

HOUSE BILL 364

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Q7

1999 Regular Session
9r1604
CF 9r1605

By: **Delegates Hixson and Hurson**

Introduced and read first time: February 8, 1999

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Credits - New or Expanded Business Premises**

3 FOR the purpose of authorizing certain affiliates of certain business entities to claim
4 certain property tax and State tax credits for certain new or expanded business
5 premises under certain circumstances; eliminating a prohibition against
6 granting the credits to a business entity that has been certified for a certain
7 other tax credit; providing for determining the value of the new or expanded
8 premises on which the credits are calculated; altering the calculation of the
9 credits allowed for certain business entities or combinations of business entities
10 that satisfy certain requirements; prohibiting a lessor of real property eligible
11 for the credits from increasing rent or imposing additional charges in a certain
12 manner; repealing certain termination provisions applicable to the tax credits;
13 providing for the application of this Act; and generally relating to certain
14 property tax and State tax credits granted to certain business entities for
15 certain new or expanded business premises under certain circumstances.

16 BY repealing and reenacting, with amendments,
17 Article - Tax - Property
18 Section 9-230
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1998 Supplement)

21 BY repealing and reenacting, with amendments,
22 Chapter 623 of the Acts of the General Assembly of 1997, as amended by
23 Chapter 623 of the Acts of the General Assembly of 1998
24 Section 2 and 3

25 BY repealing and reenacting, with amendments,
26 Chapter 624 of the Acts of the General Assembly of 1997, as amended by
27 Chapter 623 of the Acts of the General Assembly of 1998
28 Section 2 and 3

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
30 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Tax - Property**

2 9-230.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "AFFILIATE" MEANS A PERSON:

5 (I) THAT DIRECTLY OR INDIRECTLY, OWNS AT LEAST 80% OF A
6 BUSINESS ENTITY; OR7 (II) 80% OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY A
8 BUSINESS ENTITY.9 [(2)] (3) "Business entity" means a person AND ITS AFFILIATES
10 conducting a trade or business in the State, that is subject to the State individual or
11 corporate income tax, insurance premiums tax, financial institution franchise tax, or
12 public service company franchise tax.13 [(3)] (4) (i) "New permanent full-time position" means a position that
14 is:

15 1. a full-time position of indefinite duration;

16 2. located in Maryland;

17 3. newly created, as a result of the establishment or
18 expansion of a business facility in the State; and

19 4. filled.

20 (ii) "New permanent full-time position" does not include a position
21 that is:22 1. created when an employment function is shifted from an
23 existing business facility of the business entity located in Maryland to another
24 business facility of the same business entity if the position does not represent a net
25 new job in the State;26 2. created through a change in ownership of a trade or
27 business;28 3. created through a consolidation, merger, or restructuring
29 of a business entity if the position does not represent a net new job in the State;30 4. created when an employment function is contractually
31 shifted from an existing business entity located in the State to another business
32 entity if the position does not represent a net new job in the State; or

33 5. filled for a period of less than 12 months.

1 [(4)] (5) "New or expanded premises" means real property, including a
2 building or part of a building that has not been previously occupied, where a business
3 entity locates to conduct its business.

4 [(5)] (6) "Assessed value" is the value of real property as determined by
5 the Department to which a county or municipal corporation property tax rate may be
6 applied.

7 (b) (1) The Mayor and City Council of Baltimore City or the governing body
8 of a county or of a municipal corporation may grant, by law, a property tax credit
9 against the county or municipal corporation property tax imposed on real property
10 owned or leased by a business entity that meets the requirements specified under
11 subsection (c)(1) and (2) of this section and on personal property owned by that
12 business entity that meets the requirements specified under subsection (d) of this
13 section.

14 (2) If a property tax credit is granted under paragraph (1) of this
15 subsection, a business entity that meets the requirements specified under subsection
16 (c)(3) of this section may claim a State tax credit against the individual or corporate
17 income tax, insurance premiums tax, financial institution franchise tax, or public
18 service company franchise tax as provided under subsection (f) of this section.

19 (c) (1) To qualify for a tax credit under this section, a business entity shall:

20 (i) construct or expand by at least 5,000 square feet the premises
21 on which it conducts its business, through purchasing or constructing new premises
22 or by leasing new premises; and

23 (ii) employ at least 25 individuals in new permanent full-time
24 positions in the new or expanded premises.

25 (2) A tax credit may not be granted under this section if:

26 (i) the business entity has moved its operations from one political
27 subdivision in the State to another; OR

28 (ii) the new or expanded premises has otherwise been granted a tax
29 credit or exemption under this article for the taxable year [; or

30 (iii) the business entity has been certified for a tax credit under
31 Article 83A, § 5-1102 of the Code].

32 (3) In addition to the requirements under paragraphs (1) and (2) of this
33 subsection, to qualify for a tax credit under this section, the new or expanded
34 premises must be located in a priority funding area as designated in Title 5, Subtitle
35 7B of the State Finance and Procurement Article.

36 (d) To qualify for a property tax credit under this section against property tax
37 imposed on personal property a business entity shall certify that the personal

1 property is located on the new or expanded premises that qualify for a tax credit
2 under subsection (c) of this section.

3 (e) (1) [The] SUBJECT TO SUBSECTION (G) OF THIS SECTION, THE
4 governing body of the county or municipal corporation shall compute the amount of
5 the property tax credit granted under subsection (b)(1) of this section for new or
6 expanded premises and the personal property located on those premises that may be
7 claimed against the county or municipal corporation property taxes that would
8 otherwise be due to equal a percentage of the amount of property tax imposed on the
9 assessed value of the new or expanded premises, as follows:

10 (i) 52% for the 1st and 2nd taxable years;

11 (ii) 39% in the 3rd and 4th taxable years;

12 (iii) 26% in the 5th and 6th taxable years; and

13 (iv) 0% for each taxable year thereafter.

14 (2) THE VALUE OF THE NEW OR EXPANDED PREMISES ON WHICH THE
15 CREDIT UNDER THIS SECTION IS CALCULATED IS THE TOTAL INCREASE IN THE
16 VALUE OF THE PROPERTY AFTER THE CONSTRUCTION OF THE NEW OR EXPANDED
17 PREMISES.

18 [(2)] (3) The county or municipal corporation shall notify the
19 Department that a business entity has been approved for the property tax credit and
20 the assessed value of the new or expanded premises.

21 (f) (1) [On] SUBJECT TO SUBSECTION (G) OF THIS SECTION, ON receipt of
22 notification under subsection (e)(2) of this section, the Department shall compute and
23 certify to the Comptroller the amount of the State tax credit authorized under
24 subsection (b)(2) of this section that may be claimed against the individual or
25 corporate income tax, insurance premiums tax, financial institution franchise tax, or
26 public service company franchise tax that would otherwise be due to equal a
27 percentage of the amount of property tax imposed on the assessed value of the new or
28 expanded premises, as follows:

29 (i) 28% in the 1st and 2nd taxable years;

30 (ii) 21% in the 3rd and 4th taxable years;

31 (iii) 14% in the 5th and 6th taxable years; and

32 (iv) 0% for each taxable year thereafter.

33 (2) The same State tax credit cannot be applied more than once against
34 different taxes by the same taxpayer.

35 (3) If the State tax credit allowed under this subsection in any taxable
36 year exceeds the total tax otherwise payable by the business entity for that taxable

1 year, a business entity may apply the excess as a credit for succeeding taxable years
2 until the earlier of:

3 (i) the full amount of the excess is used; or

4 (ii) the expiration of the 5th taxable year after the taxable year in
5 which the State tax credit is claimed.

6 (4) The Maryland Insurance Commissioner shall adopt regulations to
7 provide for the computation, carryover, and recapture of the State tax credit under §
8 6-116 of the Insurance Article.

9 (5) The Department shall adopt regulations to provide for the
10 computation, carryover, and recapture of the State tax credit under §§ 8-217 and
11 8-414 of the Tax - General Article.

12 (6) The Comptroller shall adopt regulations to provide for the
13 computation, carryover, and recapture of the State tax credit under § 10-704.8 of the
14 Tax - General Article.

15 (G) (1) THIS SUBSECTION APPLIES IF A BUSINESS ENTITY OR A
16 COMBINATION OF BUSINESS ENTITIES:

17 (I) CONSTRUCT OR EXPAND BY AT LEAST 200,000 SQUARE FEET
18 THE PREMISES ON WHICH THE BUSINESS ENTITY OR COMBINATION OF BUSINESS
19 ENTITIES CONDUCT BUSINESS, THROUGH PURCHASING, CONSTRUCTING, OR
20 CAUSING TO BE CONSTRUCTED, NEW PREMISES OR BY LEASING NEW PREMISES;

21 (II) EMPLOY AT LEAST 500 INDIVIDUALS IN PERMANENT
22 FULL-TIME POSITIONS LOCATED IN THE NEW OR EXPANDED PREMISES DURING
23 EACH YEAR IN WHICH THE CREDIT IS CLAIMED; AND

24 (III) EMPLOY AT LEAST 25 INDIVIDUALS IN NEW PERMANENT
25 FULL-TIME POSITIONS LOCATED IN THE NEW OR EXPANDED PREMISES.

26 (2) IF A BUSINESS ENTITY OR COMBINATION OF BUSINESS ENTITIES
27 MEET THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION, INSTEAD OF
28 THE CREDITS AS COMPUTED UNDER SUBSECTIONS (E) AND (F) OF THIS SECTION:

29 (I) THE PROPERTY TAX CREDIT SHALL EQUAL 58.5% OF THE
30 AMOUNT OF PROPERTY TAX IMPOSED ON THE ASSESSED VALUE OF THE NEW OR
31 EXPANDED PREMISES FOR EACH OF THE FIRST 12 TAXABLE YEARS FOR WHICH THE
32 CREDIT IS ALLOWED; AND

33 (II) THE STATE TAX CREDIT SHALL EQUAL 31.5% FOR EACH OF THE
34 FIRST 12 TAXABLE YEARS FOR WHICH THE CREDIT IS ALLOWED.

35 [(g)] (H) The lessor of real property eligible for tax credits under subsection (b)
36 of this section:

1 (1) shall reduce by the amount of the tax credits computed under
2 subsections (e) and (f) of this section the amount of taxes for which the eligible
3 business entity is contractually liable under the lease agreement; AND

4 (2) MAY NOT INCREASE THE AMOUNT OF RENT OR IMPOSE ADDITIONAL
5 CHARGES ON A LESSEE IN ANY MANNER THAT WOULD HAVE THE EFFECT OF
6 REDUCING THE VALUE OF THE TAX CREDITS ALLOWED UNDER THIS SECTION TO A
7 LESSEE.

8 [(h)] (I) The governing body of the county or municipal corporation shall
9 provide, by law, for:

10 (1) the specific requirements for eligibility for a tax credit authorized
11 under this section;

12 (2) any additional limitations on eligibility for the credit;

13 (3) a provision requiring recapture of the property and State tax credits
14 earned, if, during the 3 taxable years succeeding any year in which a credit was
15 earned, the business entity fails to satisfy the applicable thresholds to qualify for a
16 property tax credit required under subsection (c) of this section OR THE THRESHOLDS
17 TO QUALIFY FOR THE ENHANCED CREDITS UNDER SUBSECTION (G) OF THIS
18 SECTION;

19 (4) the information to be supplied by the business entity to a county or
20 municipal corporation and the Comptroller to verify that the business entity is not
21 subject to item (3) of this subsection; and

22 (5) any other provision appropriate to implement the credit.

23 **Chapter 623 of the Acts of 1997, as amended by Chapter 623 of the Acts of**
24 **1998**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
26 applicable to all taxable years beginning after December 31, 1996 [but before
27 January 1, 2008; provided, however, that the tax credits under § 9-230 of the Tax -
28 Property Article, as enacted by Section 1 of this Act, shall be allowed for property and
29 business entities that meet the criteria established in § 9-230(c) of the Tax - Property
30 Article on or after October 1, 1997 but before January 1, 2003; and provided further
31 that any excess State tax credits under § 9-230(f)(1) of the Tax - Property Article may
32 be carried forward and, subject to the limitations under § 9-230(f)(3) of the Tax -
33 Property Article, may be applied as a credit for taxable years beginning on or after
34 January 1, 2008].

35 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 1997. [Subject to the provisions of Section 2 of this Act, this Act shall
37 remain in effect for a period of 5 years and 3 months and, at the end of December 31,
38 2002, with no further action required by the General Assembly, this Act shall be
39 abrogated and of no further force and effect.]

1 **Chapter 624 of the Acts of 1997, as amended by Chapter 623 of the Acts of**
2 **1998**

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7 business entities that meet the criteria established in § 9-230(c) of the Tax - Property
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9 that any excess State tax credits under § 9-230(f)(1) of the Tax - Property Article may
10 be carried forward and, subject to the limitations under § 9-230(f)(3) of the Tax -
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