

Introduction

MEMORANDUM

November 1, 2013

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Introduction:** Bill 30-13, Taxation – Property Tax Credit – Burtonsville Enterprise Zone Property

Bill 30-13, Taxation – Property Tax Credit – Burtonsville Enterprise Zone Property, sponsored by Councilmember Ervin, Council Vice-President Rice, and Councilmembers Berliner and Elrich, is scheduled to be introduced on November 5, 2013. A public hearing is tentatively scheduled for November 26 at 1:30 p.m.

Bill 30-13 would create a property tax credit for certain property located in the Burtonsville Crossroads Neighborhood Plan. Materials from the chief sponsor, Councilmember Ervin begin on ©6. The state law authorizing this tax credit begins on ©7.

This packet contains:	<u>Circle #</u>
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Bill No. 30-13
Concerning: Taxation – Property Tax
Credit – Burtonsville Enterprise Zone
Property
Revised: 7/15/2013 Draft No. 1
Introduced: November 5, 2013
Expires: May 5, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Ervin, Council Vice-President Rice, and Councilmembers Berliner and Elrich

AN ACT to:

- (1) create a property tax credit for certain property located in the Burtonsville Crossroads Neighborhood Plan; and
- (2) generally amend the law relating to property tax credits.

By adding

Montgomery County Code
Chapter 52, Taxation
Section 52-18T

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>

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

1 **Sec. 1. Section 52-18T is added as follows:**

2 **52-18T. Burtonsville Enterprise Zone Property.**

3 (a) Definitions. In this Section, the following words have the meanings
4 indicated:

5 Base year means the taxable year immediately before the taxable year in
6 which a credit under this Section is to be granted.

7 Base year value means the value of the property used to determine the
8 assessment on which the property tax on real property was imposed for
9 the base year. Base year value does not include any new real property
10 that was first assessed in the base year.

11 Eligible assessment means the difference between the base year value
12 and the actual value as determined by the Department for the applicable
13 taxable year in which the tax credit under this Section is to be granted.

14 Eligible business entity means a person who operates or conducts a
15 trade or business on qualified enterprise zone property but does not own
16 the qualified enterprise zone property.

17 Qualified property means real property that:

- 18 (1) is located within the area encompassed by the Burtonsville
19 Crossroads neighborhood Plan developed by the Montgomery
20 County Planning Department;
- 21 (2) is zoned for commercial or commercial/residential mixed use
22 development; and
- 23 (3) is improved after the effective date of this Bill and before January
24 1, 2020.

25 Tax-Property Article means the Tax-Property Article of the Maryland
26 Code.

- 27 (b) Credit.
- 28 (1) Credit authorized. The Director of Finance must allow a credit,
29 as authorized by State law, to a taxpayer against all County
30 property tax and special area tax imposed on:
- 31 (a) improvements made by an eligible business entity to
32 qualified property; and
- 33 (b) personal property owned by an eligible business entity
34 located on qualified property.
- 35 (2) Duration of credit. A credit under this Section is available to a
36 qualified property for no more than 5 consecutive years
37 beginning with the taxable year following the calendar year in
38 which the real property initially becomes a qualified property.
- 39 (3) Amount of credit. The amount of the credit is equal to 80% of the
40 amount of property tax imposed on the eligible assessment of the
41 qualified property in each of the first 5 taxable years following
42 the calendar year in which the property initially becomes a
43 qualified property.
- 44 (4) Nonresidential portions of qualified property. The Department
45 must allocate the eligible assessment to the nonresidential part of
46 the qualified property at the same percentage as the square
47 footages of the nonresidential part is to the total square footage of
48 the building.
- 49 (5) For purposes of calculating the amount of the credit allowed
50 under this Section, the amount of property tax imposed on the
51 eligible assessment must be calculated without reduction for any
52 credits allowed under the Tax-Property Article.

53 (c) Regulations. The County Executive may adopt regulations under
54 Method (2) to administer this Section.

55 (d) False or fraudulent applications.

56 (1) A person must not knowingly file a false or fraudulent
57 application to obtain a tax credit under this Section. A violation
58 of this subsection is a Class A violation.

59 (2) In addition to the penalties provided under paragraph (1), a
60 person who violates this subsection must pay the County any
61 taxes, together with interest and penalties, offset by the credit,
62 any other penalty due, and the County's fees and costs in any
63 action to enforce this subsection.

64 *Approved:*

65

Nancy Navarro, President, County Council

Date

66 *Approved:*

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Isiah Leggett, County Executive

Date

68 *This is a correct copy of Council action.*

69

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 30-13

Taxation – Property Tax Credit – Burtonsville Enterprise Zone Property

DESCRIPTION: Bill 30-13 would create a property tax credit for certain property located in the Burtonsville Crossroads Neighborhood Plan

PROBLEM: Changing traffic patterns and the departure of well-known stores resulted in sales reduction for many stores in Burtonsville.

GOALS AND OBJECTIVES: To provide incentives to invest in and improve properties throughout the Burtonsville area.

COORDINATION: Finance

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Amanda Mihill, Legislative Attorney 240.777.7815

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: N/A

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MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

VALERIE ERVIN
COUNCILMEMBER
DISTRICT 5

Memorandum

To: Councilmembers
From: Valerie Ervin *VE*
Date: October 24, 2013
Re: Burtonsville Enterprise Zone

In December, the Council approved the Burtonsville Crossroads Neighborhood Plan, which establishes the vision we all agree on for this area; however, a sector plan is only one piece of the puzzle. To put all of the pieces together to create Burtonsville's full picture, which includes a main street, public green space, and a village center, we need to encourage private investment. The attached bill would incentivize investment and help improve properties throughout the Burtonsville area, including the Burtonsville Crossing Shopping Center and the strip of commercial space along Old Columbia Pike/Route 198.

As many of you know, the realignment of Route 29, which sent traffic past Burtonsville, capped the area's commercial growth and had a dramatic impact on local businesses. Changed traffic patterns, coupled with the relocation of the Amish Market and the departure of Giant from Burtonsville Crossing, resulted in sales reductions for many in the commercial area. Burtonsville Crossing is nearly empty while Burtonsville Town Square, which opened across the street in 2010, slowly occupies empty commercial space.

This bill creates a tax credit against the personal property tax of any eligible business entity located within the Burtonsville Crossroads Neighborhood Plan, which would provide assistance to small business owners. House Bill 675, which passed during the 2013 Maryland General Assembly Session and became Chapter 134 of the Laws of Maryland, gives the County authority to create this tax credit in Burtonsville.

I believe that this is one example of how we can work together to improve the quality of life for residents in the eastern portion of Montgomery County. I stand ready to work with you in support of this bill. Let me know if you would like to be added as a cosponsor.

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Chapter 134

(House Bill 675)

AN ACT concerning

Montgomery County – Property Tax Credit for Qualified Enterprise Zone Property – Burtonsville

MC 14-13

FOR the purpose of altering a certain definition of “qualified enterprise zone property” as it relates to a certain property tax credit granted by the governing body of Montgomery County or of a municipal corporation in Montgomery County to include certain property zoned for certain uses located in the area encompassed by the Burtonsville Crossroads Neighborhood Plan; providing for the application of this Act; and generally relating to a property tax credit granted by Montgomery County or a municipal corporation in Montgomery County against county or municipal property tax imposed on an eligible business entity on qualified enterprise zone property.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9-317(f)
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Tax – Property

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. A. is not used for residential purposes;

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[2.] B. is used in a trade or business by an eligible business entity;

[3.] C. is located in an enterprise zone that is designated under Title 5, Subtitle 7 of the Economic Development Article; and

[4.] D. is eligible for the property tax credit under § 9-103 of this title; OR

2. A. IS LOCATED WITHIN THE AREA ENCOMPASSED BY THE BURTONSVILLE CROSSROADS NEIGHBORHOOD PLAN DEVELOPED BY THE MONTGOMERY COUNTY PLANNING DEPARTMENT;

B. IS ZONED FOR COMMERCIAL OR COMMERCIAL/RESIDENTIAL MIXED USE DEVELOPMENT; AND

C. HAS HAD IMPROVEMENTS MADE ON IT ON OR BEFORE JANUARY 1, 2020.

(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.

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(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 June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

Approved by the Governor, April 9, 2013.

9

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 675
Ways and Means

(Montgomery County Delegation)

Budget and Taxation

**Montgomery County - Property Tax Credit for Qualified Enterprise Zone
Property - Burtonsville
MC 14-13**

This bill alters the definition of qualified enterprise zone property for purposes of a specified local property tax credit in Montgomery County to include property that (1) is located within the area encompassed by the Burtonsville Crossroads Neighborhood Plan developed by the Montgomery County Planning Department; (2) is zoned for commercial or commercial/residential mixed use development; and (3) has had improvements made on it on or before January 1, 2020.

The bill takes effect June 1, 2013, and applies to taxable years beginning after June 30, 2013.

Fiscal Summary

State Effect: None.

Local Effect: Montgomery County has not enacted a local enterprise zone property tax credit. The county currently provides tax credits to qualifying businesses that locate within an enterprise zone through an existing State tax credit program. Pursuant to this bill, qualifying businesses in the Burtonsville area would be eligible for a local property tax credit depending upon whether the county enacts the local option property tax credit.

Small Business Effect: None.

Analysis

Current Law: Montgomery County or a municipality in the county is authorized to provide a property tax credit for improvements made by an eligible business entity to qualified enterprise zone property; and for personal property owned by an eligible business entity located on qualified enterprise zone property. The jurisdiction may provide for the amount and duration of the tax credit, qualifications for eligibility, and other provisions for the tax credit. In addition, a business entity that receives an enterprise zone property tax credit must provide to a tenant under a lease agreement an amount equivalent to the enterprise zone property tax credit.

An eligible business entity is defined as a person who operates or conducts a trade or business on qualified enterprise zone property but does not own the property. Qualified enterprise zone property is defined as real property that (1) is used in a trade or business by an eligible business entity; (2) is not used for residential purposes; and (3) is located in an enterprise zone and eligible for an enterprise zone property tax credit.

State Tax Credit Program

Businesses located within a Maryland enterprise zone are eligible for local property tax credits and State income tax credits for 10 years after the designation of the enterprise zone. Any business moving in after the designation qualify for the tax credits, if the business meets all applicable eligibility standards, is certified as being in compliance by the appropriate local government, and creates new or additional jobs or makes capital investments. Any business that is already located in an area that is designated an enterprise zone can qualify for the credit for the capital investment and labor force expansion occurring after designation of the enterprise zone.

Real property tax credits are 10-year credits against local real property taxes on a portion of the qualifying real property improvements in the enterprise zone. The State Department of Assessments and Taxation reimburses local governments for one-half of the cost of the property tax credit. The income tax credit is based on wages paid to newly hired employees and can be taken over a one- to three-year period. The credits are based on the wages paid during the taxable year to each qualified employee and vary in value and length of time depending on whether the employee is certified from the Department of Labor, Licensing, and Regulation as being economically disadvantaged and if the business is located in a focus area.

Background: Maryland's enterprise zone program is a joint effort between the State and local governments to provide tax incentives to businesses and property owners located in economically distressed areas. The program was created in 1982 and there are currently 30 enterprise zones in Maryland, of which three (Gaithersburg, Long Branch/Takoma

Park, and Wheaton) are located in Montgomery County. In fiscal 2011, 78 businesses were located within enterprise zones in Montgomery County and these businesses received \$1.6 million in property tax credits from the county as shown in **Exhibit 1**.

Exhibit 1
Enterprise Zone Tax Credit – Montgomery County
Tax Year 2000 – 2011

<u>Tax Year</u>	<u>Credit Amount</u>	<u>Recipients</u>	<u>Credit Amount Per Recipient</u>
2000	\$162,747	13	\$12,519
2001	354,503	44	8,057
2002	428,204	49	8,739
2003	532,275	51	10,437
2004	1,406,975	73	19,274
2005	1,752,704	83	21,117
2006	1,742,777	75	23,237
2007	2,059,801	85	24,233
2008	2,204,755	88	25,054
2009	1,992,053	84	23,715
2010	1,209,611	82	14,751
2011	1,588,492	78	20,365

Local Fiscal Effect: Montgomery County has not enacted the local enterprise zone property tax credit. The county currently provides tax credits to qualifying businesses that locate within an enterprise zone through an existing State tax credit program. Pursuant to this bill, qualifying businesses in the Burtonsville area would be eligible for the local property tax credit assuming that the county enacts such a program. The total cost for the additional property tax credits will depend on the number of businesses qualifying for the local property tax credit and the tax credit amount provided under the local program. As shown in Exhibit 1, the tax credit amount received by qualifying businesses in Montgomery County under an existing enterprise zone State tax credit program has ranged from \$8,000 per recipient to over \$25,000 per recipient.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2013
ncs/hlb

Analysis by: Michael Sanelli

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MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

VALERIE ERVIN
COUNCILMEMBER
DISTRICT 5

**Testimony of Montgomery County Councilmember Valerie Ervin
Supporting
*MC 14-13, Montgomery County – Property Tax Credit for Qualified
Enterprise Zone Property – Burtonsville*
Montgomery County House Delegation Local Bill Hearing
December 3, 2012**

Chairwoman Kaiser, Vice-Chair Lee and members of the House Delegation, I appreciate the opportunity to testify in support of MC 14-13, Montgomery County – Property Tax Credit for Qualified Enterprise Zone Property – Burtonsville. As the Councilwoman who represents this area, I can assure you that designating Burtonsville as a “qualified enterprise zone” will help this area receive the tax credits it needs to spur revitalization.

As many of you know, the realignment of Route 29, which sent traffic past Burtonsville, capped the area’s commercial growth and had a dramatic impact on local businesses. Changed traffic patterns, coupled with the relocation of the Amish Market and the departure of Giant from Burtonsville Crossing, resulted in sales reductions for many in the commercial area. Burtonsville Crossing is nearly empty while Burtonsville Town Square, which opened across the street in 2010, slowly occupies empty commercial space.

Tomorrow the County Council is scheduled to approve the Burtonsville Crossroads Neighborhood Plan, which establishes the vision we all agree on for this area; however, a sector plan is only one piece of the puzzle. To link all of the pieces together to create Burtonsville’s full picture, which includes a main street, public green space, and a village center, we need to encourage private investment. This bill would incentivize investment and improve properties throughout the Burtonsville area, including the Burtonsville Crossing Shopping Center and the strip of commercial space along Old Columbia Pike/Route 198.

In addition, MC 14-13 creates a tax credit against the personal property tax of any eligible business entity located within the Burtonsville Crossroads Neighborhood Plan,

which would provide assistance to small business owners during this difficult economic time.

I want to especially thank Delegates Luedtke, Kaiser, and Zucker and Senator Montgomery for sponsoring this legislation. I believe that this is a prime example of how state and county officials work together to improve the quality of life for the residents of Montgomery County. I stand ready to work with you in support of this bill. Thank you for considering my testimony.