

SENATE BILL 266

Q2

2lr1728
CF HB 125

By: **Senators Brinkley and Young**

Introduced and read first time: January 25, 2012

Assigned to: Budget and Taxation

Committee Report: Favorable

Senate action: Adopted with floor amendments

Read second time: February 22, 2012

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of authorizing the governing body of Frederick County and the
5 governing body of Washington County to grant, by law, a property tax credit
6 against the county property tax imposed on real property owned or leased by
7 certain business entities that meet certain requirements; providing for the
8 amount and duration of certain property tax credits; requiring a lessor of real
9 property in Frederick County or in Washington County eligible for certain
10 property tax credits to reduce by a certain amount the amount of tax for which
11 the tenant is contractually liable under the lease under certain circumstances;
12 requiring the governing body of Frederick County and the governing body of
13 Washington County to provide, by law, requirements for eligibility for the
14 property tax credit, any additional limitations on the credit, and any other
15 provision necessary to implement the credit; defining certain terms; providing
16 for the application of this Act; and generally relating to a county property tax
17 credit for certain new or existing business entities located in Frederick County
18 and in Washington County.

19 BY renumbering

20 Article – Tax – Property

21 Section 9–312(i)

22 to be Section 9–312(j)

23 Annotated Code of Maryland

24 (2007 Replacement Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
 2 Article – Tax – Property
 3 Section 9–312(i) and 9–323(g)
 4 Annotated Code of Maryland
 5 (2007 Replacement Volume and 2011 Supplement)

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

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

11 **Article – Tax – Property**

12 9–312.

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

15 **(II) “AFFILIATE” MEANS A PERSON:**

16 **1. THAT DIRECTLY OR INDIRECTLY OWNS AT LEAST**
 17 **80% OF A BUSINESS ENTITY; OR**

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

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

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

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

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

1 A. A FULL-TIME POSITION OF INDEFINITE
2 DURATION;

3 B. LOCATED IN FREDERICK COUNTY;

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

6 D. FILLED.

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

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

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

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

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

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

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

30 (3) TO QUALIFY FOR A PROPERTY TAX CREDIT UNDER THIS
31 SUBSECTION, BEFORE A BUSINESS ENTITY OBTAINS THE NEW OR EXPANDED
32 PREMISES OR HIRES EMPLOYEES TO FILL THE NEW PERMANENT FULL-TIME
33 POSITIONS AT THE NEW OR EXPANDED PREMISES, THE BUSINESS ENTITY SHALL

1 PROVIDE WRITTEN NOTIFICATION TO THE GOVERNING BODY OF FREDERICK
2 COUNTY STATING:

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

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

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

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

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

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

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

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

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

33 1. 52% IN THE 1ST AND 2ND TAXABLE YEARS;

1 2. **39% IN THE 3RD AND 4TH TAXABLE YEARS; AND**

2 3. **26% IN THE 5TH AND 6TH TAXABLE YEARS.**

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

8 1. **30% IN THE 1ST AND 2ND TAXABLE YEARS;**

9 2. **20% IN THE 3RD AND 4TH TAXABLE YEARS; AND**

10 3. **10% IN THE 5TH AND 6TH TAXABLE YEARS.**

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

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

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

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

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

24 9-323.

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

27 **(II) “AFFILIATE” MEANS A PERSON:**

28 1. **THAT DIRECTLY OR INDIRECTLY OWNS AT LEAST**
29 **80% OF A BUSINESS ENTITY; OR**

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

3 **(III) "BUSINESS ENTITY" MEANS A PERSON CONDUCTING A**
4 **TRADE OR BUSINESS IN THE STATE THAT IS SUBJECT TO THE STATE**
5 **INDIVIDUAL OR CORPORATE INCOME TAX OR INSURANCE PREMIUMS TAX.**

6 **(IV) "FULL-TIME POSITION" MEANS A POSITION REQUIRING**
7 **AT LEAST 840 HOURS OF AN INDIVIDUAL'S TIME DURING AT LEAST 24 WEEKS IN**
8 **A 6-MONTH PERIOD.**

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

13 **(VI) 1. "NEW PERMANENT FULL-TIME POSITION" MEANS**
14 **A POSITION THAT IS:**

15 **A. A FULL-TIME POSITION OF INDEFINITE**
16 **DURATION;**

17 **B. LOCATED IN WASHINGTON COUNTY;**

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

20 **D. FILLED.**

21 **2. "NEW PERMANENT FULL-TIME POSITION" DOES**
22 **NOT INCLUDE A POSITION THAT IS:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **1. 52% IN THE FIRST AND SECOND TAXABLE YEARS;**

15 **2. 39% IN THE THIRD AND FOURTH TAXABLE YEARS;**

16 **AND**

17 **3. 26% IN THE FIFTH AND SIXTH TAXABLE YEARS.**

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

23 **1. 30% IN THE FIRST AND SECOND TAXABLE YEARS;**

24 **2. 20% IN THE THIRD AND FOURTH TAXABLE YEARS;**

25 **AND**

26 **3. 10% IN THE FIFTH AND SIXTH TAXABLE YEARS.**

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

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

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

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

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

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 June 1, 2012, and shall be applicable to all taxable years beginning after June 30,
11 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.