

SENATE No. 1248

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to prevent tax fraud..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (a) of section 38N of chapter 63, as appearing in the 2004
2 official edition, is hereby amended by striking out the second paragraph and inserting in place
3 thereof the following paragraphs:-

4 A credit allowed under this section may be taken only after the taxpayer completes an
5 annual application for the credit, signed under the pains and penalties of perjury by an authorized
6 representative of the corporation, files it with the commissioner of revenue and the commissioner
7 certifies that property eligible for the credit is used in a certified project within the economic
8 opportunity area as defined in said section 3A of said chapter 23A and wholly within an area
9 designated as an economic target area pursuant to section 3D of said chapter 23A and the area
10 conforms to the definition of a “blighted open area”, “decadent area”, or “sub-standard area” as
11 set forth in section 1 of chapter 121A, and that the certified project satisfies the employment
12 projections specified in the original project proposal. The commissioner of revenue shall notify
13 the economic assistance coordinating council, of any application that is not certified.

14 The commissioner shall, not less than once every 2 years, review all projects certified by
15 the economic assistance coordinating council on or after January 1, 2000, if the taxpayer
16 participating in a certified project files an application for the tax credit allowed under this
17 section.

18 Based upon the information provided in the application, the commissioner of revenue
19 shall make a determination on whether the certified project is in compliance with the definition
20 of certified project set forth in this section and whether the project has a reasonable chance of
21 increasing employment opportunities for residents of the certified project as advanced in the
22 initial proposal certified by the EACC. If the commissioner of revenue determines that the
23 certified project is no longer in compliance, than he shall notify the economic assistance
24 coordinating council of the determination, and certification of the project shall be revoked by the
25 economic assistance coordinating council. If the project is considered decertified for reasons of
26 fraud or material misrepresentation, as determined by the commissioner of revenue, the
27 commissioner shall have a cause of action against the controlling business of the project for the
28 value of any economic benefits received, including, but not limited to, the amount of the tax
29 credit allowed under this section. Nothing in this section shall be deemed to limit the authority
30 of the commissioner to make adjustments to a corporation's liability upon audit.