

## Chapter 707

(House Bill 861)

AN ACT concerning

### Montgomery County – Enterprise Zones – ~~County~~ Tax Credits

MC 2-10

FOR the purpose of ~~authorizing Montgomery County to allow, by law, a business entity that is not eligible for a certain tax credit to claim a credit against county taxes for certain improvements to properties located in an enterprise zone; requiring the governing body of Montgomery County to provide for calculation of the amount of the credit and to specify which county tax or taxes the credit applies to, the improvements eligible for the credit, the qualifications for eligibility, the conditions of certification, and the process for application for the credit; authorizing Montgomery County to impose limits on the amount of credits issued for any taxable year; authorizing Montgomery County to make the credit refundable; authorizing Montgomery County to provide for the recapture of the credit; and generally relating to the authority of Montgomery County to authorize a credit against county taxes for improvements to property located in an enterprise zone~~ requiring a lessor of real property in Montgomery County eligible for certain property tax credits to reduce by a certain amount the amount of tax for which the tenant is contractually liable under the lease under certain circumstances; authorizing the governing body of Montgomery County or of a municipal corporation in Montgomery County to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain property located in certain enterprise zones; authorizing the governing body of Montgomery County or of a municipal corporation in Montgomery County to provide, by law, for the amount and duration of the credit, additional eligibility criteria and restrictions for the credit, and any other provision necessary to carry out the credit; requiring the governing body of Montgomery County or of a municipal corporation in Montgomery County to define certain improvements eligible for a tax credit; providing for the application of this Act; and generally relating to enterprise zones.

~~BY adding to~~

~~Article – Economic Development~~

~~Section 5-710~~

~~Annotated Code of Maryland~~

~~(2008 Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 9-103(b)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

BY adding to

Article – Tax – Property  
Section 9-317(f)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

~~Article – Economic Development~~

~~5-710.~~

~~(A) IN THIS SECTION, “ELIGIBLE BUSINESS ENTITY” MEANS A PERSON WHO OPERATES OR CONDUCTS A TRADE OR BUSINESS AND IS NOT ELIGIBLE FOR THE PROPERTY TAX CREDIT UNDER § 9-103 OF THE TAX – PROPERTY ARTICLE.~~

~~(B) THE GOVERNING BODY OF MONTGOMERY COUNTY MAY, BY LAW, ALLOW AN ELIGIBLE BUSINESS ENTITY TO CLAIM A CREDIT AGAINST A COUNTY TAX FOR IMPROVEMENTS TO PROPERTY LOCATED IN AN ENTERPRISE ZONE.~~

~~(C) (1) A LAW THAT AUTHORIZES A CREDIT UNDER THIS SECTION SHALL:~~

~~(I) SPECIFY WHICH COUNTY TAX OR TAXES THE CREDIT APPLIES TO;~~

~~(II) DEFINE THE IMPROVEMENTS ELIGIBLE FOR THE TAX CREDIT;~~

~~(III) SPECIFY THE QUALIFICATIONS FOR ELIGIBILITY, CONDITIONS OF CERTIFICATION, AND PROCESS FOR APPLICATION FOR THE TAX CREDIT; AND~~

~~(IV) PROVIDE FOR CALCULATION OF THE AMOUNT OF THE TAX CREDIT.~~

~~(2) A LAW THAT AUTHORIZES A CREDIT UNDER THIS SECTION MAY:~~

~~(I) LIMIT THE TOTAL AMOUNT OF TAX CREDITS THAT MAY BE AUTHORIZED IN A YEAR;~~

~~(II) ALLOW A REFUND OF THE TAX CREDIT IF THE CREDIT OTHERWISE EXCEEDS THE TOTAL TAX PAYABLE; AND~~

~~(III) PROVIDE FOR THE RECAPTURE OF THE CREDIT.~~

~~(D) THE GOVERNING BODY OF MONTGOMERY COUNTY MAY IMPOSE ANY ADDITIONAL LIMITATIONS NECESSARY TO ADMINISTER THE TAX CREDIT.~~

Article - Tax - Property

9-103.

(b) (1) The governing body of a county or of a municipal corporation shall grant a tax credit under this section against the property tax imposed on the eligible assessment of qualified property.

(2) IN MONTGOMERY COUNTY THE LESSOR OF REAL PROPERTY ELIGIBLE FOR A CREDIT UNDER THIS SECTION SHALL REDUCE THE AMOUNT OF TAXES FOR WHICH A TENANT IS CONTRACTUALLY LIABLE UNDER THE LEASE AGREEMENT BY THE AMOUNT OF ANY CREDIT ALLOWED UNDER THIS SECTION THAT IS ATTRIBUTABLE TO IMPROVEMENTS MADE BY THE TENANT.

9-317.

(F) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “ELIGIBLE BUSINESS ENTITY” MEANS A PERSON WHO OPERATES OR CONDUCTS A TRADE OR BUSINESS ON QUALIFIED ENTERPRISE ZONE PROPERTY BUT DOES NOT OWN THE QUALIFIED ENTERPRISE ZONE PROPERTY.

(III) “QUALIFIED ENTERPRISE ZONE PROPERTY” MEANS REAL PROPERTY THAT:

1. IS NOT USED FOR RESIDENTIAL PURPOSES;
2. IS USED IN A TRADE OR BUSINESS BY AN ELIGIBLE BUSINESS ENTITY;

3. IS LOCATED IN AN ENTERPRISE ZONE THAT IS DESIGNATED UNDER TITLE 5, SUBTITLE 7 OF THE ECONOMIC DEVELOPMENT ARTICLE; AND

4. IS ELIGIBLE FOR THE PROPERTY TAX CREDIT UNDER § 9-103 OF THIS TITLE.

(2) SUBJECT TO PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, THE GOVERNING BODY OF MONTGOMERY COUNTY OR OF A MUNICIPAL CORPORATION IN MONTGOMERY COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON:

(I) IMPROVEMENTS MADE BY AN ELIGIBLE BUSINESS ENTITY TO QUALIFIED ENTERPRISE ZONE PROPERTY; AND

(II) PERSONAL PROPERTY OWNED BY AN ELIGIBLE BUSINESS ENTITY LOCATED ON QUALIFIED ENTERPRISE ZONE PROPERTY.

(3) (I) THE GOVERNING BODY OF MONTGOMERY COUNTY OR OF A MUNICIPAL CORPORATION IN MONTGOMERY COUNTY MAY PROVIDE, BY LAW, FOR:

1. THE AMOUNT AND DURATION OF A CREDIT UNDER THIS SUBSECTION;

2. ADDITIONAL ELIGIBILITY CRITERIA FOR A CREDIT UNDER THIS SUBSECTION; AND

3. ANY OTHER PROVISION NECESSARY TO CARRY OUT A CREDIT UNDER THIS SUBSECTION.

(II) THE GOVERNING BODY OF MONTGOMERY COUNTY OR OF A MUNICIPAL CORPORATION IN MONTGOMERY COUNTY SHALL DEFINE, BY LAW, THE IMPROVEMENTS ELIGIBLE FOR A CREDIT UNDER THIS SUBSECTION.

(4) THE LESSOR OF REAL PROPERTY GRANTED A CREDIT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL REDUCE THE AMOUNT OF TAXES FOR WHICH AN ELIGIBLE BUSINESS ENTITY IS CONTRACTUALLY LIABLE UNDER THE LEASE AGREEMENT BY THE AMOUNT OF ANY CREDIT GRANTED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION FOR IMPROVEMENTS MADE BY THE ELIGIBLE BUSINESS ENTITY.

**(5) THE LESSOR OF REAL PROPERTY THAT RECEIVES A CREDIT UNDER § 9-103 OF THIS TITLE MAY NOT BE GRANTED A CREDIT UNDER THIS SUBSECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

**Approved by the Governor, May 20, 2010.**