

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

BILL FILING TEMPLATE

Be It Enacted, by the Senate and House of Representatives, etc., as follows:

SECTION 1. Declaration of policy and statement of purpose.

(a) It is the policy of Massachusetts to encourage the construction, rehabilitation and maintenance of buildings in this state in such a manner as to:

(1) promote better environmental standards for the construction, rehabilitation and maintenance of buildings in this state;

(2) improve energy efficiency and increase generation of energy through renewable and clean energy technologies;

(3) increase the demand for environmentally preferable building materials, finishes, and furnishings;

(4) improve the environment by decreasing the discharge of pollutants from buildings; and

(5) create industry and public awareness of new technologies that can improve the quality of life from building occupants.

(b) In order to facilitate the foregoing policies, the legislature hereby creates a business and personal income tax credit to promote the construction, rehabilitation and maintenance of buildings that meet the criteria set forth in this act.

SECTION 2. Section 6 of chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting the following paragraph:-

(m) A tenant or owner of property located in the commonwealth who is not a dependant of another taxpayer may take a tax credit against the income tax this chapter imposes in

an amount equal to the sum of the credit components specified in section 31N of chapter 63 provided that:

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

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

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

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

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

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

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

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

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

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

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

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

Section 31L.

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

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

(1) construction or rehabilitation;

(2) commissioning costs;

(3) interest paid or incurred during the construction or rehabilitation period;

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

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

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

(7) site costs, including but not limited to, temporary electric wiring, scaffolding, demolition costs, and fencing and security facilities; and

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

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

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

(1) structural components of the building;

(2) exterior walls;

(3) floors;

(4) windows;

(5) roofs;

(6) foundations;

(7) chimneys and stacks;

(8) parking areas;

(9) mechanical rooms, mechanical systems and owner controlled and operated service spaces;

(10) sidewalks;

(11) main lobby;

(12) shafts and vertical transportation mechanisms;

(13) stairways; and

(14) corridors.

(c) “Credit allowance year” means the later of:

(1) the taxable year during which a tenant or owner place a green building, a green base building or green tenant space in service or receives a final certificate of occupancy;
or

(2) the first taxable year for which a tenant or owner may claim a credit pursuant to the initial credit component certificate that the division of energy resources issues.

(d) “Commissioner” means the commissioner of the division of energy resources,

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

(f) “Division” means the Massachusetts division of energy resources.

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

(h) “Eligible building” means a building located in the commonwealth that:

(1) contains at least 20,000 square feet of interior space;

(2) meets or exceeds or upon completion will meet or exceed all federal, state and

local:

(i) zoning requirements;

(ii) building codes;

(iii) environmental laws, regulations and industry guidelines;

(iv) land use and erosion control requirements; and

(v) storm water management;

(3) the Massachusetts state building code or a subsequent code classifies as commercial and has a ventilation system that:

(i) can replace 100 percent of air on any floor on a minimum of two floors at a time; and

(ii) has fresh air intakes located a minimum of 25 feet away from loading areas, building exhaust fans, cooling towers, and other points of source contamination;

(4) is a residential multi-family building with at least 12 units;

(5) is a residential multi-family building with at least 2 units that are part of a single or phased construction project with at least 10,000 square feet under construction or rehabilitation in any single phase; or

(6) is a combination of buildings described in (3), (4) and (5); and

(7) is not a building located on freshwater wetlands or tidal wetlands as defined by section 40 and 40A of chapter 131, or on wetlands that require a permit for construction pursuant to section 404 of the federal clean water act (33 U.S.C.A 1344).

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

(j) “EPA” means the United States Environmental Protection Agency.

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

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

(m) “Green building” means a building in which the base building is a green base building and the tenant space is green tenant space.

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

(o) “Incremental cost of building-integrated photovoltaic modules” means:

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

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

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

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

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

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

Section 31M.

(a) A corporation subject to tax under this chapter may take a credit against the excise this chapter imposes, in an amount equal to the sum of the credit components specified in section 31N for the credit allowance year and each of the four succeeding years, provided that:

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

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

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

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

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

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

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

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

(9) in the construction of a green building, a green base building, and a green tenant space, or the rehabilitation of a building, base building or tenant space to make a green building, green base building or green tenant space a taxpayer shall adhere to the regulations the commissioner promulgates and adopts under section 31P.

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

(1) the successor owner may take a credit for the period allowable had the prior owner not sold the property; and

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

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

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

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

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

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

Section 31N.

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

(1) the applicable percentage a tenant or owner shall use to calculate the credit is 1.4 percent, except where the building is located in an economic development area, in which case the applicable percentage a tenant or owner shall use is 1.6 percent;

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

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

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

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

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

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

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

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

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

(2) the applicable percentage a tenant or owner shall use to calculate the credit is 6 percent of the sum of the capitalized costs a taxpayer pays or incurs for a fuel cell, including the cost of the foundation or platform and the labor cost associated with installation;

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

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

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

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

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

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

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

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

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

(1) the applicable percentage a tenant or owner shall use to calculate the credit is 1 percent, except where the building is located in an economic development area, in which case the applicable percentage a tenant or owner shall use is 1.2 percent;

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

Section 31O.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 31P.

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

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

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

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

(4) establish a method for allocating initial credit component certificates among eligible applicants; and

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

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

(1) standards for energy, including:

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

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

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

(ii) standards for appliances and heating, cooling and water heating equipment for which, as of the effective date of this section, the United States department of energy, the

environmental protection agency or some other federal agency provides specifications;
and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The commissioner shall design and conduct state-wide, educational seminars and programs to assist developers, tenants, and others who may participate in the green building tax credit program. The commissioner shall also design written guidelines that owners of green tenant space can provide their tenants that explain opportunities to

improve energy efficiency and air quality of tenant space and reduce and recycle waste stream.

(e) On or before April 1, 2008 the commissioner shall submit a written report to the governor, the president of the senate, the speaker of the house, the chairman of the senate finance committee and the chairman of the house ways and means committee, identifying:

- (1) the number of certifications filed with the division;
- (2) the number of taxpayers claiming the credit under this section;
- (3) the amount of the credits taxpayers have claimed; and
- (4) other information the commissioner believes meaningful and appropriate in evaluating the tax credit under this section.

(f) Funding

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

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

(3) Upon application by a taxpayer, the Division shall issue an initial credit component certificate where the taxpayer has made a showing that the taxpayer is likely within a reasonable time to place in service property which would warrant the allowance of a credit under this section. Such certificate shall state the first taxable year for which the credit may be claimed and an expiration date, and shall apply only to property placed in service by such expiration date. Such expiration date may be extended at the discretion

of the Division, in order to avoid unwarranted hardship. Such certificates may be issued in years 2006-2010. Such certificates shall state the maximum amount of credit component allowable for each of the five taxable years for which the credit component is allowed, under section 31N.

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

Credit components in the aggregate shall not be allowed for more than:	With respect to taxable years beginning in:
\$ 1 million	2007
\$ 2 million	2008
\$ 3 million	2009
\$ 4 million	2010
\$ 5 million	2011
\$ 4 million	2012
\$ 3 million	2013
\$ 2 million	2014
\$ 1 million	2015

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

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

Credit components in the aggregate shall not be allowed for more than:	With respect to taxable years beginning in:
\$ 1 million	2012
\$ 2 million	2013
\$ 3 million	2014
\$ 4 million	2015
\$ 5 million	2016
\$ 4 million	2017
\$ 3 million	2018

\$ 2 million	2019
\$ 1 million	2020

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