

# SENATE BILL 884

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CF HB 320

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By: **Senators Hough and Young**

Introduced and read first time: February 5, 2016

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County – Property Tax – Small Business Tax Credit**

3 FOR the purpose of altering certain requirements for an existing business entity in  
4 Frederick County to qualify for a certain property tax credit imposed on real property  
5 owned or leased by the business entity; altering a certain definition to increase the  
6 hours and period of time a certain employee must work in a certain position and to  
7 require a certain rate of payment; altering the percentage of the property tax credit  
8 authorized in certain taxable years; clarifying that the governing body of Frederick  
9 County may not grant the property tax credit until a certain taxable year under  
10 certain circumstances; making it discretionary, rather than mandatory, that the  
11 governing body of Frederick County provide, by law, for certain eligibility  
12 requirements for the property tax credit, limitations on the credit, and any  
13 appropriate provisions to implement the credit; providing for the application of this  
14 Act; making clarifying and conforming changes; and generally relating to a county  
15 property tax credit for small businesses in Frederick County.

16 BY repealing and reenacting, with amendments,  
17 Article – Tax – Property  
18 Section 9–312(i)  
19 Annotated Code of Maryland  
20 (2012 Replacement Volume and 2015 Supplement)

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

23 **Article – Tax – Property**

24 9–312.

25 (i) (1) (i) In this subsection the following words have the meanings  
26 indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) “Affiliate” means a person:

- 2 1. that directly or indirectly owns at least 80% of a business  
3 entity; or  
4 2. at least 80% of which is owned, directly or indirectly, by a  
5 business entity.

6 (iii) “Business entity” means a person conducting a trade or business  
7 in the State that is subject to the State individual or corporate income tax or insurance  
8 premiums tax.

9 (iv) “Full-time position” means a position [requiring] **THAT:**

10 **1. REQUIRES** at least [840] **1,800** hours of an individual’s  
11 time [during at least 24 weeks in a 6-month period] **IN A CALENDAR YEAR; AND**

12 **2. PAYS AT LEAST 150% OF THE FEDERAL MINIMUM**  
13 **WAGE.**

14 (v) “New or expanded premises” means commercial or industrial  
15 real property, including a building or part of a building that has not been previously  
16 occupied, where a business entity or its affiliates locate to conduct business.

17 (vi) 1. “New permanent full-time position” means a position that  
18 is:

19 A. a full-time position of indefinite duration;

20 B. located in Frederick County;

21 C. newly created, as a result of the establishment or  
22 expansion of a business facility in the county; and

23 D. filled.

24 2. “New permanent full-time position” does not include a  
25 position that is:

26 A. created when an employment function is shifted from an  
27 existing business facility of the business entity or its affiliates located in Frederick County  
28 to another business facility of the same business entity or its affiliates, if the position does  
29 not represent a net new job in the county;

1 B. created through a change in ownership of a trade or  
2 business;

3 C. created through a consolidation, merger, or restructuring  
4 of a business entity or its affiliates, if the position does not represent a net new job in the  
5 county;

6 D. created when an employment function is contractually  
7 shifted from an existing business entity or its affiliates located in the county to another  
8 business entity or its affiliates, if the position does not represent a net new job in the county;  
9 or

10 E. filled for a period of less than 12 months.

11 (2) The governing body of Frederick County may grant, by law, a property  
12 tax credit against the county property tax imposed on real property owned or leased by a  
13 business entity that meets the requirements specified for the tax credit under this  
14 subsection.

15 (3) To qualify for a property tax credit under this subsection, before a  
16 business entity obtains the new or expanded premises or hires employees to fill the new  
17 permanent full-time positions at the new or expanded premises, the business entity shall  
18 provide written notification to the governing body of Frederick County stating:

19 (i) that the business entity intends to claim the property tax credit;  
20 and

21 (ii) when the business entity expects to obtain the new or expanded  
22 premises and hire the required number of employees in the new permanent full-time  
23 positions.

24 (4) [(i)] To qualify for a property tax credit under this subsection, [an  
25 existing] A business entity [in the county] shall:

26 [1. obtain at least an additional 1,500 square feet of new or  
27 expanded premises by purchasing newly constructed premises, constructing new premises,  
28 causing new premises to be constructed, or leasing previously unoccupied premises; and

29 2. employ at least one individual in a new permanent  
30 full-time position during a 12-month period, during which period the business entity also  
31 must obtain and occupy the new or expanded premises.

32 (ii) To qualify for the property tax credit under this subsection, a new  
33 business entity locating in the county shall:]

1 [1.] (I) obtain at least 2,500 square feet of new or expanded  
 2 premises by purchasing newly constructed premises, constructing new premises, causing  
 3 new premises to be constructed, or leasing previously unoccupied premises; and

4 [2.] (II) employ at least five individuals in new permanent  
 5 full-time positions during a 24-month period, during which period the business entity also  
 6 must obtain and occupy the new or expanded premises.

7 (5) (i) [If an existing] **SUBJECT TO SUBPARAGRAPH (II) OF THIS**  
 8 **PARAGRAPH, IF A** business entity [in the county meets the requirements of paragraph  
 9 (4)(i) of] **QUALIFIES FOR THE PROPERTY TAX CREDIT UNDER** this subsection, the  
 10 property tax credit [granted under this subsection] shall equal a percentage of the amount  
 11 of property tax imposed on the assessment of the new or expanded premises, as follows:

- 12 1. [52%] **40%** in the 1st and 2nd taxable years;
- 13 2. [39%] **30%** in the 3rd and 4th taxable years; [and]
- 14 3. [26%] **20%** in the 5th and 6th taxable years; **AND**
- 15 4. **0% FOR EACH TAXABLE YEAR THEREAFTER.**

16 [(ii) If a new business entity locating in the county meets the  
 17 requirements of paragraph (4)(ii) of this subsection, the property tax credit granted under  
 18 this subsection shall equal a percentage of the amount of property tax imposed on the  
 19 assessment of the new or expanded premises, as follows:

- 20 1. 30% in the 1st and 2nd taxable years;
- 21 2. 20% in the 3rd and 4th taxable years; and
- 22 3. 10% in the 5th and 6th taxable years.]

23 **(II) A PROPERTY TAX CREDIT UNDER THIS SUBSECTION MAY**  
 24 **NOT BE GRANTED UNTIL THE FIRST TAXABLE YEAR IN WHICH THE COUNTY**  
 25 **PROPERTY TAX IMPOSED ON REAL PROPERTY OWNED OR LEASED BY THE BUSINESS**  
 26 **ENTITY INCREASES DUE TO THE BUSINESS ENTITY'S QUALIFYING INVESTMENT IN**  
 27 **THE NEW OR EXPANDED PREMISES.**

28 (6) The lessor of real property granted a property tax credit under this  
 29 subsection shall reduce the amount of taxes for which a business entity is contractually  
 30 liable under the lease agreement by the amount of any credit granted under this subsection  
 31 for improvements made by the business entity.

1                   (7)    The governing body of Frederick County [shall] MAY provide, by law,  
2 for:

3                   (i)    [the specific] ANY ADDITIONAL requirements for eligibility for a  
4 property tax credit authorized under this subsection;

5                   (ii)   any additional limitations on eligibility for the credit; and

6                   (iii)  any other provision appropriate to implement the credit.

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
8 1, 2016, and shall be applicable to all taxable years beginning after June 30, 2016.