

Introduced 5/1/17  
Public Hearing 5/15/17  
Council Action 6/5/17  
Executive Action 6/9/17  
Effective Date 6/9/17

### County Council of Howard County, Maryland

2017 Legislative Session

Legislative Day No. 7

Bill No. 34 -2017

Introduced by: The Chairperson at the request of the County Executive

AN ACT extending the life of the tax credit for certain high performance buildings until June 30, 2023; amending certain definitions; requiring certain reviews prior to the expiration of the credit; and declaring this Act to be an emergency measure.

Introduced and read first time May 1, 2017. Ordered posted and hearing scheduled.  
By order Jessica Feldmark  
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on May 15, 2017.  
By order Jessica Feldmark  
Jessica Feldmark, Administrator

This Bill was read the third time on June 5, 2017 and Passed , Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.  
By order Jessica Feldmark  
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 6<sup>th</sup> day of June, 2017 at 4 a.m./p.m.  
By order Jessica Feldmark  
Jessica Feldmark, Administrator

Approved Vetoed by the County Executive June 9, 2017  
Allan H. Kittleman  
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1           **WHEREAS**, the Property Tax Credit for High Performance Buildings as applied to R-2  
2 and R-3 buildings is set to expire on June 30, 2018, without further action of the County Council;  
3 and

4  
5           **WHEREAS**, in order to qualify for the credit, an applicant should have applied by April  
6 1, 2017; and

7  
8           **WHEREAS**, the County Executive wishes to extend this tax credit for another five years,  
9 pending further study and wishes to allow property owners to continue to apply for the credit;  
10 and

11  
12           **WHEREAS**, Section 209(d) of the Howard County Charter provides that the County  
13 Council may pass an emergency bill to meet an immediate emergency affecting the public  
14 health, safety, or welfare; and

15  
16           **WHEREAS**, in this instance an emergency exists because applications for the credit can  
17 no longer be accepted without the extension authorized by this Act.

18  
19           **NOW, THEREFORE,**

20  
21           *Section 1. Be It Enacted by the County Council of Howard County, Maryland that the Howard*  
22 *County Code is amended as follows:*

23           *By amending*

24           *Title 20 "Taxes, Charges, and Fees"*

25           *Subsection (a) and subsection (k), both of Section 20.129B "Property tax credits for high*  
26 *performance buildings".*

27  
28                                   **Title 20. Taxes, Charges, and Fees.**

29                                   **Subtitle 1. Real Property Tax; Administration, Credits, And Enforcement.**

30                                   **Part III. State-Authorized Howard County Tax Credits.**

1 **Section 20.129B. Property tax credit for high performance buildings.**

2 (a) *Definitions.* In this section, the following terms have the meanings indicated:

3 (1) High performance building means a building that:

4 (i) Achieves at least a silver rating according to the U.S. Green Building  
5 Council's LEED (Leadership in Energy and Environmental Design) rating  
6 system;

7 (ii) IS A RESIDENTIAL BUILDING THAT ACHIEVES [[Achieves]] at least a silver  
8 certification level of the National Green Building Standard ICC-700 [[if  
9 the Director of the Department of Inspections, Licenses and Permits finds  
10 that the standard is equivalent to at least a silver rating according to the  
11 U.S. Green Building Council's LEED (Leadership in Energy and  
12 Environmental Design) rating system]];

13 (iii) Achieves at least a comparable rating according to design standards that  
14 the Director of the Department of Inspections, Licenses and Permits may  
15 adopt by regulation as equivalent to a silver rating in the LEED rating  
16 system; or

17 (iv) Meets comparable green building guidelines or standards approved by the  
18 State.

19 (2) LEED rating system shall have the meaning set forth in section 3.1002 of this Code.

20 (3) R-2 or R-3 building has the meaning ascribed to that term under the Howard County  
21 Building Code.

22  
23 (k) *Effective Date.* The tax credit authorized by subsection (d) of this section applies to tax years  
24 beginning after June 30, 2012, and shall terminate and be of no effect after June 30,  
25 [[2018]]2023, provided that:

26 (1) A property owner shall receive the full four years of the credit if:

27 (i) The property meets the eligibility requirements of this section; and

28 (ii) The property owner applies for the credit on or before April 1,  
29 [[2017]]2022; and

30 (2) The last credit issued shall be issued no later than in the fiscal year ending June  
31 30, [[2021]]2026.


1

2 **Section 2. And Be It Further Enacted** by the County Council of Howard County, Maryland that  
3 *representatives from the Department of Inspections Licenses and Permits, the Department of*  
4 *Planning and Zoning, the Economic Development Authority, the Office of Community*  
5 *Sustainability and the Department of Finance shall review the credit prior to November 1,2020*  
6 *to determine the need for further extension of the credit.*  
7

8 **Section 3. And Be It Further Enacted** by the County Council of Howard County, Maryland that  
9 *this Act is hereby declared to be an emergency measure and necessary to meet an immediate*  
10 *emergency affecting the public health, safety, or welfare because, without the amendment*  
11 *authorized by this Act, applicants will not be able to apply for the tax credit and, having been*  
12 *passed by the affirmative vote of two-thirds of the members of the Council, shall be effective upon*  
13 *its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on June 9, 2017.

  
\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council



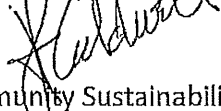
# Howard County


*Internal Memorandum*

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Subject: Follow up to Testimony on Council Bill No CB 34-2017; extending the High Performance Building Credit

To: Jon Weinstein,  
Howard County Council Chairperson

From: Jim Caldwell   
Director  
Office of Community Sustainability

Elissa Reineck   
Sustainability Project Manager  
Office of Community Sustainability

Date: May 30, 2017

In response to questions raised during the Howard County Council hearing on May 15, 2017, here is some background information and answers.

### Background

The Office of Community Sustainability was asked to research and make a recommendation on behalf of Howard County Government regarding the residential High Performance Building Credit. To do this, we drew on the knowledge and experience of staff in the government agencies that implement the program as well as local industry experts. After this process, we came to the conclusion of recommending that the 5 year program should be extended as outlined in CB 34.

The Howard County High Performance Building Credit program has two aspects, a commercial building tax credit and a residential building tax credit. The commercial credit does not have a sunset date, but the residential program does. The residential high performance credit is effectively expired because any applications were due on April 1, 2017.

In February 2016, by passage of CB 5-2016, the County Council extended of the program until June 2018. This date is a bit confusing since the application deadline was set at April 1, 2017. More time was included so that Finance could process the tax bills during the fiscal year. CB 5 also amended the program so that approved credits could be paid beyond the end of the

program which allowed applicants to receive their entire 4-year credit. This made a lot of sense because there were at least 100 people already in the program who would have been affected.

Issues Raised During Council Session on May 15, 2017:

*How many homes are eligible but have not received the tax credit?*

Over the life of the residential program, 134 residential parcels have received the credit. From our research with the Finance Department, we believe that there were approximately 240 buildings that were eligible. So there are approximately 106 that would be eligible but did not apply by April 1, 2017.

*We've been doing this program for a long time, has it made a difference?*

- In 2008, only commercial buildings received tax credits. Commercial buildings of a certain size were required to be built green, so the commercial tax credit was the carrot to go along with the stick.
- The residential program has only been implemented for 4 years. The first 5 applicants were approved in FY2014. (The following 3 years had 44, 19, and 66 homes, respectively). By passage of CB 55-2011, effective on February 2012, the program was extended to residential buildings.

*Why extend the program another 5 years?*

- The most important reason is that without the tax credit, residential green building will stop in Howard County. This is hard to quantify, but it is what the industry people have told us. Building LEED Silver or above is not easy and without the tax incentive as a selling point, is not worth the hassle.
- 5 years will allow Howard County more time for the tax incentive to be fully implemented and to do a more thorough review of the tax incentive program and its future. CB34 includes a requirement that a review of the tax incentive program is done by 2020. Any shorter time frame will cause uncertainty to the builders and will very likely cause them to stop building "green".
- Another issue is fairness. DPZ estimates that there are at least 200 residential properties in the Oxford Square development that have been approved for building, but not yet completed, that would meet the residential building tax credit. It would be unfair that half of the development received the credit and the other half didn't.

- New developments that are coming on-line with Mitchell & Best and could be done LEED silver if the incentive remains in place are Maple Lawn, Orchards at Brown's Ridge, Highland Reserve and Gaither's Chance.
- We believe that this program has encouraged developers to build to a higher environmental standard. This has created overall benefits for human health and the environment.
- By going through the process of designing homes to the LEED standards, builders learn about green building technology and it becomes more main stream and accepted. Eventually the tax credit will become obsolete when green building becomes the norm. In Howard County we are not quite to that point.

*Maybe it is time to increase the standard beyond LEED Silver?*

- The LEED program continues to evolve. LEED was just updated in 2016. The new standard is about equivalent to the previous Gold standard. The new Gold standard is going to be difficult to achieve and would very likely push our Howard County developers out of the program.



## Sayers, Margery

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**From:** Joshua Greenfeld <jgreenfeld@marylandbuilders.org>  
**Sent:** Monday, May 15, 2017 9:34 AM  
**To:** Feldmark, Jessica; Ball, Calvin B; Smith, Gary; Weinstein, Jon; Terrasa, Jen; Sigaty, Mary Kay; Fox, Greg; Knight, Karen; Pruum, Kimberly; Clay, Mary; CouncilMail; Wilson, B Diane; Lazdins, Valdis; Caldwell, Jim; Kittleman, Allan  
**Cc:** James Fraser; Annette Rosenblum; Thom Marston; Lori Graf  
**Subject:** MBIA Letter of Support for CB34-2017 – Extension of High Performance Home Tax Credits  
**Attachments:** MBIA Letter of Support for CB34 Extension of High Performance Home Tax Credits.pdf

Dear Chairman Weinstein and Members of the Howard County Council:

The MBIA writes in support of **CB34-2017**, an emergency bill, which extends the life of the High Performance Home Tax Credit until April 1, 2022 and allows all applicants to receive the full credit through June 30, 2026. New applications of for this credit ceased being accepted on April 1, 2017. As such, emergency legislation is necessary to reinstate this important program that helps both home buyers and home builders, immediately. These four year credits are a significant incentive for home buyers and home builders to invest in energy efficient technology that makes our neighborhoods cleaner and greener.

The MBIA is happy to assist the County in and its residents move towards a greener, more sustainable future. Thank you for your support of this legislation and the home building industry in Howard County.

If you have any questions about these comments or would like to discuss our position further, please do not hesitate to contact me.

Best,

**Josh Greenfeld, Esq.**  
[jgreenfeld@marylandbuilders.org](mailto:jgreenfeld@marylandbuilders.org)  
Vice President of Government Affairs  
Maryland Building Industry Association  
11825 W. Market Place  
Fulton, MD 20759  
Ph: 443-515-0025



Bowling Night & Networking Event - May 16  
Join us at Lucky Strike in Bethesda. [Register here.](#)

Mind Your Own Business! - May 17  
Learn Accounting & Tax Strategies. [Register here.](#)

Montgomery County Chapter Custom Builder Awards - May 24  
Honoring Fine Design & Craftsmanship. [Register here.](#)

Check out NAHB's Member Advantage Program at [www.nahb.org/ma](http://www.nahb.org/ma)

May 15, 2017

**Re: LETTER OF SUPPORT FOR CB34-2017 – Extension of High Performance Home Tax Credits**

Dear Chairman Weinstein and Members of the Howard County Council:

The MBIA writes in support of CB34-2017, an emergency bill, which extends the life of the High Performance Home Tax Credit until April 1, 2022 and allows all applicants to receive the full credit through June 30, 2026. New applications of for this credit ceased being accepted on April 1, 2017. As such, emergency legislation is necessary to reinstate this important program immediately.

These four year credits are a significant incentive for home buyers and home builders to invest in energy efficient technology that makes our neighborhoods cleaner and greener. The MBIA thanks the County Executive for his leadership on this issue as well as Chairman Ball for his foresight to introduce program in 2011.

In the words of MBIA member and Mitchell Best Homes CEO, Marty Mitchell, “This is a great tax credit for the homebuyer. As homebuilders, we want to deliver the best, most energy efficient home possible, but sometimes this is more than the typical homebuyer can afford. With a savings that can reach from \$12,000 to \$20,000 over the life of the credit, this tax credit allows the homeowner to afford more energy efficient construction than they would otherwise. It is a win-win for the environment and our local economy. “

Thus far, the County has awarded nearly \$300,000 in credits with each home between 30% and 60% more efficient than an average new home. In the next few years, dozens of new homes are planned to be built to “high performance” standards but without this legislation, many homeowners expecting to receive these credits would not receive them and these homes may not be built. This legislation ensures that new homebuyers receive their full credit while continuing to spur the rebounding home building sector.

The MBIA is happy to assist the County in and its residents move towards a greener, more sustainable future. Thank you for your support of this legislation and the home building industry in Howard County.

If you have any questions about these comments and would like to discuss our position further, please do not hesitate to contact me.

Best regards,

Josh Greenfeld, Vice President of Government Affairs

Cc: County Executive Allan Kittleman  
Councilmember Greg Fox  
Councilmember Mary Kay Sigaty  
Councilmember Jen Terrassa  
Councilmember Calvin Ball

Jessica Feldmark  
Diane Wilson



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# Howard County

*Internal Memorandum*

Subject: Testimony on Council Bill No CB 34-2017; extending the High Performance Building Credit

To: Lonnie R. Robbins  
Chief Administrative Officer

From: Elissa Reineck  
Sustainability Project Manager  
Office of Community Sustainability

Date: May 1, 2017

My name is Elissa Reineck and I am a Sustainability Project Manager in the Office of Community Sustainability. I'm here to talk about the government perspective on the Howard County High Performance Building Credit. This program has two aspects, a commercial building tax credit and a residential building tax credit. The commercial credit does not have a sunset date, but the residential program does. The residential high performance credit is effectively expired because any applications were due on April 1, 2017. Our office was asked to research and make a recommendation on behalf of Howard County Government regarding the residential High Performance Building Credit. To do this, we drew on the knowledge and experience of staff in the government agencies that implement the program as well as local industry experts. After this process, we came to the conclusion of recommending that the 5 year program should be extended as outlined in CB 34.

### Background

The Howard County High Performance Building Credit program was designed to encourage "green" building. It is based on the nationally recognized LEED program. LEED stands for Leadership in Energy and Environmental Design and is implemented by the US Green Building Council, a non-government organization which is made up of industry experts.

Residential buildings are eligible for the Howard County tax credit if they achieve LEED certification at the Silver level or higher. More tax credit is given the higher the level achieved. Higher levels include LEED Gold and Platinum. The Howard County tax credit is spread out over 4 years and decreases each of those 4 years until it phases out for each approved property.

The original Building Credit program was implemented in FY 2008. Initially, the program began with a credit for commercial buildings. By passage of CB 55-2011, effective on February 2012, the program was extended to residential buildings. Accordingly, residential credits were not issued until FY2013. It took a while before any of the residential green buildings were designed, approved, built and sold. Since then, the program has grown steadily. Over the life of the residential program, 134 residential parcels have received the credit for at least the initial year with a total cost of \$557,962.

In February 2016, by passage of CB 5-2016, the County Council extended of the program for another year. CB 5 also amended the program so that approved credits could be paid beyond the end of the program which allowed applicants to receive their entire 4-year credit. Over the next 4 years, the cost of this extension is estimated to be \$608,000.

Recommendation:

Several Howard County government agencies are involved with implementing the High Performance Building Tax Credit. DPZ reviews the building plans, DILP inspects the properties and verifies the LEED status, while Finance issues the tax credits and tracks the overall costs. The office I work for, Office of Community Sustainability (OCS), is concerned with the policy aspects of the program.

To make the decision about what to do about the residential credit, OCS reached out to the Howard County agencies involved with the program (as mentioned above) plus a representative from Howard County Economic Development. After discussion of the program, all representatives agreed that we should recommend that the program be extended.

Here are some reasons why we should extend this successful program:

- DPZ estimates that there are at least 200 residential properties that have been approved, but not yet completed, that would meet the residential building tax credit. The cost of these additional units is estimated to be \$1.3M over 4 years.
- We would like to accommodate Howard County residents who have expressed an interest in applying for this credit by fulfilling the promises made by the builders that their home would receive a tax credit. Several agencies have received calls and emails about this issue.

- In addition to these logistical issues, OCS believes that this program has encouraged developers to build to a higher environmental standard. This has created overall benefits for human health and the environment.
- More importantly, by going through the process of designing homes to the LEED standards, builders learn about green building technology and it becomes more main stream and accepted.
- In 2016, OCS also provided staff support to the Howard County Energy Task Force. This was a sub-set of the Environmental Sustainability Board. The Task Force was composed of local experts who came together to advise the Howard County Executive and Howard County Council on energy policy and programs. Among the many recommendations included in the Task Force's final report, the following two items were included: "Extend the expiration date for existing green building incentives which are currently set to expire" and "Conduct a review of the County's current commercial and residential green building tax incentives."
- Eventually the tax credit will become obsolete when green building becomes the norm. In Howard County we are not quite to that point.
- Howard County needs more time for the tax incentive to be fully implemented and to do more thorough review of the tax incentive program and its future. CB34 includes a requirement that a review of the tax incentive program is done by 2020. OCS would be happy to take the lead on that.

In conclusion, the Office of Community Sustainability on behalf of Howard County Government respectfully requests that the County Council approves the extension of this forward-thinking program as outlined in CB 34-2017. Thank you for your time.