

ORDINANCE NO. ORD-06-14

**AN ORDINANCE TO REPEAL AN ORDINANCE ENTITLED "AN ORDINANCE TO PROVIDE TAX CREDITS FOR BUSINESSES CREATING JOBS IN WASHINGTON COUNTY, MARYLAND," AND TO ENACT AN ORDINANCE ENTITLED "WASHINGTON COUNTY REAL AND PERSONAL PROPERTY TAX CREDIT ORDINANCE FOR BUSINESSES THAT CREATE JOBS"**

**RECITALS**

By virtue of the authority contained in Section 9-230, Tax-Property Article, Annotated Code of Maryland, a local government is authorized to adopt a local program to provide tax credits for businesses creating jobs in the county.

The Board of County Commissioners (the "Board") wishes to continue a local program in order to encourage the creation of jobs in the County and, for that purpose, it is necessary to adopt an ordinance.

On November 12, 2002, the Board adopted an ordinance entitled "An Ordinance to Provide Tax Credits for Businesses Creating Jobs in Washington County, Maryland" ["the 2002 Ordinance"] and adopted an associated Resolution concerning certain exceptions to said ordinance ["the 2002 Resolution"]. On June 7, 2005, the Board amended the 2002 Ordinance.

The Board has determined that changes are required concerning the 2002 Ordinance as amended and the 2002 Resolution, and seeks to effect those changes prospectively by repealing the 2002 Ordinance as amended and the 2002 Resolution and enacting a new ordinance.

The purpose of this ordinance is to provide credits against county property taxes for creation of jobs in the County under certain circumstances.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Washington County, Maryland, that the ordinance entitled "An Ordinance to Provide Tax Credits for Businesses Creating Jobs in Washington County, Maryland" adopted November 12, 2002 and amended June 7, 2005 and the associated Resolution adopted November 12, 2002 be and are hereby repealed.


BE IT FURTHER ORDAINED by the Board of County Commissioners of Washington County, Maryland, that the attached Ordinance entitled "Washington County Real and Personal Property Tax Credit Ordinance for Businesses that Create Jobs" be and is hereby adopted.


Adopted the 17<sup>th</sup> day of October, 2006.

Effective the 17<sup>th</sup> day of October, 2006.

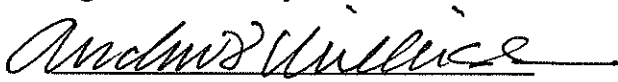
ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

  
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Joni L. Bittner, Clerk

  
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Gregory I. Snook, President

Approved as to form and  
legal sufficiency:

  
\_\_\_\_\_  
Andrew F. Wilkinson  
Assistant County Attorney

Mail to:

County Attorney's Office  
100 W. Washington Street, Room 202  
Hagerstown, MD 21740

**WASHINGTON COUNTY REAL AND PERSONAL**  
**PROPERTY TAX CREDIT ORDINANCE**  
**FOR BUSINESSES THAT CREATE JOBS**

Adopted and Effective: November 12, 2002

Revision 1 – June 7, 2005

Repealed and Readopted – October 17, 2006

**WASHINGTON COUNTY REAL AND PERSONAL  
TAX CREDIT ORDINANCE FOR BUSINESSES THAT CREATE JOBS**

**Sec. 1. Tax credits.**

The Treasurer must allow a New Jobs Tax Credit against the County property tax imposed on real property owned or leased by a business entity or its affiliate and on personal property owned by that business entity or its affiliate if the business entity qualifies for the credit under this ordinance.

**Sec. 2. Definitions.**

In this ordinance, the following words have the meanings indicated:

(a) Affiliate, Business Entity, New or Expanded Premises, New Permanent Full-Time Position, and Notification Date have the meanings defined in Md. Code, Section 9-230, Tax-Property Article, or any successor provision.

(b) Treasurer means the County Treasurer or the Treasurer's designee.

(c) New Jobs Tax Credit means the credit granted under this ordinance to a qualified business entity against the County property tax imposed on the new or expanded premises and the personal property located on those premises.

(d) Base real property tax assessment means the assessment assigned to the property in question by the State Department of Assessments and Taxation prior to the construction of the "New or Expanded Premises" as defined in Md. Code, Tax-Property Article, § 9-230.

**Sec. 3. Eligibility for tax credit.**

(a) Except as indicated in part (d) of this Sec.3, in order to qualify for a New Jobs Tax Credit under this ordinance, a business entity must, on or after October 17, 2006:

(1) construct, or expand by at least 10,000 square feet, premises in the County on which it conducts business by buying, building, or leasing new premises;

(2) employ at least 25 persons in new permanent full-time positions located in the new or expanded premises in the County during a 24-month period after it actually and physically occupies the new or expanded premises, provided that 50% of the new permanent full-time positions must pay at least 135% of the applicable Average Weekly Wage per Washington County Worker as that amount is determined by the Maryland Department of Labor, Licensing and Regulation; and

(3) be located in a priority funding area as designated in Title 5, Subtitle 7B of the State Finance and Procurement Article.

(b) A business entity does not qualify for a New Jobs Tax Credit if:

(1) the business entity has moved the operations which are located on new or expanded premises from another county (including Baltimore City) in Maryland;

(2) the business entity or another taxpayer has been given a tax credit or exemption for the new or expanded premises during the same taxable year under any other state or county law;

(3) the new or expanded premises is a restaurant, retail facility, hospitality facility, or warehouse distribution facility; except that a business facility may have a small number of positions involved in retail sales when such retail sales are incidental to the primary purpose of the new or expanded premises as determined by the Board of County Commissioners (the "Board");

(4) the business entity is a type of business entity that the Board by resolution before the Notification Date has made ineligible for a New Jobs Tax Credit, or the new permanent full-time positions are a type of position that the Board by resolution before the Notification Date has made ineligible for a New Jobs Tax Credit, or the new or expanded premises are located in a geographic area that the Board by resolution before the Notification Date has made ineligible for a New Jobs Tax Credit; or

(5) the location of the new or expanded premises is inconsistent with the Comprehensive Plan for the County or any applicable land use master plan.

(c) To qualify for a credit against property tax imposed on personal property, a business entity must certify that the personal property is located on premises that qualify for a New Jobs Tax Credit under this ordinance.

(d) Any business entity that, prior to October 17, 2006, had applied for, qualified for, and had received a New Jobs Tax Credit pursuant to the Washington County Real and Personal Property Tax Credit Ordinance for Businesses That Create New Jobs dated November 12, 2002 and revised June 7, 2005 ("the 2002 Ordinance"), shall continue to receive the tax credit in accordance with and based on the criteria prescribed by the 2002 Ordinance. Upon the expiration of the tax credit time period imposed by the 2002 Ordinance (six taxable years after the credit was allowed), such business entity shall no longer be eligible for a New Jobs Tax Credit under the prior certification and the Treasurer shall not allow further credit. In order to receive a new credit, any such business entity must reapply for the New Jobs Tax Credit and must meet anew all requirements then existing.

#### **Sec. 4. Amount of tax credit; pass-through to lessees.**

(a) The New Jobs Tax Credit that a taxpayer may claim against county property taxes under this ordinance is the following percentage of the property tax imposed on the increase in the base real property tax assessment of the new or expanded premises:

- (1) 52% during the first and second taxable years in which a credit is allowed;
- (2) 39% during the third and fourth taxable years in which a credit is allowed; and
- (3) 26% during the fifth and sixth taxable years in which a credit is allowed.

After the sixth taxable year, a business entity shall no longer be eligible for a New Jobs Tax Credit under the prior certification and the Treasurer shall not allow further credit. In order to receive a new credit after the sixth taxable year, a business entity must reapply for the New Jobs Tax Credit and must meet anew all requirements then existing.

(b) A lessor of real property must reduce the amount of taxes for which an eligible business entity is contractually liable under a lease or rental agreement by the amount of any tax credit allowed under this ordinance.

#### **Sec. 5. Recapture of tax credit.**

(a) A business entity that does not satisfy all applicable requirements under this ordinance to qualify for a tax credit during the three taxable years after any year when a credit was allowed must repay the tax credit to the County after receiving notice from the Treasurer that the credit must be repaid.

(b) Interest must accrue on any repayable tax credit at the rate established for overdue property taxes, beginning thirty (30) days after the notice from the Treasurer.

(c) Any unrepaid tax credit is a lien on real and personal property owned by the business entity in the same manner as unpaid real property taxes under state and county law.

#### **Sec. 6. Administration of tax credit.**

(a) A business entity must apply for a New Jobs Tax Credit on a form furnished by the Economic Development Commission ("EDC"), and must state when and how it expects to qualify for the credit.

(b) When a business entity believes it has met all requirements for the tax credit, it may apply for certification on a form furnished by the EDC, and must provide sufficient information to show that all requirements under this ordinance and applicable state law have been met.

(c) The EDC shall:

- (1) determine the eligibility of the business entity for the tax credit;
- (2) notify the State Department of Assessments and Taxation and the Treasurer that a business entity has been approved for the tax credit; and

(3) require submission of reports by the business entity during the three taxable years after any year when the tax credit was earned to verify that the business entity continues to satisfy all applicable requirements under this ordinance.

(d) A person who submits a false or fraudulent application or withholds information to obtain a tax credit under this ordinance must repay the County for all amounts credited and all accrued interest and penalties that would apply to those amounts as overdue taxes. A person who violates this subsection is liable for all court costs and expenses of the County in any civil action brought by the County against the violator. The County may collect any repayable tax credit, and otherwise enforce this ordinance, by any appropriate legal action.

(e) The Board may adopt regulations to administer this ordinance.

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