

Chapter 650

(House Bill 125)

AN ACT concerning

Frederick County and Washington County – Property Tax Credit – Job Creation by Small Businesses

FOR the purpose of authorizing the governing body of Frederick County and the governing body of Washington County to grant, by law, a property tax credit against the county property tax imposed on real property owned or leased by certain business entities that meet certain requirements; providing for the amount and duration of certain property tax credits; requiring a lessor of real property in Frederick County or in Washington 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; requiring the governing body of Frederick County and the governing body of Washington County to provide, by law, requirements for eligibility for the property tax credit, any additional limitations on the credit, and any other provision necessary to implement the credit; defining certain terms; providing for the application of this Act; and generally relating to a county property tax credit for certain new or existing business entities located in Frederick County and in Washington County.

BY renumbering

Article – Tax – Property
Section 9–312(i)
to be Section 9–312(j)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Tax – Property
Section 9–312(i) and 9–323(g)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–312(i) of Article – Tax – Property of the Annotated Code of Maryland be renumbered to be Section(s) 9–312(j).

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – Property

9–312.

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

(II) “AFFILIATE” MEANS A PERSON:

1. THAT DIRECTLY OR INDIRECTLY OWNS AT LEAST 80% OF A BUSINESS ENTITY; OR

2. AT LEAST 80% OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY A BUSINESS ENTITY.

(III) “BUSINESS ENTITY” MEANS A PERSON CONDUCTING A TRADE OR BUSINESS IN THE STATE THAT IS SUBJECT TO THE STATE INDIVIDUAL OR CORPORATE INCOME TAX OR INSURANCE PREMIUMS TAX.

(IV) “FULL–TIME POSITION” MEANS A POSITION REQUIRING AT LEAST 840 HOURS OF AN INDIVIDUAL’S TIME DURING AT LEAST 24 WEEKS IN A 6–MONTH PERIOD.

(V) “NEW OR EXPANDED PREMISES” MEANS COMMERCIAL OR INDUSTRIAL REAL PROPERTY, INCLUDING A BUILDING OR PART OF A BUILDING THAT HAS NOT BEEN PREVIOUSLY OCCUPIED, WHERE A BUSINESS ENTITY OR ITS AFFILIATES LOCATE TO CONDUCT BUSINESS.

(VI) 1. “NEW PERMANENT FULL–TIME POSITION” MEANS A POSITION THAT IS:

A. A FULL–TIME POSITION OF INDEFINITE DURATION;

B. LOCATED IN FREDERICK COUNTY;

C. NEWLY CREATED, AS A RESULT OF THE ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IN THE COUNTY; AND

D. FILLED.

2. “NEW PERMANENT FULL–TIME POSITION” DOES NOT INCLUDE A POSITION THAT IS:

A. CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED FROM AN EXISTING BUSINESS FACILITY OF THE BUSINESS ENTITY OR ITS AFFILIATES LOCATED IN FREDERICK COUNTY TO ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY;

B. CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR BUSINESS;

C. CREATED THROUGH A CONSOLIDATION, MERGER, OR RESTRUCTURING OF A BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY;

D. CREATED WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY OR ITS AFFILIATES LOCATED IN THE COUNTY TO ANOTHER BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY; OR

E. FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

(2) THE GOVERNING BODY OF FREDERICK COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY OWNED OR LEASED BY A BUSINESS ENTITY THAT MEETS THE REQUIREMENTS SPECIFIED FOR THE TAX CREDIT UNDER THIS SUBSECTION.

(3) TO QUALIFY FOR A PROPERTY TAX CREDIT UNDER THIS SUBSECTION, BEFORE A BUSINESS ENTITY OBTAINS THE NEW OR EXPANDED PREMISES OR HIRES EMPLOYEES TO FILL THE NEW PERMANENT FULL-TIME POSITIONS AT THE NEW OR EXPANDED PREMISES, THE BUSINESS ENTITY SHALL PROVIDE WRITTEN NOTIFICATION TO THE GOVERNING BODY OF FREDERICK COUNTY STATING:

(I) THAT THE BUSINESS ENTITY INTENDS TO CLAIM THE PROPERTY TAX CREDIT; AND

(II) WHEN THE BUSINESS ENTITY EXPECTS TO OBTAIN THE NEW OR EXPANDED PREMISES AND HIRE THE REQUIRED NUMBER OF EMPLOYEES IN THE NEW PERMANENT FULL-TIME POSITIONS.

(4) (I) TO QUALIFY FOR A PROPERTY TAX CREDIT UNDER THIS SUBSECTION, AN EXISTING BUSINESS ENTITY IN THE COUNTY SHALL:

1. OBTAIN AT LEAST AN ADDITIONAL 1,500 SQUARE FEET OF NEW OR EXPANDED PREMISES BY PURCHASING NEWLY CONSTRUCTED PREMISES, CONSTRUCTING NEW PREMISES, CAUSING NEW PREMISES TO BE CONSTRUCTED, OR LEASING PREVIOUSLY UNOCCUPIED PREMISES; AND

2. EMPLOY AT LEAST ONE INDIVIDUAL IN A NEW PERMANENT FULL-TIME POSITION DURING A 12-MONTH PERIOD, DURING WHICH PERIOD THE BUSINESS ENTITY ALSO MUST OBTAIN AND OCCUPY THE NEW OR EXPANDED PREMISES.

(II) TO QUALIFY FOR THE PROPERTY TAX CREDIT UNDER THIS SUBSECTION, A NEW BUSINESS ENTITY LOCATING IN THE COUNTY SHALL:

1. OBTAIN AT LEAST 2,500 SQUARE FEET OF NEW OR EXPANDED PREMISES BY PURCHASING NEWLY CONSTRUCTED PREMISES, CONSTRUCTING NEW PREMISES, CAUSING NEW PREMISES TO BE CONSTRUCTED, OR LEASING PREVIOUSLY UNOCCUPIED PREMISES; AND

2. EMPLOY AT LEAST FIVE INDIVIDUALS IN NEW PERMANENT FULL-TIME POSITIONS DURING A 24-MONTH PERIOD, DURING WHICH PERIOD THE BUSINESS ENTITY ALSO MUST OBTAIN AND OCCUPY THE NEW OR EXPANDED PREMISES.

(5) (I) IF AN EXISTING BUSINESS ENTITY IN THE COUNTY MEETS THE REQUIREMENTS OF PARAGRAPH (4)(I) OF THIS SUBSECTION, THE PROPERTY TAX CREDIT GRANTED UNDER THIS SUBSECTION SHALL EQUAL A PERCENTAGE OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ASSESSMENT OF THE NEW OR EXPANDED PREMISES, AS FOLLOWS:

- 1. 52% IN THE 1ST AND 2ND TAXABLE YEARS;**
- 2. 39% IN THE 3RD AND 4TH TAXABLE YEARS; AND**
- 3. 26% IN THE 5TH AND 6TH TAXABLE YEARS.**

(II) IF A NEW BUSINESS ENTITY LOCATING IN THE COUNTY MEETS THE REQUIREMENTS OF PARAGRAPH (4)(II) OF THIS SUBSECTION, THE PROPERTY TAX CREDIT GRANTED UNDER THIS SUBSECTION SHALL EQUAL A PERCENTAGE OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ASSESSMENT OF THE NEW OR EXPANDED PREMISES, AS FOLLOWS:

- 1. 30% IN THE 1ST AND 2ND TAXABLE YEARS;**

2. 20% IN THE 3RD AND 4TH TAXABLE YEARS; AND
3. 10% IN THE 5TH AND 6TH TAXABLE YEARS.

(6) THE LESSOR OF REAL PROPERTY GRANTED A PROPERTY TAX CREDIT UNDER THIS SUBSECTION SHALL REDUCE THE AMOUNT OF TAXES FOR WHICH A BUSINESS ENTITY IS CONTRACTUALLY LIABLE UNDER THE LEASE AGREEMENT BY THE AMOUNT OF ANY CREDIT GRANTED UNDER THIS SUBSECTION FOR IMPROVEMENTS MADE BY THE BUSINESS ENTITY.

(7) THE GOVERNING BODY OF FREDERICK COUNTY SHALL PROVIDE, BY LAW, FOR:

(I) THE SPECIFIC REQUIREMENTS FOR ELIGIBILITY FOR A PROPERTY TAX CREDIT AUTHORIZED UNDER THIS SUBSECTION;

(II) ANY ADDITIONAL LIMITATIONS ON ELIGIBILITY FOR THE CREDIT; AND

(III) ANY OTHER PROVISION APPROPRIATE TO IMPLEMENT THE CREDIT.

9-323.

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

(II) “AFFILIATE” MEANS A PERSON:

1. THAT DIRECTLY OR INDIRECTLY OWNS AT LEAST 80% OF A BUSINESS ENTITY; OR

2. AT LEAST 80% OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY A BUSINESS ENTITY.

(III) “BUSINESS ENTITY” MEANS A PERSON CONDUCTING A TRADE OR BUSINESS IN THE STATE THAT IS SUBJECT TO THE STATE INDIVIDUAL OR CORPORATE INCOME TAX OR INSURANCE PREMIUMS TAX.

(IV) “FULL-TIME POSITION” MEANS A POSITION REQUIRING AT LEAST 840 HOURS OF AN INDIVIDUAL’S TIME DURING AT LEAST 24 WEEKS IN A 6-MONTH PERIOD.

(v) “NEW OR EXPANDED PREMISES” MEANS COMMERCIAL OR INDUSTRIAL REAL PROPERTY, INCLUDING A BUILDING OR PART OF A BUILDING THAT HAS NOT BEEN PREVIOUSLY OCCUPIED, WHERE A BUSINESS ENTITY OR ITS AFFILIATES LOCATE TO CONDUCT BUSINESS.

(vi) 1. “NEW PERMANENT FULL-TIME POSITION” MEANS A POSITION THAT IS:

A. A FULL-TIME POSITION OF INDEFINITE DURATION;

B. LOCATED IN WASHINGTON COUNTY;

C. NEWLY CREATED, AS A RESULT OF THE ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IN THE COUNTY; AND

D. FILLED.

2. “NEW PERMANENT FULL-TIME POSITION” DOES NOT INCLUDE A POSITION THAT IS:

A. CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED FROM AN EXISTING BUSINESS FACILITY OF THE BUSINESS ENTITY OR ITS AFFILIATES LOCATED IN WASHINGTON COUNTY TO ANOTHER BUSINESS FACILITY OF THE SAME ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY;

B. CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR BUSINESS;

C. CREATED THROUGH A CONSOLIDATION, MERGER, OR RESTRUCTURING OF A BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY;

D. CREATED WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY OR ITS AFFILIATES LOCATED IN THE COUNTY TO ANOTHER BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY; OR

E. FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

(2) THE GOVERNING BODY OF WASHINGTON COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY OWNED OR LEASED BY A BUSINESS ENTITY THAT MEETS THE REQUIREMENTS SPECIFIED FOR THE TAX CREDIT UNDER THIS SUBSECTION.

(3) TO QUALIFY FOR A PROPERTY TAX CREDIT UNDER THIS SUBSECTION, BEFORE A BUSINESS ENTITY OBTAINS THE NEW OR EXPANDED PREMISES OR HIRES EMPLOYEES TO FILL THE NEW PERMANENT FULL-TIME POSITIONS AT THE NEW OR EXPANDED PREMISES, THE BUSINESS ENTITY SHALL PROVIDE WRITTEN NOTIFICATION TO THE GOVERNING BODY OF WASHINGTON COUNTY STATING:

(I) THAT THE BUSINESS ENTITY INTENDS TO CLAIM THE PROPERTY TAX CREDIT; AND

(II) WHEN THE BUSINESS ENTITY EXPECTS TO OBTAIN THE NEW OR EXPANDED PREMISES AND HIRE THE REQUIRED NUMBER OF EMPLOYEES IN THE NEW PERMANENT FULL-TIME POSITIONS.

(4) (I) TO QUALIFY FOR A PROPERTY TAX CREDIT UNDER THIS SUBSECTION, AN EXISTING BUSINESS ENTITY IN THE COUNTY SHALL:

1. OBTAIN AT LEAST AN ADDITIONAL 1,500 SQUARE FEET OF NEW OR EXPANDED PREMISES BY PURCHASING NEWLY CONSTRUCTED PREMISES, CONSTRUCTING NEW PREMISES, CAUSING NEW PREMISES TO BE CONSTRUCTED, OR LEASING PREVIOUSLY UNOCCUPIED PREMISES; AND

2. EMPLOY AT LEAST ONE INDIVIDUAL IN A NEW PERMANENT FULL-TIME POSITION DURING A 12-MONTH PERIOD, DURING WHICH PERIOD THE BUSINESS ENTITY ALSO MUST OBTAIN AND OCCUPY THE NEW OR EXPANDED PREMISES.

(II) TO QUALIFY FOR THE PROPERTY TAX CREDIT UNDER THIS SUBSECTION, A NEW BUSINESS ENTITY LOCATING IN THE COUNTY SHALL:

1. OBTAIN AT LEAST 2,500 SQUARE FEET OF NEW OR EXPANDED PREMISES BY PURCHASING NEWLY CONSTRUCTED PREMISES, CONSTRUCTING NEW PREMISES, CAUSING NEW PREMISES TO BE CONSTRUCTED, OR LEASING PREVIOUSLY UNOCCUPIED PREMISES; AND

2. EMPLOY AT LEAST FIVE INDIVIDUALS IN NEW PERMANENT FULL-TIME POSITIONS DURING A 24-MONTH PERIOD, DURING

WHICH PERIOD THE BUSINESS ENTITY ALSO MUST OBTAIN AND OCCUPY THE NEW OR EXPANDED PREMISES.

(5) (I) IF AN EXISTING BUSINESS ENTITY IN THE COUNTY MEETS THE REQUIREMENTS OF PARAGRAPH (4)(I) OF THIS SUBSECTION, THE PROPERTY TAX CREDIT GRANTED UNDER THIS SUBSECTION SHALL EQUAL A PERCENTAGE OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ASSESSMENT OF THE NEW OR EXPANDED PREMISES, AS FOLLOWS:

1. 52% IN THE FIRST AND SECOND TAXABLE YEARS;
 2. 39% IN THE THIRD AND FOURTH TAXABLE YEARS;
- AND
3. 26% IN THE FIFTH AND SIXTH TAXABLE YEARS.

(II) IF A NEW BUSINESS ENTITY LOCATING IN THE COUNTY MEETS THE REQUIREMENTS OF PARAGRAPH (4)(II) OF THIS SUBSECTION, THE PROPERTY TAX CREDIT GRANTED UNDER THIS SUBSECTION SHALL EQUAL A PERCENTAGE OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ASSESSMENT OF THE NEW OR EXPANDED PREMISES, AS FOLLOWS:

1. 30% IN THE FIRST AND SECOND TAXABLE YEARS;
 2. 20% IN THE THIRD AND FOURTH TAXABLE YEARS;
- AND
3. 10% IN THE FIFTH AND SIXTH TAXABLE YEARS.

(6) THE LESSOR OF REAL PROPERTY GRANTED A PROPERTY TAX CREDIT UNDER THIS SUBSECTION SHALL REDUCE THE AMOUNT OF TAXES FOR WHICH A BUSINESS ENTITY IS CONTRACTUALLY LIABLE UNDER THE LEASE AGREEMENT BY THE AMOUNT OF ANY CREDIT GRANTED UNDER THIS SUBSECTION FOR IMPROVEMENTS MADE BY THE BUSINESS ENTITY.

(7) THE GOVERNING BODY OF WASHINGTON COUNTY SHALL PROVIDE, BY LAW, FOR:

(I) THE SPECIFIC REQUIREMENTS FOR ELIGIBILITY FOR A PROPERTY TAX CREDIT AUTHORIZED UNDER THIS SUBSECTION;

(II) ANY ADDITIONAL LIMITATIONS ON ELIGIBILITY FOR THE CREDIT; AND

**(III) ANY OTHER PROVISION APPROPRIATE TO IMPLEMENT
THE CREDIT.**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012, and shall be applicable to all taxable years beginning after June 30, 2012.

Approved by the Governor, May 22, 2012.