

# State and Local Green Building Incentives

Government can offer a number of incentives to encourage the private development of green buildings. These green incentives run the gamut, and state and local governments can choose a range of inducements based on the fiscal outlook, the current level of development activity, and the scope of the green building program desired.

The following is a list of the most common\* incentives offered by jurisdictions across the country:

- Tax Incentives
- Bonus Density
- Expedited Permitting
- Net Metering
- Grants (including fee subsidization)
- Loans
- Technical Assistance/Design Assistance
- Permit/Zone Fee Reduction
- Rebates and Discounts on Environmental Products (e.g., Energy Star)
- Leasing Assistance

*\*This is not intended to be an exhaustive list of incentives available, but simply a sampling of incentives that exist. Furthermore, the AIA does not endorse or denounce any of these programs.*

## TAX INCENTIVES

Tax incentives are one of the most robust and widely used forms of incentives to promote beneficial practices. They are particularly suited to green building projects because they can be offered for specific levels of green certification and for both short- and long-term goals. These incentives can be offered in any of the following areas:

- Corporate Tax (tax levied on the profits made by companies or associations)
- Gross Receipts Tax (tax levied on the total gross revenues of a company – charged to the seller of goods)
- Income Tax (tax levied on the financial income of persons, corporations, or other legal entities)
- Property Tax/Ad Valorem Tax (tax levied on the value of property)
- Sales Tax (tax levied on goods and services – charged at the point of purchase)
- Local Tax (tax levied from cities and counties)

Tax abatement is the most flexible incentive because municipalities have the opportunity to approve a number of green performance standards and allocate the abatement to any tax jurisdiction. It is important to remember that many developers/owners have different priorities depending on whether they are small developers, large developers, short-term investors, developers who want to maintain several properties, building owners, corporate building tenants, or residential building tenants. These parties have divergent interests and needs, and tax incentives should be available to entice each group.

Additional costs for designing and building green are typically paid up front; yet the benefits gained from reduced energy costs are earned over the building's lifetime. As such, short-term investors may never realize the lifetime cost savings. Immediate tax benefits can encourage them to build green. Building owners that rent properties may also never realize energy savings and therefore prefer to spread the benefit over several years. Transferable tax credits could encourage small developers to build green, and tax abatements for the real property transfer tax could be useful to defray the expensive transfer costs in some localities. In addition, a focus on transit-oriented development could be used to promote more livable communities.

Incremental tax rebates, which would be offered at different levels of development, have also been suggested as a means to encourage all parties involved in the development/ownership process to build green. For example, a portion of the rebate can be given during the design process for efficient design intent, and a portion can then be given for efficient operation of the building at one year out, three years out, etc. Efficiency information should be available from either the state, as in the state programs Efficiency Maine and Efficiency Vermont, or from utility companies, as many already maintain data on energy usage.

Tax abatements have generally been offered as temporary, short-term incentives. This is profitable for entities buying and selling quickly. However, many large projects can take several years to complete, so developers may not be able to reap the same financial

benefits from the abatement as short-term buyers/sellers since it may no longer be available when the project is finished. In the future, it will be important to make sure that tax abatements are designed so that they can be utilized in the long-term and are flexible enough to adjust for new concerns.

Federal tax credits are also helpful to offset additional costs associated with building green. [The Energy Policy Act of 2005](#) (Public Law 109-58) created a new tax incentive for constructing energy efficient commercial buildings. Specifically, [Section 1331, the Commercial Building Tax Deduction](#), establishes a tax deduction for expenses related to the design and installation of energy-efficient commercial building systems. This section provides that a building owner may claim a tax deduction for expenditures made as part of a building designed to reduce the total annual energy used in the operation of the building. Building owners can claim a tax deduction of up to \$1.80 per square foot of building area for the installation of systems that reduce the total energy and power costs by 50 percent or more when compared with a reference building.

The Energy Independence Act of 2007 and its [Energy Efficiency and Conservation Block Grant](#) (EECBG) of 2007 authorizes \$2 billion in grant money to communities and states. This law creates a new program that will provide block grants to cities and states to improve energy efficiency and encourage other environmentally beneficial practices. Cities and states can apply for funding for programs that encourage energy efficiency and conservation programs in commercial, residential, and municipal buildings. Grants could also be used to provide energy audits and energy technical assistance. The Energy Efficient Commercial Tax deduction and Energy and Conservation Block Grant are worthwhile federal programs that provide assistance to building owners and local/state governments to promote sustainability.

On the whole, tax credit programs work as a positive incentive for green development. However, some programs remain complicated in nature, and builders and owners often find the effort to complete the application process for these programs to be time consuming and,

as a result, not cost-effective. Streamlining the application process will ensure that the credits are used more and thus more effective.

## Examples

### **Income Tax:** [Maryland TAX-GENERAL Code Ann. § 10-722](#)

An income tax credit provided to owners or tenants of green buildings and green building components. The credit equals eight percent of the allowable costs (\$120 per square foot of the base building/\$60 per square foot of the tenant space) for green buildings. It provides that the Administration shall adopt standards for a building to qualify as a green building that are consistent with the criteria set forth by the USGBC.

### **Property Tax:** [Cincinnati Tax Abatement](#)

Any homeowner in Cincinnati may be eligible for property tax abatement if they have renovated their home or purchased a newly constructed home that was built to LEED® standards. Multi-unit housing (four or more units), mixed-use development, and commercial development, both rehabilitation and new construction, are subject to program criteria such as gap analysis, cost/benefit analysis, and relation to other city subsidy.

### **Property Tax:** [Honolulu Temporary Tax Exemption](#)

This bill provides a one-year real property tax exemption for commercial, industrial, and resort development that earns LEED certification.

### **Multipurpose Tax:** [New York State CLS Tax § 19](#)

This is a tax credit for owners/tenants of buildings that meet certain green standards. The tax can be applied against corporate taxes, personal income taxes, insurance corporation taxes, and banking corporation taxes. New buildings receiving the credit must not exceed 65 percent of the permitted energy usage (75 percent for rehabilitated buildings).

### **Other Tax:** [Oregon Business Energy Tax Credit ORS § 469.185](#)

This tax credit is designed to offset the cost to businesses that build sustainable commercial buildings meeting the LEED Silver rating. The credit is refunded

from the Oregon Department of Energy and is based on the square footage of the entire building.

To read more on this tax credit, click [here](#).

### **County Tax Exemption:** [Chatham County, Georgia, Ordinance](#)

The exemption provides a five-year full property state and county tax abatement for commercial buildings that receive LEED Gold certification. It also provides a reduced abatement for the next five years (a reduction of 20 percent each year).

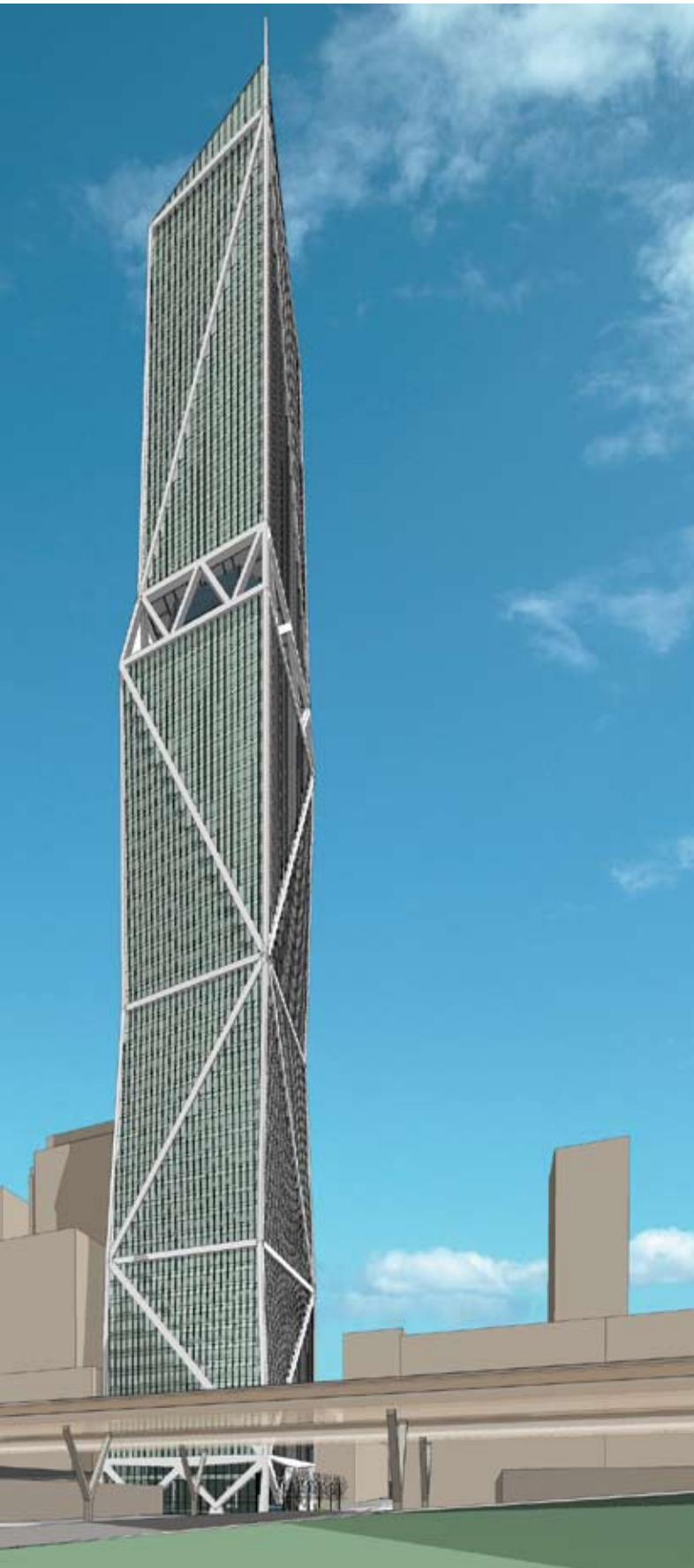
### **City Tax Exemption:** [Cincinnati, Ohio, Ordinance](#)

A 100 percent tax exemption for LEED certified buildings, not to exceed \$500,000 over 15 years for new buildings and over 10 years for renovations, is offered by the county. If the building receives LEED Platinum certification, there is no maximum exemption.

## BONUS DENSITY

Jurisdictions have implemented height bonuses, floor/area ratio (FAR) bonuses, reductions in landscaping requirements, and the counting of green roof space as landscaping/open space in return for achieving levels of green building ratings. These programs can be particularly attractive to developers and owners in cities and counties that have capacity shortfalls. Additional space allowances increase profits for developers and building owners and reductions in transfer costs can translate into incentives for the buyer.

Bonus density programs are valuable because developers want to increase floor space on projects in order to enhance profitability. In order for these programs to be effective, bonus density must maintain comprehensive green requirements and therefore preserve the exclusivity of the incentive. As green building becomes more commonplace, municipalities may need to reexamine the stringency of the requirements for density bonuses and increase them concordantly.



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## City/County Examples

### [Seattle Council Bill Number 115524/Ordinance Number 122054](#)

Seattle downtown zoning legislation provides that projects achieving a LEED Silver rating or higher and that contribute to affordable housing and other public amenities may receive greater heights and/or floor area for commercial and residential buildings. After developers/owners submit a letter of intent, the city will issue a permit and Certificate of Occupancy based on a good faith commitment. Applicants must submit documentation demonstrating LEED certification within 90 days or face a \$500/day penalty for late entries. Failure to demonstrate performance will also result in a penalty. All penalties contribute to the Green Building Fund, which is dedicated to supporting market adoption of green building.

*To read more on this bonus program, click [here](#) and [here](#).*

### [Arlington, Virginia, Green Building Incentive Program](#)

This incentive awards commercial projects and private developments that earn LEED certification additional density between .15 and .35 FAR and/or additional height of up to three stories (the higher the certification level, the greater the density awarded). Certification does not guarantee additional density – projects are analyzed on a case-by-case basis. The Master Certificate of Occupancy is awarded when the building is certified.

## EXPEDITED PERMITTING

Streamlining the permitting process for building, plan, and site permits can save green developers substantial time and money. This may require the reorganization of municipal staff or initially cost the jurisdiction in other indirect ways, but, overall, such a program can result in great cost savings to both the jurisdiction and the architects and developers involved in a project.

Permit streamlining programs offer jurisdictions the ability to increase tax revenue while supplying the development community with a valuable resource. The development community has expressed a concern that

many communities need to enhance and augment their permitting staff in order for these programs to work at their full potential. In order for expedited permitting programs to be successful, staff should also have a comprehensive understanding of the green rating systems utilized within a city/county.

Building permitting bodies must have knowledgeable, trained professionals at all levels of review. These permitting professionals should be trained in LEED and/or other green rating systems used in the community. Unfortunately, one of the problems faced by many smaller permitting agencies is that they do not have the time or money to adequately staff their existing responsibilities, let alone additional requirements, and therefore solutions need to be found.

The resource crunch faced by communities can be solved in multiple ways. These can include federal/state funding for local initiatives as well as subsidies from the private sector. Additionally, there is a need to study existing programs to better understand the complexities and benefits in order to develop more efficient programs.

Some jurisdictions, like San Francisco, have hired “embedded employees” from the private sector, who conduct the work of permitting officials. Such programs also offer career path motivations for professionals who choose to become specialized in green development. Third party approval systems can also be used to ensure that the permitting process is handled properly, but this may require additional funding.

As more projects go green additional pressure is put on permitting agencies, because of increased capacity. Expedited permitting, if effectively managed, can be very successful. Cities should realize that this is a potential revenue generator for their jurisdiction, as projects that move forward quickly increase tax revenue for communities.

## State Examples

### [Hawaii HRS § 46-19.6](#)

Requires county agencies that issue building permits to establish an expedited permitting process, at no cost, for private buildings that meet or exceed the USGBC’s

LEED Silver rating, GBI’s two green globes rating, or another comparable state-approved, nationally recognized, and consensus-based system.

### [South Carolina S. 377](#) (*passed Senate, awaiting House committee hearing*)

This bill offers Resident taxpayers constructing a commercial building that meets USGBC standards can participate in an expedited permitting process upon the posting of an environmental performance bond.

## City/County Examples

### [Santa Monica Ordinance 8.108.050](#)

Santa Monica’s ordinance provides an expedited permitting process for new buildings and major renovations (more than 50 percent) that receive LEED certification.

*To read more on this program, click [here](#).*

### [Chicago Green Permit Program](#)

This program reduces the permitting process for developers and owners who build green to less than 30 business days and, in some cases, less than 15 days. The length is determined by the number of green building elements, the LEED certification level, and the project complexity.

## NET METERING

Many jurisdictions allow consumers who own renewable energy facilities, such as wind or solar power instruments, to generate their own energy. For net metering to be a powerful incentive, it is important for consumers who generate power to be able to sell excess power back to the community.

This process can develop clean energy as an industry, much like cell towers, and buildings could potentially sell space for photovoltaics to companies. Installing photovoltaic arrays on big box retail buildings, could generate substantial amounts of electricity and entice developers and owners to build not only energy-efficient, but energy producing buildings. Mandating the use of renewable sources, at times a controversial



*Hawaii Gateway Energy Center, Kailua-Kona, HI, AIA/COTE 2007 Top Ten Green Projects award recipient. Ferraro Choi and Associated, Honolulu, Hawaii. Photo by David Franzen*

topic, can also help to make this process faster. Electric companies, though, should be included in this process, as it is complex and creates competition for generation.

## Examples

### [Illinois Net Metering Law](#)

This law establishes a net electricity metering program in the state. Illinois encourages diversification in energy resources by encouraging eligible customers to

install equipment measuring the amount of electricity generated and used going in both directions, and therefore increase renewable energy generation.

### [Interstate Renewable Energy Council Model Net Metering Rules](#)

These rules, developed by the Interstate Renewable Energy Council, apply to systems up to two megawatts in capacity. They have been particularly beneficial in New Jersey and Colorado.

### [California](#)

This program allows entities to “bank” excess power, subject to certain limits, and deducts energy production from the total energy use. However, there is no ability in this program to sell excess energy back to the grid.









