

Enacted Expedited Bill No. 31-21  
Concerning: Property Tax Credits –  
Energy Conservation Devices and  
Energy Efficient Buildings –  
Amendments  
Revised: 10/5/2021 Draft No. 2  
Introduced: July 20, 2021  
Enacted: October 5, 2021  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: See Sec. 2  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the County Executive

### AN EXPEDITED ACT to:

- (1) define and clarify terms related to property tax credits for energy conservation devices and energy-efficient buildings;
- (2) ~~[[repeal]]~~ clarify a sunset clause affecting property tax credits for energy-efficient buildings;
- (3) provide for certain application timelines related to property tax credits; and
- (4) generally amend the law regarding property tax credits.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Sections 52-103A and 52-103B

By repealing

Chapter 28, Laws of Montgomery County 2020  
Section 2

*The County Council for Montgomery County, Maryland approves the following Act:*

|                                     |  |
|-------------------------------------|--|
| <b>Boldface</b>                     | <i>Heading or defined term.</i>                            |
| <u>Underlining</u>                  | <i>Added to existing law by original bill.</i>             |
| <b>[Single boldface brackets]</b>   | <i>Deleted from existing law by original bill.</i>         |
| <u>Double underlining</u>           | <i>Added by amendment.</i>                                 |
| <b>[[Double boldface brackets]]</b> | <i>Deleted from existing law or the bill by amendment.</i> |
| * * *                               | <i>Existing law unaffected by bill.</i>                    |

1           **Sec. 1. Sections 52-103A and 52-103B are amended as follows:**

2   **52-103A. Property tax credit — energy conservation devices for existing energy-**  
 3 **efficient buildings**

4           (a) *Intent.* The intent of this Section is to:

5   \*       \*       \*

6                   (5)   implement [a tax credit] tax credits under [Section] Sections 9-  
 7   203 and 9-242(a) of the Tax-Property Article of the Maryland  
 8   Code, as amended.

9           (b) *Definitions.* In this Section the following words have the meanings  
 10   indicated:

11   \*       \*       \*

12                   *Director* means the Director of the Department of Finance or the  
 13   Director's designee.

14                   Energy conservation device means any equipment, device, or material  
 15   that reduces the demand for conventional fuels or increases the  
 16   efficiency of these fuels, but is not a standard household appliance,  
 17   including:

18                   (1)   insulation in any wall, roof, floor, foundation, or heating and  
 19   cooling distribution system;

20                   (2)   a storm window or door, multi-glazed window or door, heat-  
 21   absorbing or heat-reflective glazed and coated window and door  
 22   system, or additional glazing, reduction in glass area, and other  
 23   window and door system modification that reduces energy  
 24   consumption;

25                   (3)   an automated energy control system;

26                   (4)   a heating, ventilating, or air-conditioning and distribution system  
 27   modification or replacement;

- (5) caulking, weather-stripping, and air sealing;
- (6) replacement or modification of a lighting fixture to reduce the energy use of the lighting system;
- (7) an energy recovery system;
- (8) a day lighting system;
- (9) a measure that reduces the usage of water or increases the efficiency of water usage; or
- (10) any other installation or modification of equipment, device, or other material intended to decrease energy consumption.

*Energy-efficient building* means a non-[ ]residential or multi-family residential building that: (1) has or will have at least 10,000 square feet of gross floor area; (2) has received a Certificate of Occupancy from the Department of Permitting Services; (3) has achieved at least a minimum 50 percent occupancy rate for at least 12 consecutive months; and (4) has demonstrated energy improvements consistent with the requirements of this Section.

*Equity Emphasis Area* means an area identified as an equity emphasis area by National Capital Region Transportation Planning Board.

\* \* \*

- (d) *Application.* An application by the owner of an energy-efficient building for a tax credit must be in the form prescribed by the Director and include:

- (1) a description and installation date of the energy conservation device installed in the building;

\* \* \*

- (e) *Energy Reduction Tax Credit* authorized under Section 9-203 of the Tax-Property Article of the Maryland Code.

(1) An energy-efficient building may receive an Energy Reduction Tax Credit for achieving energy use reductions under this subsection and, if that credit is granted, may receive:

(A) an additional Building Sustainability Tax Credit under subsection (f); and

(B) an expanded credit under subsection (g) for buildings located in Equity Emphasis Areas.

\* \* \*

(3) Baseline and Improved ENERGY STAR Score 12-month time periods must not:

(A) overlap;

(B) include the energy conservation device installation period; or [and];

(C) be more than 6 calendar years apart.

\* \* \*

(f) Building Sustainability Tax Credit authorized under Section 9-242(a) of the Tax-Property Article of the Maryland Code.

\* \* \*

(g) Expanded credit for buildings in Equity Emphasis Areas.

(1) The owner of an energy-efficient building located within an Equity Emphasis Area at the time of application may qualify for an expanded credit under this subsection.

(2) The owner must apply for a credit under this subsection simultaneously with an application for the Energy Reduction Tax Credit.

(3) The amount of the tax credit under this subsection must be added to the Energy Reduction Tax Credit for each year that the Energy Reduction Tax Credit is granted.

(4) The amount of the tax credit under this subsection must be equal to 10% of the annual property tax owed on the building.

[(g)] (h) *Total Maximum Credit.* The maximum credit that an energy-efficient building may be granted in any year must not exceed 100% of the building's annual County property tax liability.

[(h)] (i) *Annual limits.* In any fiscal year, the Director must not award more than \$5 million in total tax credits granted to all buildings under this Section.

[(i)] (j) *Reapplications.*

\* \* \*

[(j)] (k) *Credit Review.*

\* \* \*

[(k)] (l) *Regulations.* The County Executive may issue regulations under method (2) to administer the Energy Reduction Tax Credit and the Building Sustainability Tax Credit.

## **52-103B. Property tax credit — newly constructed energy-efficient buildings**

\* \* \*

(c) *Definitions.* In this Section the following words have the meanings indicated:

\* \* \*

*BREEAM* means the Building Research Establishment Environmental Assessment Method rating system administered by BRE Global.

*Building Code requirement* means any code, standard, zoning ordinance, or other requirement related to commercial and multi-family

building construction and permitting processes that applies to a newly constructed energy-efficient building.

Equity Emphasis Area means an area identified as an equity emphasis area by National Capital Region Transportation Planning Board.

\* \* \*

(e) *Application.*

(1) An application by the owner of a newly constructed energy-efficient building for a tax credit must be in the form prescribed by the Director and must include:

(A) a certification from the Department of Permitting Services within the past year indicating the percentage performance above current Building Code requirements at time of application demonstrated by the newly constructed energy-efficient building for the New Building Energy Reduction Tax Credit; and

(B) if the New Building Sustainability Tax Credit is sought after receiving the New Building Energy Reduction Tax Credit, verified documentation by the newly constructed energy-efficient building demonstrating qualification for the New Building Sustainability Tax Credit within [the past year for the New Building Sustainability Tax Credit] two years after obtaining a use and occupancy permit.

\* \* \*

(f) *New Building Energy Reduction Tax Credit.*

(1) A newly constructed energy-efficient building may receive [an] a New Building Energy Reduction Tax Credit for achieving energy use reductions as outlined in this subsection and, if that credit is

granted, may receive an additional New Building Sustainability Tax Credit as described in subsection (g).

(2) To be eligible for the New Building Energy Reduction Tax Credit, a newly constructed energy-efficient building owned by the applicant must achieve a minimum 10 percent increase in energy performance above the current applicable [Building and Zoning Code] building code requirements at time of application using an energy modeling software approved by the Department of Permitting Services.

(3) For the New Building Energy Reduction Tax Credit, the percentage of the annual County property tax credit awarded for 4 years is calculated by rounding a newly constructed energy-efficient building's performance above [Building Code and Zoning Code] building code requirements to the nearest whole number and multiplying it by the multiplier below:

\* \* \*

(g) *New Building Sustainability Tax Credit.* The owner of a newly constructed energy-efficient building seeking the New Building [Energy] Sustainability Tax Credit must apply for that tax credit [simultaneously with] after receiving the New Building Energy Reduction Tax Credit.

\* \* \*

(2) To be approved for the New Building Sustainability Tax Credit, an energy-efficient building must [also] first be approved for the New Building Energy Reduction Tax Credit.

(h) *Expanded credit for buildings in Equity Emphasis Areas.*

(1) The owner of a newly constructed energy-efficient building located within an Equity Emphasis Area at the time of application may qualify for an expanded credit under this subsection.

(2) The owner must apply for a credit under this subsection simultaneously with an application for the New Building Energy Reduction Tax Credit.

(3) The amount of the tax credit under this subsection must be added to the New Building Energy Reduction Tax Credit for each year that the New Building Energy Reduction Tax Credit is granted.

(4) The amount of the tax credit under this subsection must be equal to 10% of the annual property tax owed on the building.

[(h)] (i) *Total Maximum Credit.* The maximum credit under this Section that an energy-efficient building may be granted in any fiscal year must not exceed 100% of the building's annual property tax liability.

[(i)] (j) *Credit Review.*

\* \* \*

[(j)] (k) *Regulations.* The County Executive may issue regulations under method (2) to administer the New Building Energy Reduction Tax Credit and the New Building Sustainability Tax Credit.

**Sec. 2. Section 2 of Chapter 28 of the Laws of Montgomery County 2020 is [[repealed]] amended as follows:**

[**Sec. 2. Sunset Clause.** Section 52-103 of the County Code must sunset, and must and have no further force and effect, on January 1, 2025.] **Sec. 2. Sunset Clause.** Section 52-103 of the County Code must sunset, and must and have no further force and effect, on January 1, 2033.



186           **Sec. 3. Expedited Effective Date.** The Council declares that this legislation is  
187   necessary for the immediate protection of the public interest. This Act takes effect on  
188   the date that it becomes law.

*Approved:*

|  |                    |
|--|--------------------|
| <br>_____ | 10/7/2021<br>_____ |
| Tom Hucker, President, County Council  | Date               |

*Approved:*

|                               |       |
|-------------------------------|-------|
| _____                         | _____ |
| Marc Elrich, County Executive | Date  |

*This is a correct copy of Council action.*

|  |       |
|--|-------|
| _____  | _____ |
| Selena Mendy Singleton, Clerk of the Council | Date  |