

Bill No. 10-20  
Concerning: Property Tax Credit –  
Energy and Environmental Design –  
Eligibility Criteria and Amounts of  
Credit  
Revised: 09/10/2020 Draft No. 4  
Introduced: March 3, 2020  
Enacted: September 29, 2020  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: See Section 2  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsors: Councilmembers Friedson and Riemer  
Co-Sponsor: Council President Katz

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**AN ACT** to:

- (1) alter the eligibility criteria for the property tax credit for energy and environmental design;
- (2) alter the amounts and durations of the property tax credit for energy and environmental design by type of building;
- (3) alter annual limits on the total amounts of property tax credits granted by the County for energy and environmental design; and
- (4) generally amend the law concerning the property tax credit for energy and environmental design.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Section 52-103

By adding

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

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

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

1           **Sec 1. Section 52-103 is amended, and Sections 52-103A and 52-103B are**  
2 **added, as follows:**

3           **52-103. Property tax credit – energy and environmental design.**

4   \*       \*       \*

5           (c) *Application and sunset dates. [[A taxpayer must apply for the credit]]*  
6           *[within 1 year after the building is certified as a high performance*  
7           *building] [[on the application and in the manner that the Director of*  
8           *Finance requires]] To qualify for a tax credit under this Section, a*  
9           *taxpayer must submit an application of intent to apply for the credit by*  
10           *January 1, 2022 and either:*

11           (1)           for LEED-EB project certification, receive LEED-EB  
12   project certification for an eligible LEED-EB building and  
13   submit an application to the Director by January 1, 2023;

14   or

15           (2)           for LEED-CS or LEED-NC certification, receive a  
16   building permit for an eligible LEED-CS or LEED-NC  
17   building and submit an application to the Director by  
18   January 1, 2024.

19   \*       \*       \*

20 **Sec. 52-103A. Property tax credit - energy-efficient buildings**

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

22           (1)           encourage building owners to increase the energy performance of  
23   existing buildings;

24           (2)           incentivize building owners to reduce the energy and climate  
25   impacts of existing buildings, as the built environment generates  
26   more than half of the County’s measured community-wide  
27   greenhouse gas emissions;

28                   (3) advance the County’s aggressive climate goals of an 80 percent  
 29                   reduction in greenhouse gas emissions by 2027 and zero emissions  
 30                   by 2035;

31                   (4) institute regular review of the tax credits outlined in this Section to  
 32                   ensure that they are meeting the goals under paragraphs (1)  
 33                   through (3); and

34                   (5) implement a tax credit under Section 9-242(a) of the Tax-Property  
 35                   Article of the Maryland Code, as amended.

36                   (b) Definitions. In this Section the following words have the meanings  
 37                   indicated:

38                   Accredited building professional means an individual that holds a valid  
 39                   and current credential from a building certification organization.

40                   Baseline ENERGY STAR Score means the ENERGY STAR score of a  
 41                   building calculated over any consecutive 12-month period when the  
 42                   scored building is at least 50 percent occupied.

43                   BRE Global means the Building Research Establishment Global.

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

46                   Building certification organization means a third-party organization that  
 47                   administers the rating systems identified in this Section.

48                   Building Sustainability Tax Credit is the property tax credit received for  
 49                   earned building certifications described in this Section.

50                   Director means the Director of the Department of Finance or the  
 51                   Director’s designee.

52                   Energy-efficient building means a non- residential or multi-family  
 53                   residential building that: (1) has or will have at least 10,000 square feet  
 54                   of gross floor area; (2) has received a Certificate of Occupancy from the

55 Department of Permitting Services; (3) has achieved at least a minimum  
56 50 percent occupancy rate for at least 12 consecutive months; and (4) has  
57 demonstrated energy improvements consistent with the requirements of  
58 this Section.

59 Energy Reduction Tax Credit is the property tax credit received for  
60 energy performance improvements described in this Section.

61 ENERGY STAR Data Verification Checklist means a report generated in  
62 the ENERGY STAR Portfolio Manager tool to document property use  
63 details and energy consumption.

64 ENERGY STAR Portfolio Manager means the no-cost web-based energy  
65 management tool developed and maintained by the U.S. Environmental  
66 Protection Agency to track and assess building energy performance.

67 ENERGY STAR Score means the numerical measure of a building's  
68 energy use generated through the use of ENERGY STAR Portfolio  
69 Manager.

70 ENERGY STAR score metric reference data means the market data used  
71 by the U.S. Environmental Protection Agency to generate the ENERGY  
72 STAR Score.

73 Energy Use Intensity or EUI refers to the amount of energy used in a  
74 building per square foot per year.

75 Improved ENERGY STAR Score means the ENERGY STAR score of a  
76 building calculated within a consecutive 12-month period when the  
77 scored building is at least 50 percent occupied, demonstrating energy  
78 savings resulting from the use of a qualifying energy conservation device.

79 LEED means the Leadership in Energy and Environmental Design rating  
80 system administered by the USGBC.

81 Occupancy means the percentage of a building that is occupied and

82 operational.

83 Property tax means the general County property tax and all special  
 84 service area taxes.

85 USGBC means the United States Green Building Council.

86 (c) Credit. The Director must allow a tax credit each eligible year against the  
 87 property tax imposed on an energy-efficient building under this Section.

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

90 (1) a description of the energy conservation device installed in the  
 91 building;

92 (2) the ENERGY STAR Portfolio Manager Data Verification  
 93 Checklists documenting the baseline and improved (within the past  
 94 year) ENERGY STAR scores of an existing energy-efficient  
 95 building, signed by an accredited building professional; and

96 (3) if the Building Sustainability Tax Credit is sought, verified  
 97 documentation demonstrating qualification within the past year for  
 98 the Building Sustainability Tax Credit in subsection (f).

99 (e) Energy Reduction Tax Credit.

100 (1) An energy-efficient building may receive an Energy Reduction  
 101 Tax Credit for achieving energy use reductions under this  
 102 subsection and, if that credit is granted, may receive an additional  
 103 Building Sustainability Tax Credit under subsection (f).

104 (2) For the Energy Reduction Tax Credit, the percentage of the annual  
 105 County property tax credit, awarded for 2 years, is calculated by  
 106 subtracting an energy-efficient building's 12-month baseline  
 107 ENERGY STAR score from the improved 12-month ENERGY

- 108                    STAR score, then multiplying the difference by the multiplier  
 109                    below based on the improved ENERGY STAR score:
- 110                    (A) if the improved ENERGY STAR score falls between 1-24,  
 111                    multiply the difference by 1.0;
- 112                    (B) if the improved ENERGY STAR score falls between 25-49,  
 113                    multiply the difference by 1.5;
- 114                    (C) if the improved ENERGY STAR score falls between 50-74,  
 115                    multiply the difference by 2.0; or
- 116                    (D) if the improved ENERGY STAR score falls between 75-  
 117                    100, multiply the difference by 2.5.
- 118                    (3) Baseline and Improved ENERGY STAR Score 12-month time  
 119                    periods must not overlap and must not be more than 6 calendar  
 120                    years apart.
- 121                    (4) The Baseline ENERGY STAR Score 12-month time period must  
 122                    not begin earlier than August 26, 2018. Baseline and Improved  
 123                    ENERGY STAR Score 12-month time periods must use the same  
 124                    ENERGY STAR score metric reference data.
- 125                    (5) If a building is not able to earn the ENERGY STAR score due to  
 126                    the property use type, the Director may accept the USGBC  
 127                    alternative compliance path for Energy Use Intensity (EUI).
- 128                    (f) *Building Sustainability Tax Credit.*
- 129                    (1) The owner of an energy-efficient building seeking the Building  
 130                    Sustainability Tax Credit must apply for that tax credit  
 131                    simultaneously with the Energy Reduction Tax Credit. The  
 132                    amount of the Building Sustainability Tax Credit must be added to  
 133                    the Energy Reduction Tax Credit. The Building Sustainability Tax  
 134                    Credit must be equal to:

- 135                    (A) 25% of the property tax owed on the building for 2 years, if  
 136                    the building achieves the most recent version available of  
 137                    LEED O+M Gold, BREEAM In-Use Excellent or an  
 138                    equivalent standard; or
- 139                    (B) 50% of the property tax owed on the building for 2 years, if  
 140                    the building achieves the most recent version available of  
 141                    LEED O+M Platinum, BREEAM In-Use Outstanding or an  
 142                    equivalent standard.
- 143                    (2) To be approved for the Building Sustainability Tax Credit, an  
 144                    energy-efficient building must also be approved for the Energy  
 145                    Reduction Tax Credit.
- 146                    (g) Total Maximum Credit. The maximum credit that an energy-efficient  
 147                    building may be granted in any year must not exceed 100% of the  
 148                    building’s annual County property tax liability.
- 149                    (h) Annual limits. In any fiscal year, the Director must not award more than  
 150                    \$5 million in total tax credits granted to all buildings under this Section.
- 151                    (i) Reapplications.
- 152                    (1) The owner of an energy-efficient building awarded a tax credit  
 153                    under this Section may reapply twice after the initial 2-year credit  
 154                    cycle. The maximum number of applications a building owner  
 155                    may submit is 3, consisting of 1 initial application and 2  
 156                    reapplications.
- 157                    (2) For any reapplications, the building owner must submit a new  
 158                    Baseline ENERGY STAR Score for the building and describe the  
 159                    improvements performed to achieve the energy reduction. The  
 160                    Baseline ENERGY STAR Score for a reapplication may not be  
 161                    older than the 12-month time period used for the Improved

162 ENERGY STAR Score for the previously approved tax credit. If  
 163 an owner received a Building Sustainability Tax Credit based upon  
 164 certification as LEED O+M Gold, BREEAM In-Use Excellent or  
 165 an equivalent standard, the building must achieve a higher  
 166 certification, such as LEED O+M Platinum, BREEAM In-Use  
 167 Outstanding or an equivalent standard, upon reapplication.

168 (j) *Credit Review.*

169 (1) On or before October 1 of each year, the Director of Finance must  
 170 prepare a report on the status of the Energy Reduction Tax Credit  
 171 and Building Sustainability Tax Credit.

172 (2) Every 3 years, the County Executive must submit a report to the  
 173 County Council reviewing the effectiveness of the Energy  
 174 Reduction Tax Credit and Building Sustainability Tax Credit and  
 175 make recommendations on any credit alterations.

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

179 **52-103B. Property tax credit - newly constructed energy-efficient buildings**

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

181 (1) encourage building owners to increase the energy performance of  
 182 newly constructed buildings beyond current Building and Zoning  
 183 Code requirements at time of application;

184 (2) incentivize building owners to reduce the energy and climate  
 185 impacts of newly constructed buildings, as the built environment  
 186 generates more than half of the County’s measured community-  
 187 wide greenhouse gas emissions;



- 188           (3) advance the County’s aggressive climate goals of an 80 percent  
 189           reduction in greenhouse gas emissions by 2027 and zero emissions  
 190           by 2035;
- 191           (4) institute regular review of the tax credits outlined in this Section to  
 192           ensure that they are meeting the goals under paragraphs (1)  
 193           through (3); and
- 194           (5) implement a tax credit under Section 9-242(a) of the Tax-Property  
 195           Article of the Maryland Code, as amended.
- 196       (b) *Applicability.* The credit authorized by this Section applies to any tax year  
 197       beginning January 1, 2022.
- 198       (c) *Definitions.* In this Section the following words have the meanings  
 199       indicated:
- 200           *BRE Global* means the Building Research Establishment Global.  
 201           *BREEAM* means the Building Research Establishment Environmental  
 202           Assessment Method rating system administered by BRE Global.  
 203           *New Building Sustainability Tax Credit* is the property tax credit received  
 204           for earned building certifications described in this Section.  
 205           *Director* means the Director of the Department of Finance or the  
 206           Director’s designee.  
 207           *Newly constructed energy-efficient building* means:
- 208                   (A) *An unoccupied non-residential or multi-family residential*  
 209                   “core and shell” building, of at least 10,000 square feet in  
 210                   gross floor area, with full mechanical systems, electrical  
 211                   distribution infrastructure, and a weather-sealed thermal  
 212                   envelope that has achieved substantial completion and  
 213                   received a Certificate of Occupancy from the Department of  
 214                   Permitting Services within the past year;

215                    (B) A newly constructed non-residential or multifamily  
 216                    building, of at least 10,000 square feet in gross floor area,  
 217                    that has achieved substantial completion and received a  
 218                    Certificate of Occupancy from the Department of  
 219                    Permitting Services within the past year; or

220                    (C) A non-residential or multifamily building, of at least 10,000  
 221                    square feet in gross floor area, that has undergone a major  
 222                    renovation that warrants bringing the entire building up to  
 223                    current Building Code standards and has received final  
 224                    inspection and approval from the Department of Permitting  
 225                    Services.

226                    *New Building Energy Reduction Tax Credit* is the property tax credit  
 227                    received for energy performance improvements described in this Section.

228                    *LBC or Living Building Certification* means the Living Building  
 229                    Certification administered by the International Living Future Institute.

230                    *LEED* means the *Leadership in Energy and Environmental Design* rating  
 231                    system administered by the USGBC. In this Section, LEED building  
 232                    certification includes all eligible rating systems for newly constructed  
 233                    non-single-family-residential buildings.

234                    *NGBS* means the National Green Building Standard rating system  
 235                    administered by Home Innovation Research Labs.

236                    *PassiveHouse* means the PassiveHouse standard administered by PHIUS.

237                    *PHIUS* means the PassiveHouse Institute US.

238                    *Property tax* means the general County property tax and all special  
 239                    service area taxes.

240                    *USGBC* means the United States Green Building Council.

241 (d) Credit. The Director must allow a tax credit each eligible year against the  
 242 property tax imposed on a newly constructed energy-efficient building  
 243 under this Section.

244 (e) Application.

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

248 (A) a certification from the Department of Permitting Services  
 249 within the past year indicating the percentage performance  
 250 above current Building Code requirements at time of  
 251 application demonstrated by the newly constructed energy-  
 252 efficient building; and

253 (B) if the New Building Sustainability Tax Credit is sought,  
 254 verified documentation demonstrating qualification within  
 255 the past year for the New Building Sustainability Tax  
 256 Credit.

257 (2) A building owner that has received either a New Building Energy  
 258 Reduction Tax Credit or a New Building Sustainability Tax Credit  
 259 may not reapply for either credit for the same newly constructed  
 260 building in any later tax year.

261 (f) New Building Energy Reduction Tax Credit.

262 (1) A newly constructed energy-efficient building may receive an  
 263 Energy Reduction Tax Credit for achieving energy use reductions  
 264 as outlined in this subsection and, if that credit is granted, may  
 265 receive an additional Building Sustainability Tax Credit as  
 266 described in subsection (g).

- 267           (2) To be eligible for the New Building Energy Reduction Tax Credit,  
 268           a newly constructed energy-efficient building owned by the  
 269           applicant must achieve a minimum 10 percent increase in energy  
 270           performance above the current applicable Building and Zoning  
 271           Code requirements at time of application using an energy  
 272           modeling software approved by the Department of Permitting  
 273           Services.
- 274           (3) For the New Building Energy Reduction Tax Credit, the  
 275           percentage of the annual County property tax credit awarded for 4  
 276           years is calculated by rounding a newly constructed energy-  
 277           efficient building's performance above Building Code and Zoning  
 278           Code requirements to the nearest whole number and multiplying it  
 279           by the multiplier below:
- 280           (A) if the building's performance above Code is between 10 and  
 281           20 percent, multiply the building performance percentage  
 282           figure by 0.5;
- 283           (B) if the building's performance above Code is between 21 and  
 284           30 percent, multiply the building performance percentage  
 285           figure by 1.0;
- 286           (C) if the building's performance above Code is between 31 and  
 287           40 percent, multiply the building performance percentage  
 288           figure by 1.5; or
- 289           (D) if the building's performance above Code is above 40  
 290           percent, multiply the building performance percentage  
 291           figure by 2.0.
- 292           (g) *New Building Sustainability Tax Credit.* The owner of a newly  
 293           constructed energy-efficient building seeking the New Building Energy

294 Tax Credit must apply for that tax credit simultaneously with the New  
 295 Building Energy Reduction Tax Credit.

296 (1) The amount of the New Building Sustainability Tax Credit must  
 297 be equal to:

298 (A) 25% of the property tax owed on the building for 4 years if  
 299 the building achieves the most recent version available of  
 300 LEED Gold, NGBS Gold, PHIUS+/PassiveHouse,  
 301 BREEAM-NC Excellent or an equivalent standard;

302 (B) 75% of the property tax owed on the building for 4 years if  
 303 the building achieves the most recent version available of  
 304 LBC Petal Certification, LEED Platinum, NGBS Emerald,  
 305 BREEAM-NC Outstanding or an equivalent standard; or

306 (C) 75% of the property tax owed on the building for 5 years if  
 307 the building achieves the most recent version available of  
 308 Living Building Certification.

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

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

315 (i) Credit Review.

316 (1) By October 1 of each year, the Director must prepare a report on  
 317 the status of the New Building Energy Reduction Tax Credit and  
 318 the New Building Sustainability Tax Credit.

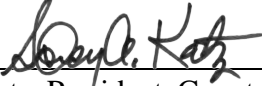
319 (2) Every 3 years, the County Executive must submit a report to the  
 320 Council reviewing the effectiveness of the New Building Energy

321                    Reduction Tax Credit and the New Building Sustainability Tax  
322                    Credit and making recommendations on any credit alterations.

323            (j)    Regulations. The County Executive may issue regulations under method  
324                    (2) to administer the New Building Energy Reduction Tax Credit and the  
325                    New Building Sustainability Tax Credit.

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

Approved:

  
\_\_\_\_\_  
Sidney Katz, President, County Council 9/30/2020  
Date

Approved:

\_\_\_\_\_  
Marc Elrich, County Executive Date

*This is a correct copy of Council action.*

\_\_\_\_\_  
Selena Mendy Singleton, Esq., Clerk of the Council Date