AN ACT concerning

High Performance Buildings

FOR the purpose of expanding the application of the tax credit for high performance buildings; altering the amount and duration of the tax credit; placing certain limitations on the tax credits; clarifying the transferability of the tax credit; providing for termination of the credit; authorizing the adoption of regulations; providing for the application of this Act; defining certain terms; and generally relating to the tax credit for high performance buildings.

BY renumbering
Section 11-2-112 to be Section 11-2-203.1
Article 11. Taxation
Title 2. Ad Valorem Taxes
Baltimore County Code 2003

BY repealing and re-enacting, with amendments
Sections 11-2-203.1 and 11-2-204(a)(1)
Article 11. Taxation
Title 2. Ad Valorem Taxes
Baltimore County Code 2003

SECTION 2. AND BE IT FURTHER ENACTED, that Sections 11-2-203.1 and 11-2-204(a)(1), of Article 11. Taxation, Title 2 - Ad Valorem Taxes of the Baltimore County Code, 2003, be and they are hereby repealed and re-enacted, with amendments, to read as follows:

§ 11-2-203.1.

(a) (1) In this section, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “[high] HIGH performance building” means a commercial building that achieves at least a Silver rating according to the U.S. Green Building Council’s [LEED-NC] LEED (Leadership in Energy and Environmental Design) Green Building rating system.

(3) (I) “LEED RATING SYSTEM” MEANS THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN RATING SYSTEM AS MAY BE ADOPTED AND AMENDED.

(II) “LEED RATING SYSTEM” INCLUDES:

1. LEED-NC FOR NEW CONSTRUCTION;

2. LEED-CS FOR CORE AND SHELL; AND

3. LEED-EB FOR EXISTING BUILDINGS.

(c) (1) FOR A HIGH PERFORMANCE BUILDING THAT IS CERTIFIED IN THE LEED RATING SYSTEM FOR NEW CONSTRUCTION, THE AMOUNT OF THE TAX CREDIT IS A PERCENTAGE OF THE TOTAL COUNTY PROPERTY TAX ASSESSED ON THE HIGH PERFORMANCE BUILDING AS FOLLOWS:

(I) LEED CERTIFIED SILVER - 50%;

(II) LEED CERTIFIED GOLD - 60%; AND

(III) LEED CERTIFIED PLATINUM - 80%.

(2) The duration of the tax credit AUTHORIZED UNDER THIS SUBSECTION is [ten] FIVE consecutive years.

(D) (1) FOR A HIGH PERFORMANCE BUILDING THAT IS CERTIFIED IN THE LEED RATING SYSTEM FOR CORE AND SHELL, THE AMOUNT OF THE TAX CREDIT IS A PERCENTAGE OF THE TOTAL COUNTY PROPERTY TAX ASSESSED ON THE HIGH PERFORMANCE BUILDING AS FOLLOWS:

(I) LEED CERTIFIED SILVER - 40%;

(II) LEED CERTIFIED GOLD - 50%; AND

(III) LEED CERTIFIED PLATINUM - 70%.

(2) THE DURATION OF THE TAX CREDIT AUTHORIZED UNDER THIS SUBSECTION IS FIVE CONSECUTIVE YEARS.

[(d)] (E) (1) [The amount of the tax credit is equal to 100% of the county’s property tax.] FOR A HIGH PERFORMANCE BUILDING THAT IS CERTIFIED IN THE LEED RATING SYSTEM FOR EXISTING BUILDINGS, THE AMOUNT OF THE TAX CREDIT IS A PERCENTAGE OF THE TOTAL COUNTY PROPERTY TAX ASSESSED ON THE HIGH PERFORMANCE BUILDING AS FOLLOWS:
(I) LEED CERTIFIED SILVER - 10%;

(II) LEED CERTIFIED GOLD - 25%; AND

(III) LEED CERTIFIED PLATINUM - 50%.

(2) THE DURATION OF THE TAX CREDIT AUTHORIZED UNDER THIS SUBSECTION IS THREE CONSECUTIVE YEARS.

(F) A PROPERTY OWNER MAY NOT RECEIVE MORE THAN ONE TAX CREDIT UNDER THIS SECTION FOR EACH HIGH PERFORMANCE BUILDING.

(G) A PROPERTY TAX CREDIT GRANTED UNDER THIS SECTION SHALL TERMINATE IF DURING THE CREDIT PERIOD, THE DIRECTOR OF BUDGET AND FINANCE FINDS THAT THE PROPERTY HAS BEEN ALTERED SO THAT IT NO LONGER COMPLIES WITH THE LEED RATING SYSTEM, VERSION, AND LEVEL THAT WAS THE BASIS FOR GRANTING THE CREDIT AT THE TIME THE CREDIT WAS GRANTED.

(H) A TAX CREDIT GRANTED UNDER THIS SECTION RUNS WITH THE PROPERTY AND A CHANGE IN OWNERSHIP DOES NOT RESULT IN A LAPSE OF THE TAX CREDIT.

[(e)] (I) The total tax [credit] CREDITS for the program may not exceed AN AGGREGATE AMOUNT OF $5,000,000, subject to the County Council’s annual review of the program amount.

[(f)] (J) An application for the tax credit shall be filed on or before June 1 immediately preceding the first taxable year for which the tax credit is sought.

[(g)] (K) An application for the tax credit shall be:

(1) Submitted to the Director of Budget and Finance on forms that the Director requires;

(2) Accompanied by proof that the property meets the definition of a “high performance building” and other requirements set forth in this section; and

(3) Under oath.
The Office of Budget and Finance shall:

1. Review each application for a tax credit; and
2. Grant or deny the application for a tax credit under this section.

A taxpayer whose application for a tax credit under this section is denied or whose tax credit is terminated by action of the Director of Budget and Finance under subsection (G) of this section may appeal the denial or termination as provided in §11-2-204 of this subtitle.

The Director of Budget and Finance may adopt regulations in accordance with Article 3, Title 7 of the Code to carry out the provisions of this section.

§11-2-204.

(a) A taxpayer whose application for tax credit under this subtitle is denied or whose tax credit is terminated under applicable law may appeal the Director’s decision, in writing, to the County Administrative Officer within 15 days after the Director’s denial or termination.

SECTION 3. AND BE IT FURTHER ENACTED, that this Act does not apply to any tax credit granted or applied for under §11-2-112 of the Baltimore County Code, 2003 before the effective date of the Act except to the extent that any tax credit granted or applied for before the effective date of the Act effects the overall $5,000,000 limitation on the tax credit.

SECTION 4. AND BE IT FURTHER ENACTED, that this Act, having been passed by the affirmative vote of five members of the County Council, shall take effect on December 3, 2007.