

Clerk’s Note: Removed “Enacted” from “Enacted Expedited Bill No.” in the Bill header.

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: October 13, 2021
Effective: October 13, 2021
Sunset Date: See Sec. 2
Ch. 28, Laws of Mont. Co. 2021

**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:

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

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

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

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

* * *

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

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

* * *

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

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

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

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

(3) an automated energy control system;

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

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

37 *Energy-efficient building* means a non-[]residential or multi-family
38 residential building that: (1) has or will have at least 10,000 square feet
39 of gross floor area; (2) has received a Certificate of Occupancy from the
40 Department of Permitting Services; (3) has achieved at least a minimum
41 50 percent occupancy rate for at least 12 consecutive months; and (4)
42 has demonstrated energy improvements consistent with the
43 requirements of this Section.

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

46 * * *

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

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

52 * * *

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

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

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

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

62 * * *

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

65 (A) overlap;

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

68 (C) be more than 6 calendar years apart.

69 * * *

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

72 * * *

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

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

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

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

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

85 [[g)] (h) *Total Maximum Credit.* The maximum credit that an energy-
86 efficient building may be granted in any year must not exceed
87 100% of the building’s annual County property tax liability.

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

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

92 * * *

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

94 * * *

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

98 **52-103B. Property tax credit — newly constructed energy-efficient buildings**

99 * * *

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

102 * * *

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

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

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

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

111 * * *

112 (e) *Application.*

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

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

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

129 * * *

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

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

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

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

143 (3) For the New Building Energy Reduction Tax Credit, the
 144 percentage of the annual County property tax credit awarded for
 145 4 years is calculated by rounding a newly constructed energy-
 146 efficient building's performance above [Building Code and
 147 Zoning Code] building code requirements to the nearest whole
 148 number and multiplying it by the multiplier below:

149 * * *

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

155 * * *

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

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

- 160 (1) The owner of a newly constructed energy-efficient building
- 161 located within an Equity Emphasis Area at the time of application
- 162 may qualify for an expanded credit under this subsection.
- 163 (2) The owner must apply for a credit under this subsection
- 164 simultaneously with an application for the New Building Energy
- 165 Reduction Tax Credit.
- 166 (3) The amount of the tax credit under this subsection must be added
- 167 to the New Building Energy Reduction Tax Credit for each year
- 168 that the New Building Energy Reduction Tax Credit is granted.
- 169 (4) The amount of the tax credit under this subsection must be equal
- 170 to 10% of the annual property tax owed on the building.

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

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

176 * * *

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

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

182 [**Sec. 2. Sunset Clause.** Section 52-103 of the County Code must sunset, and
 183 must and have no further force and effect, on January 1, 2025.] **Sec. 2. Sunset**
 184 **Clause.** Section 52-103 of the County Code must sunset, and must and have no
 185 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:


_____ 10/7/2021
Tom Hucker, President, County Council Date

Approved:


_____ 10/13/2021
Marc Elrich, County Executive Date

This is a correct copy of Council action.


_____ 10/20/21
Selena Mendy Singleton, Clerk of the Council Date