tenant in the construction or completion  
257 of green tenant space or the rehabilitation of tenant space that  
258 is not green tenant space to become green tenant space.

259 (b)1. The allowable costs used to determine the credit  
260 amount allowed under this subsection for green tenant space may  
261 not exceed, in the aggregate, \$60 per square foot.

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262       2. If an owner and tenant each incur allowable costs for  
263 tenant improvements under this subsection and the costs exceed  
264 \$60 per square foot in the aggregate, the owner has priority as  
265 to costs constituting the basis for the green tenant space credit  
266 under this subsection.

267       (c) The credit under this subsection for green tenant space  
268 may not be claimed by an owner of a building that occupies less  
269 than 10,000 square feet of the building.

270       (d) The credit under this subsection for green tenant space  
271 may not be claimed by a tenant that occupies less than 5,000  
272 square feet.

273       (7) (a) For the taxable year that is the credit allowance  
274 year, an owner or tenant may claim a credit in the amount  
275 determined under this subsection for the installation of a fuel  
276 cell that is a qualifying alternate energy source and is  
277 installed to serve a green whole building, green base building,  
278 or green tenant space.

279       (b) The amount of the credit authorized under this  
280 subsection is 30 percent of the sum of the capitalized costs paid  
281 or incurred by an owner or tenant with respect to each fuel cell  
282 installed, including the cost of the foundation or platform and  
283 the labor costs associated with installation.

284       (c) The costs used to determine the credit amount allowed  
285 under this subsection for installation of a fuel cell:

286       1. May not exceed \$1,000 per kilowatt of installed DC-rated  
287 capacity of the fuel cell; and

288       2. Shall be reduced by the amount of any federal, state, or  
289 local grant:

290       a. Received by the taxpayer and used for the purchase or

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291 installation of the fuel cell; and

292 b. Not included in the federal gross income of the  
293 taxpayer.

294 (8) (a) For the taxable year that is the credit allowance  
295 year, an owner or tenant may claim a credit in the amount  
296 determined under this subsection for the installation of  
297 photovoltaic modules that constitute a qualifying alternate  
298 energy source and are installed to serve a green whole building,  
299 green base building, or green tenant space.

300 (b) The amount of the credit allowed under this subsection  
301 is:

302 1. An amount equal to 20 percent of the incremental cost  
303 paid or incurred by an owner or tenant for building-integrated  
304 photovoltaic modules; and

305 2. An amount equal to 25 percent of the cost of  
306 nonbuilding-integrated photovoltaic modules, including the cost  
307 of the foundation or platform and the labor costs associated with  
308 installation.

309 (c) The costs used to determine the credit amount allowed  
310 under this subsection for installation of photovoltaic modules:

311 1. May not exceed the product obtained by multiplying \$3  
312 times the number of watts included in the DC-rated capacity of  
313 the photovoltaic modules; and

314 2. Shall be reduced by the amount of any federal, state, or  
315 local grant:

316 a. Received by the taxpayer and used for the purchase or  
317 installation of the photovoltaic equipment; and

318 b. Not included in the federal gross income of the  
319 taxpayer.

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320       (9) (a) For the taxable year that is the credit allowance  
321 year, an owner or tenant may claim a credit in the amount  
322 determined under paragraph (b) for the installation of a wind  
323 turbine that is a qualifying alternate energy source and is  
324 installed to serve a green whole building, green base building,  
325 or green tenant space.

326       (b) The amount of the credit authorized under this  
327 subsection is 25 percent of the sum of the capitalized costs paid  
328 or incurred by an owner or tenant with respect to each wind  
329 turbine installed, including the cost of the foundation or  
330 platform and the labor costs associated with installation.

331       (10) (a) By rule, the department shall adopt standards for a  
332 building to qualify as a green base building eligible for the tax  
333 credits under this section that are consistent with the criteria  
334 for green base buildings set forth by the United States Green  
335 Building Council or other similar criteria.

336       (b) The rule adopted under this subsection shall provide  
337 that the energy use shall be no more than 65 percent for new  
338 construction of a base building, or 75 percent in the case of  
339 rehabilitation of a base building, of the energy use attributable  
340 to a reference building which meets the requirements of  
341 applicable energy efficiency standards.

342       (11) (a) By rule, the department shall adopt standards for  
343 tenant space to qualify as green tenant space eligible for the  
344 tax credits under this section that are consistent with the  
345 criteria for green tenant space set forth by the United States  
346 Green Building Council or other similar criteria.

347       (b) The rule adopted under this subsection shall provide  
348 that the energy use shall be no more than 65 percent for new

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349 construction, or 75 percent in the case of rehabilitation, of the  
350 energy use attributable to a reference building which meets the  
351 requirements of applicable energy efficiency standards.

352 (12) (a)1. Upon application by a taxpayer, the department  
353 shall issue an initial credit certificate if the taxpayer has  
354 made a showing that the taxpayer is likely within a reasonable  
355 time to place in service property for which a credit under this  
356 section would be allowed.

357 2. The initial credit certificate issued under this  
358 paragraph:

359 a. Shall state the earliest taxable year for which the  
360 credit may be claimed and an expiration date; and

361 b. Shall apply only to property placed in service on or  
362 before the expiration date.

363 3. To avoid unwarranted hardship, the department, in its  
364 discretion, may extend the expiration date stated under an  
365 initial credit certificate.

366 4. The initial credit certificate shall state the maximum  
367 amount of credit allowable in the aggregate for all credits  
368 allowed under this section.

369 5. The department may not issue initial credit  
370 certificates, in the aggregate, for more than \$25 million.

371 6. Except as provided in subparagraph 7., initial credit  
372 certificates shall be limited in their applicability. Credits in  
373 the aggregate, with respect to the following taxable years, may  
374 not be allowed for more than:

375 a. The sum of \$1 million for the tax year beginning in  
376 2009.

377 b. The sum of \$2 million for the tax year beginning in

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- 378 | 2010.
- 379 | c. The sum of \$3 million for the tax year beginning in
- 380 | 2011.
- 381 | d. The sum of \$4 million for the tax year beginning in
- 382 | 2012.
- 383 | e. The sum of \$5 million for the tax year beginning in
- 384 | 2013.
- 385 | f. The sum of \$4 million for the tax year beginning in
- 386 | 2014.
- 387 | g. The sum of \$3 million for the tax year beginning in
- 388 | 2015.
- 389 | h. The sum of \$2 million for the tax year beginning in
- 390 | 2016.
- 391 | i. The sum of \$1 million for the tax year beginning in
- 392 | 2017.
- 393 | 7. As of the end of a calendar year, if certificates for
- 394 | credit amounts totaling less than the amount permitted with
- 395 | respect to taxable years beginning in that calendar year have
- 396 | been issued, the maximum amount that may be allowed for taxable
- 397 | years beginning in the subsequent calendar year shall be
- 398 | increased by the amount of the preceding year's shortfall.
- 399 | 8. The department may not issue an initial credit
- 400 | certificate after December 31, 2017.
- 401 | 9. On January 1, 2010, and each year thereafter, the
- 402 | department shall provide to the Chief Financial Officer a list of
- 403 | all taxpayers in the prior taxable year that have been issued an
- 404 | initial credit certificate and shall specify for each taxpayer
- 405 | the earliest taxable year for which the credit may be claimed and
- 406 | the maximum amount of the credit allowable in the aggregate for

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407 all credits allowed under this section.

408 (b)1. For each taxable year for which a taxpayer claims a  
409 credit under this section with respect to a green whole building,  
410 green base building, green tenant space, fuel cell, photovoltaic  
411 module, or wind turbine, the taxpayer shall obtain an eligibility  
412 certificate from an architect or professional engineer licensed  
413 to practice in this state.

414 2.a. An eligibility certificate issued under this paragraph  
415 shall consist of a certification, under the seal of the architect  
416 or engineer, that the property that is the basis for the credit  
417 that is claimed is in service and that:

418 (I) The building, base building, or tenant space with  
419 respect to which the credit is claimed is a green whole building,  
420 green base building, or green tenant space.

421 (II) Any fuel cell, photovoltaic module, or wind turbine  
422 with respect to which the credit is claimed constitutes a  
423 qualifying alternate energy source and is fully operational.

424 b. The certification under sub-sub-subparagraph a.(II):

425 (I) Shall be made in accordance with the rules adopted by  
426 the department under this section specifying the standards and  
427 guidelines for each credit under this section; and

428 (II) Shall set forth the specific findings on which the  
429 certification was based.

430 c. The taxpayer shall file the eligibility certificate and  
431 the associated initial credit certificate with the taxpayer's  
432 income tax return and shall file duplicate copies of the  
433 eligibility certificate with the department.

434 d. The eligibility certificate shall include:

435 (I) Sufficient information to identify each building or

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436 space; and

437 (II) Any other information that the department or the Chief  
438 Financial Officer requires by rule.

439 (c) If the department has reason to believe that an  
440 architect or professional engineer, in making any certification  
441 under this subsection, engaged in professional misconduct, the  
442 department shall inform the appropriate professional board of the  
443 suspected misconduct.

444 (d)1. The Chief Financial Officer and the department may  
445 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to  
446 carry out the provisions of this section.

447 2. Rules adopted under this section shall construe the  
448 provisions of this section in such a manner as to encourage the  
449 development of green whole buildings, green base buildings, and  
450 green tenant space and to maintain high, but commercially  
451 reasonable, standards for obtaining tax credits under this  
452 section.

453 (e) On or before April 1, 2011, the Chief Financial Officer  
454 and the department, jointly and in consultation with the  
455 Department of Environmental Protection, shall submit to the  
456 Governor, the President of the Senate, and the Speaker of the  
457 House of Representatives a written report regarding:

458 1. The number of certifications and taxpayers claiming the  
459 credit under this section;

460 2. The amount of the credits claimed;

461 3. The geographical distribution of the credits claimed;

462 and

463 4. Any other available information the department  
464 determines to be meaningful and appropriate.

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465 (f) The Chief Financial Officer shall ensure that the  
466 information is presented and classified in a manner consistent  
467 with the confidentiality of tax return information.

468 (13) On or before July 1, 2008, the department, in  
469 consultation with the Department of Environmental Protection and  
470 the Department of Natural Resources, shall adopt rules with  
471 respect to the certification of green whole buildings, green base  
472 buildings, and green tenant space that are consistent with  
473 criteria set forth by the Florida Green Buildings Council or  
474 other similar criteria for:

475 (a) Energy use;

476 (b) Appliance and heating, cooling, and hot water equipment  
477 standards;

478 (c) Air conditioning equipment, including chillers;

479 (d) Building materials, finishes, and furnishings;

480 (e) Stormwater runoff for new construction;

481 (f) Water conservation and efficiency; and

482 (g) Indoor air quality, in consultation with the Department  
483 of Health.

484 Section 3. Subsection (1) of section 553.74, Florida  
485 Statutes, is amended to read:

486 553.74 Florida Building Commission.--

487 (1) The Florida Building Commission is created and shall be  
488 located within the Department of Community Affairs for  
489 administrative purposes. Members shall be appointed by the  
490 Governor subject to confirmation by the Senate. The commission  
491 shall be composed of 24 ~~23~~ members, consisting of the following:

492 (a) One architect registered to practice in this state and  
493 actively engaged in the profession.

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494 (b) One structural engineer registered to practice in this  
495 state and actively engaged in the profession.

496 (c) One air-conditioning or mechanical contractor certified  
497 to do business in this state and actively engaged in the  
498 profession.

499 (d) One electrical contractor certified to do business in  
500 this state and actively engaged in the profession.

501 (e) One member from fire protection engineering or  
502 technology who is actively engaged in the profession.

503 (f) One general contractor certified to do business in this  
504 state and actively engaged in the profession.

505 (g) One plumbing contractor licensed to do business in this  
506 state and actively engaged in the profession.

507 (h) One roofing or sheet metal contractor certified to do  
508 business in this state and actively engaged in the profession.

509 (i) One residential contractor licensed to do business in  
510 this state and actively engaged in the profession.

511 (j) Three members who are municipal or district codes  
512 enforcement officials, one of whom is also a fire official.

513 (k) One member who represents the Department of Financial  
514 Services.

515 (l) One member who is a county codes enforcement official.

516 (m) One member of a Florida-based organization of persons  
517 with disabilities or a nationally chartered organization of  
518 persons with disabilities with chapters in this state.

519 (n) One member of the manufactured buildings industry who  
520 is licensed to do business in this state and is actively engaged  
521 in the industry.

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522 (o) One mechanical or electrical engineer registered to  
523 practice in this state and actively engaged in the profession.

524 (p) One member who is a representative of a municipality or  
525 a charter county.

526 (q) One member of the building products manufacturing  
527 industry who is authorized to do business in this state and is  
528 actively engaged in the industry.

529 (r) One member who is a representative of the building  
530 owners and managers industry who is actively engaged in  
531 commercial building ownership or management.

532 (s) One member who is a representative of the insurance  
533 industry.

534 (t) One member who is a representative of public education.

535 (u) One member who is a representative of the green  
536 building industry and who is a third-party commissioning agent, a  
537 Florida board member for the United States Green Building Council  
538 or Green Building Initiative, or a LEED-accredited professional.

539 (v)~~(u)~~ One member who shall be the chair.

540

541 Any person serving on the commission under paragraph (c) or  
542 paragraph (h) on October 1, 2003, and who has served less than  
543 two full terms is eligible for reappointment to the commission  
544 regardless of whether he or she meets the new qualification.

545 Section 4. Part IX of chapter 553, Florida Statutes,  
546 consisting of sections 553.9991, 553.9993, and 553.9995, is  
547 created to read:

548

PART IX

549

FLORIDA GREEN BUILDING CONSTRUCTION

550

553.9991 Florida Green Building Act.--

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551        (1) SHORT TITLE.--This part may be cited as the "Florida  
552 Green Building Act."

553        (2) LEGISLATIVE FINDINGS; DECLARATION.--

554        (a) The Legislature finds that:

555        1. Energy costs are increasing.

556        2. Energy used in buildings contributes substantially to  
557 the problems of pollution and global warming.

558        3. Buildings can be built and renovated using high-  
559 performance methods that reduce energy costs, preserve the  
560 environment, and enhance quality of life.

561        4. Green building development addresses and minimizes  
562 numerous adverse impacts upon the health, safety, and welfare of  
563 social, natural, and built environments.

564        5. Green development will optimize the energy performance  
565 of buildings throughout the state, improve environmental quality  
566 in the state, protect and restore the state's natural resources  
567 by avoiding development of inappropriate building sites, reduce  
568 the burden on municipal water supply and treatment by reducing  
569 potable water consumption, and reduce waste generation and manage  
570 waste through recycling and diversion from landfill disposal.

571        (b) The Legislature declares that there is an important  
572 state interest in promoting the construction of energy-efficient  
573 and sustainable buildings. Government leadership is vital to  
574 demonstrate the state's commitment to energy and environmental  
575 conservation, saving taxpayers money, and raising public  
576 awareness of conscientious development.

577        (3) DEFINITIONS.--As used in this part, the term:

578        (a) "Council" means the United States Green Building  
579 Council.

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580        (b) "Department" means the Department of Management  
581 Services.

582        (c) "Green Globes Rating System" means the environmental  
583 building rating system established by the initiative to determine  
584 the level of a building's sustainability and energy efficiency  
585 performance.

586        (d) "High-performance building" means a building designed  
587 to achieve integrated systems design and construction so as to  
588 significantly reduce or eliminate the negative impact of the  
589 built environment.

590        (e) "Initiative" means the Green Building Initiative.

591        (f) "LEED" means the council's Leadership in Energy and  
592 Environmental Design rating systems.

593        (g) "LEED silver standard" means the United States Green  
594 Building Council's leadership in energy and environmental design  
595 green building rating standard, referred to as the "silver  
596 standard."

597        (h) "Major facility project" means:

598        1.a. A state-funded new construction building project under  
599 which the building to be constructed is larger than 10,000 gross  
600 square feet;

601        b. A state-funded renovation project that involves more  
602 than 50 percent of the replacement value of an existing facility  
603 or a change in occupancy; or

604        c. A state-funded commercial interior tenant fit-out  
605 project that is larger than 7,500 square feet of leasable area.

606        2. The term "major facility project" does not include:

607        a. Projects for which the department, public school  
608 district, or other applicable agency and the design team

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609 determine the LEED silver standard or a nationally recognized  
610 standard of an equivalent ranking to be not practicable; or

611 b. Transmitter buildings; pumping stations; hospitals;  
612 research facilities primarily used for sponsored laboratory  
613 experimentation, laboratory research, or laboratory training in  
614 research methods; or other similar building types as determined  
615 by the department.

616 (i) "Public agency" means every state office, officer,  
617 board, commission, committee, bureau, department, and public  
618 higher education institution.

619 (j) "Sustainable building" means a building that is healthy  
620 and comfortable for its occupants and is economical to operate  
621 while conserving resources, including energy, water, raw  
622 materials, and land, and minimizing the generation of toxic  
623 materials and waste in its design, construction, landscaping, and  
624 operation.

625 (k) "Third-party commissioning agent" means a person  
626 accredited by the council or initiative with expertise in  
627 building system performance who analyzes, evaluates, and confirms  
628 the proper function and performance of a high-performance  
629 building and its systems, equipment, and indoor air quality. To  
630 qualify as a third-party commissioning agent, a person must not  
631 have participated in the original certification of the major  
632 facility project or renovation project.

633 (4) MAJOR FACILITY CONSTRUCTION.--All major facility  
634 projects funded with state moneys shall be constructed as a  
635 sustainable building meeting the council's LEED rating system,  
636 the initiative's Green Globes Rating System, or a nationally  
637 recognized, high-performance green building rating system as

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638 approved by the department. This section applies to all major  
639 facility projects for which the architectural plans started after  
640 July 1, 2008.

641 553.9993 Public buildings; educational facilities.--

642 (1) The Legislature finds that public buildings and  
643 educational facilities can be built and renovated using high-  
644 performance methods that save money, improve workplace and  
645 classroom performance, and make workers and students more  
646 productive. High-performance public buildings and educational  
647 facilities are proven to increase student test scores, reduce  
648 worker absenteeism, and cut energy and utility costs.

649 (2) (a) All major facility projects of public agencies  
650 receiving any funding in a state capital budget, or projects  
651 financed through a financing contract, must be designed,  
652 constructed, and certified to at least the LEED silver standard  
653 or a nationally recognized standard of an equivalent ranking.  
654 This paragraph applies to major facility projects that have not  
655 entered the design phase prior to the effective date of this part  
656 and to the extent appropriate LEED silver standards or nationally  
657 recognized standards of an equivalent ranking exist for that type  
658 of building or facility.

659 (b) All major facility projects of any entity other than a  
660 public agency or public school district receiving any funding in  
661 a state capital budget must be designed, constructed, and  
662 certified to at least the LEED silver standard or a nationally  
663 recognized standard of an equivalent ranking. This paragraph  
664 applies to major facility projects that have not entered the  
665 grant application process prior to the effective date of this  
666 part and to the extent appropriate LEED silver standards or

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667 nationally recognized standards of an equivalent ranking exist  
668 for that type of building or facility.

669 (c)1. Public agencies shall monitor and document ongoing  
670 operating savings resulting from major facility projects  
671 designed, constructed, and certified as required under this  
672 section.

673 2. Public agencies shall report annually to the department  
674 on major facility projects and operating savings.

675 (d) The department shall consolidate the reports required  
676 in paragraph (c) into one report and report to the Governor, the  
677 President of the Senate, and the Speaker of the House of  
678 Representatives by September 1 of each even-numbered year  
679 beginning in 2010 and ending in 2020. In its report, the  
680 department shall also report on the implementation of this part,  
681 including reasons why the LEED standard or a nationally  
682 recognized standard of an equivalent ranking was not used. The  
683 department shall make recommendations regarding the ongoing  
684 implementation of this part, including a discussion of incentives  
685 and disincentives related to implementing this part.

686 (3) A member of the design team or construction team may  
687 not be held liable for the failure of a major facility project to  
688 meet the LEED silver standard, or other LEED standard, or a  
689 nationally recognized standard of an equivalent ranking  
690 established for the project as long as a good faith attempt was  
691 made to achieve the LEED or equivalent standard set for the  
692 project.

693 (4) Except as provided in this section, affordable housing  
694 projects funded out of the state capital budget are exempt from  
695 the provisions of this part. On or before July 1, 2012, the

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696 Department of Community Affairs shall identify, implement, and  
697 apply a sustainable building program for affordable housing  
698 projects that receive housing trust fund funding in the state  
699 capital budget. The Department of Community Affairs shall not  
700 develop its own sustainable building standard, but shall work  
701 with stakeholders to adopt an existing sustainable building  
702 standard or criteria appropriate for affordable housing. Any  
703 application of the program to affordable housing, including any  
704 monitoring to track the performance of either sustainable  
705 features or energy standards or both, is the responsibility of  
706 the Department of Community Affairs. Beginning in 2013 and ending  
707 in 2020, the Department of Community Affairs shall report to the  
708 department as required under paragraph (2) (c).

709 (5) (a) The Office of Program Policy Analysis and Government  
710 Accountability, or a successor agency, shall conduct a  
711 performance review of the high-performance buildings program  
712 established under this part.

713 (b) The performance audit shall include, but not be limited  
714 to:

715 1. The identification of the costs of implementation of  
716 high-performance building standards in the design and  
717 construction of major facility projects subject to this part.

718 2. The identification of operating savings attributable to  
719 the implementation of high-performance building standards,  
720 including, but not limited to, savings in energy, utility, and  
721 maintenance costs.

722 3. The identification of any impacts of high-performance  
723 buildings standards on worker productivity and student  
724 performance.

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725 4. An evaluation of the effectiveness of the high-  
726 performance building standards established under this part and  
727 recommendations for any changes in those standards that may be  
728 supported by the office's findings.

729 (c) The office shall make a preliminary report of its  
730 findings and recommendations on or before December 1, 2014, and a  
731 final report on or before July 1, 2015.

732 553.9995 Florida Green Building Council.--

733 (1) The Florida Green Building Council is created and shall  
734 be located within the Department of Community Affairs for  
735 administrative purposes. The commission shall be composed of 15  
736 members, consisting of:

737 (a) The Secretary of Community Affairs or the secretary's  
738 designee.

739 (b) The Secretary of Management Services or the secretary's  
740 designee.

741 (c) The Chief Financial Officer or the Chief Financial  
742 Officer's designee.

743 (d) The Secretary of Environmental Protection or the  
744 secretary's designee.

745 (e) The Commissioner of Agriculture or the commissioner's  
746 designee.

747 (f) The Secretary of Transportation or the secretary's  
748 designee.

749 (g) The Commissioner of Education or the commissioner's  
750 designee.

751 (h) The Chancellor of the State University System or the  
752 chancellor's designee.

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753        (i) Seven members who shall be appointed by the Governor to  
754 represent environmental, business, and citizen interests, at  
755 least one of whom shall have expertise in energy conservation or  
756 green building design standards. The terms of members appointed  
757 by the Governor shall be 2 years. The terms of appointed members  
758 shall be staggered. At the end of a term, a member shall serve  
759 until his or her successor is appointed and qualifies. A member  
760 who is appointed after a term has begun shall serve only for the  
761 remainder of that term and until a successor is appointed and  
762 qualifies.

763        (2) The Governor shall appoint a chair from among the  
764 council's membership and the chair shall serve at the pleasure of  
765 the Governor.

766        (3) The council may act with an affirmative vote of eight  
767 members.

768        (4) Any member who, during his or her term, ceases to meet  
769 the qualifications for original appointment shall forfeit  
770 membership on the council.

771        (5) Members of the council shall serve without compensation  
772 but shall be entitled to reimbursement for per diem and travel  
773 expenses as provided by s. 112.061.

774        (6) Each appointed member is accountable to the Governor  
775 for the proper performance of the duties of the office. The  
776 Governor shall cause to be investigated any complaint or  
777 unfavorable report received concerning an action of or any member  
778 of the council and shall take appropriate action upon receiving  
779 the results of such investigation. The Governor may remove from  
780 office any appointed member for malfeasance, misfeasance, neglect  
781 of duty, incompetence, permanent inability to perform official

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782 | duties, or pleading guilty or nolo contendere to, or being found  
783 | guilty of, a felony.

784 | Section 5. This act shall take effect July 1, 2008.