

Introduced 1/4/16
Public Hearing 1/19/16
Council Action 2/1/16
Executive Action 2/10/16
Effective Date 4/1/16

County Council Of Howard County, Maryland

2016 Legislative Session

Legislative Day No. 1

Bill No. 5-2016

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

AN ACT extending the life of the tax credit for high performance buildings until June 30, 2018; providing that applications for the credit received by a certain date will be eligible to receive the credit the full four years of the credit; allowing for credits to be issued until a certain date; and generally related to tax credits for high performance buildings.

Introduced and read first time January 4, 2016. 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 January 19, 2016.

By order

Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on February 1, 2016 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 4th day of February, 2016 at 2 a.m./p.m.

By order

Jessica Feldmark
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive February 10, 2016

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

3
4 By amending Title 20 "Taxes, Charges, and Fees"
5 Section 20.129B "Property tax credits for high performance buildings".
6

7 **Title 20. Taxes, Charges, and Fees.**

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

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

10
11 **Section 20.129B. - Property tax credit for high performance buildings.**

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

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

14 (i) Achieves at least a silver rating according to the U.S.

15 Green Building Council's LEED (Leadership in Energy and
16 Environmental Design) rating system;

17 (ii) Achieves at least a silver certification level of the National

18 Green Building Standard ICC-700 if the Director of the Department of
19 Inspections, Licenses and Permits finds that the standard is equivalent to at
20 least a silver rating according to the U.S. Green Building Council's LEED
21 (Leadership in Energy and Environmental Design) rating system;

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

26 (iv) Meets comparable green building guidelines or standards approved by the
27 State.

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

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

1 (b) *Credit Established.* In accordance with section 9-242 of the tax-property article of the
2 Annotated Code of Maryland, the owner of a high performance building or an R-2 or R-3
3 building that qualifies under subsection (d) of this section may receive a property tax credit
4 against County property taxes imposed on the high performance building.

5 (c) *Amount and Duration of Credit for Certification in LEED Core and Shell or New*
6 *Construction Rating Systems.* For a high performance building that is certified in the LEED 2009
7 rating system for core and shell or a comparable rating system that the Director of Inspections,
8 Licenses and Permits may adopt by regulation:

9 (1) The amount of the tax credit is a percentage of the total County property tax
10 assessed on the high performance building as follows:

- 11 (i) LEED certified silver—25 percent;
- 12 (ii) LEED certified gold—50 percent;
- 13 (iii) LEED certified platinum—75 percent; and

14 (2) The tax credit authorized by this subsection continues for five years.

15 (d) *Amount and duration of credit for high performance R-2 and R-3 buildings.*

16 (1) This subsection applies to an R-2 or R-3 building that:

- 17 (i) Achieves at least a silver rating under the LEED for Homes Rating System
18 or a comparable rating system that the Director of Inspections, Licenses
19 and Permits may adopt by regulation; and
- 20 (ii) Is a high performance building.

21 (2) The tax credit under this subsection for a building that has a LEED platinum or
22 equivalent rating is a percentage of the total County property tax credit assessed
23 on the building as follows:

- 24 (i) First year: 100 percent;
- 25 (ii) Second year: 75 percent;
- 26 (iii) Third year: 50 percent; and
- 27 (iv) Fourth year: 25 percent.

28 (3) The tax credit under this subsection for a building that has a LEED gold or
29 equivalent rating is a percentage of the total County property tax credit assessed
30 on the building as follows:

- 31 (i) First year: 90 percent;

- 1 (ii) Second year: 68 percent;
2 (iii) Third year: 45 percent; and
3 (iv) Fourth year: 23 percent.
- 4 (4) The tax credit under this subsection for a building that has a LEED silver or
5 equivalent rating is a percentage of the total County property tax credit assessed
6 on the building as follows:
- 7 (i) First year: 75 percent;
8 (ii) Second year: 56 percent;
9 (iii) Third year: 38 percent; and
10 (iv) Fourth year: 19 percent.
- 11 (5) (i) In one fiscal year, the tax credit under this subsection may not exceed
12 \$5,000.00 per building; provided, however, that each owner occupied unit
13 is allowed a credit not to exceed \$5,000.00.
14 (ii) Excess credits shall not be carried over to future years.

15 (e) *Amount and Duration of Credit for Certification in Existing Building Rating System.* For
16 a high performance building that is certified in the LEED 2009 rating system for existing
17 buildings or a comparable rating system that the Director of Inspections, Licenses and Permits
18 may adopt by regulation:

- 19 (1) The amount of the tax credit is a percentage of the total County property tax
20 assessed on the high performance building as follows:
- 21 (i) LEED certified silver—Ten percent;
22 (ii) LEED certified gold—25 percent;
23 (iii) LEED certified platinum—50 percent; and
24 (2) The tax credit authorized by this subsection continues for three years.

25 (f) *Prohibition.* A property owner who is granted a credit under one subsection of this section
26 may not be granted a credit under any other subsection of this section for the same property
27 during the same fiscal year.

28 (g) *Credit Runs with the Property.* A tax credit granted under this section runs with the property
29 and a change in ownership does not result in the lapse of the tax credit.

30 (h) *Application.* To receive the tax credit, a property owner shall submit an application to the
31 Department of Finance:


- 1 (1) On the form that the Department of Finance requires;
- 2 (2) That is accompanied by proof that the property meets the definition of a
- 3 "high performance building"; and
- 4 (3) On or before the date that the Department of Finance sets.
- 5 (i) *Report.* On or before October 31 of each year, the Director of Finance shall submit a report to
- 6 the County Council and the County Executive on tax credits granted under this section in the
- 7 prior fiscal year that includes:
 - 8 (1) A list of all credits granted and the monetary amount of each credit granted under
 - 9 this section;
 - 10 (2) The levels of certification obtained by recipients of the credit; and
 - 11 (3) An estimated total fiscal impact for the current fiscal year and for nine ensuing
 - 12 fiscal years.
- 13 (j) *Administration.* The Department of Finance may adopt guidelines, regulations, or procedures
- 14 to administer this section.
- 15 (k) *Effective Date.* The tax credit authorized by subsection (d) of this section applies to tax years
- 16 beginning after June 30, 2012, and ~~[[shall terminate and be of no effect after June 30, 2017.]]~~
- 17 SHALL TERMINATE AND BE OF NO EFFECT AFTER JUNE 30, 2018, PROVIDED THAT:
 - 18 (1) A PROPERTY OWNER SHALL RECEIVE THE FULL FOUR YEARS OF THE CREDIT IF:
 - 19 (I) THE PROPERTY MEETS THE ELIGIBILITY REQUIREMENTS OF THIS SECTION;
 - 20 AND
 - 21 (II) THE PROPERTY OWNER APPLIES FOR THE CREDIT ON OR BEFORE APRIL 1,
 - 22 2017; AND
 - 23 (2) THE LAST CREDIT ISSUED SHALL BE ISSUED NO LATER THAN IN THE FISCAL YEAR
 - 24 ENDING JUNE 30, 2021.

25
26 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
27 *this Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

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

February 10, 2016.


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 _____, 2016.

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 _____, 2016.

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 _____, 2016.

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 _____, 2016.

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 _____, 2016.

Jessica Feldmark, Administrator to the County Council




Howard County

Internal Memorandum

Subject: Council Testimony and Fiscal Impact Statement

To: Lonnie Robbins
Chief Administrative Officer

Through: Stanley J. Milesky 
Director of Finance

From: Linda Watts 
Assistant Director – OBMCS

Date: December 22, 2015

The Administration is seeking Council approval for a bill to extend the sunset on the Residential High Performance Building tax credit for one additional year and alter the terms of the sunset.

The Residential High Performance Building tax credit was scheduled to sunset on June 30, 2017. While this tax credit provides a credit for 4 years, under the current sunset, those applicants who began receiving the credit in FY15 or later would not receive the full four years of the credit. The change in the sunset provision would allow for these homeowners to receive the full benefit of the credit. Fiscal impact of this change is expected to be \$111K in FY18, \$47K in FY19, and \$16K in FY20.

The Howard County Energy Task Force will be evaluating this credit as part of its look at incentive options for energy efficiencies. Its report is due to the County Executive in December 2016 and the one year extension allows the credit to continue until the evaluation is complete. Fiscal impact of this extension is expected to be \$62K in FY18, \$48K in FY19, \$32K in FY20 and \$16K in FY21.

Cc: Jennifer Sager

FILE COPY

Susan Garber 9100 Gorman Road Laurel

Speaking AGAINST CB5-2016

I recognize that tax credits are a popular means by which government tries to shape public behavior. But I'm disappointed to see this bill which would extend the property tax credits for 'high performing residential buildings.'

I find it challenging to determine how extension of the existing tax break will benefit Howard County tax payers in general.

It appears that residents affluent enough to build or retrofit their residence so that it qualifies for LEED rating have been receiving up to \$5000 in tax credits for each of 4 years. This clearly benefits them as individuals, but how does it benefit me or other taxpayers? My tax dollars lower their tax bills while raising the value of their home and reducing their energy bills. And in return I get.....? Forgive me if I sound selfish here.

According to a Sun article from 12/27/15 the program is set to expire in 2017. It has paid out some \$293,000 in credits. I could not locate a current report on the number of persons qualifying for the tax credit in a timely manner so I had to try to guesstimate. Warning: There's math coming.

If one generously presumed that only 10 participants received the maximum \$20,000 over 4 years (10 people x 4 yrs x \$5,000 maximum annual credit = \$200,000) that would leave only \$93,000 for others to share. Assuming that for some reason they were only getting a little more than half the maximum over the four years or \$10,000+ that yields only 9 additional participants. In other words, if I'm in the right ballpark, then less than 20 people have benefitted in total. I don't see how that low number can be touted asrestoring and preserving our environment today.

Questions come to mind:

- 1.) Is the low number of participants over four years indicative of the effectiveness of the credit in encouraging change?

2.) What would the direct energy impact of the 19 participating buildings be on Hoard residents? And how does it relate to the immediate impact on the environment?

3.) Why is the county working to reduce energy consumption in private homes when energy is not a county regulated or limited commodity? If we were trying to reduce sewer or water usage, or trash generation thru tax credits there would be a direct taxpayer benefit involved because of the county's role in providing those infrastructure components.

If the participating homeowners have already received \$10,000 to \$20,000 in tax credits—plus the low, low utility bills the LEED features should be producing—haven't they received enough benefit??? LEED improvements are high end/high cost products. They are not an option for lower income/ fixed income residents, such as those residing in our older neighborhoods in need of renovation. Is it appropriate to take their tax dollars to subsidize affluent residents? Is this really the best use of taxpayer dollars???

Perhaps we could move this funding to help low or moderate residents winterize their homes.

Perhaps we could offer credits to developers who leave large stands of mature trees to shade their houses.

Or perhaps we could create a fund to protect unsuspecting homeowners who have jumped on the no-money-down solar installation bandwagon without realizing their contract may have placed a lien on their home.

Thank you for giving this further consideration.

Steven Winter Associates supports CB5-2016

Elliot Seibert [eseibert@swinter.com]

Sent: Tuesday, January 19, 2016 11:30 AM**To:** CouncilMail**Cc:** Katie Fry Hester (katiefryhester@gmail.com) (katiefryhester@gmail.com)**FILE COPY**

To Whom it May Concern,

Steven Winter Associates is an energy-efficiency and green building consulting firm with offices in Connecticut, New York and Washington, DC. As third-party consultant and verifier for green building programs like LEED and the National Green Building Standard we have helped hundreds of local home-owners, developers and builders meet their sustainability goals.

I want to let you know of our support IN FAVOR of CB5-2016, the extension of the high-performance building tax credits. We have seen first hand how this program encourages better, greener building practices in Howard County. This credit makes it possible to financially justify green buildings practices that benefit the community but don't necessarily provide a direct financial benefit to the building owner. These benefits include:

- Less storm-water runoff
- Increased resiliency during events like black-outs
- Reduced energy consumption, resulting in fewer hazardous power plant emissions
- Reduced energy demand, which benefits the power grid and ultimately reduces prices to rate-payers
- Lower water demand

One such example is Katie Hester, a Howard County resident who recently built her house at 3701 Red Oak Lane. In part because of the tax credit Katie and her team pursued NGBS and ended up saving as many trees as possible, installing geothermal wells, building thickened walls with extra insulation, installing 90% LED lights, and installing a first-class ventilation system for healthy indoor air quality.

I hope you will decide to pass this measure and continue Howard County's strong sustainability momentum.

Best,
Elliot Seibert

Elliot Seibert
Senior Building Systems Engineer
Steven Winter Associates, Inc.
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Building Industry Testimony on CB5-2016 and CB52-2015

Joshua Greenfeld [jgreenfeld@marylandbuilders.org]

Sent: Tuesday, January 19, 2016 9:13 AM
To: Feldmark, Jessica; Ball, Calvin B; Smith, Gary; Weinstein, Jon; Terrasa, Jen; Sigaty, Mary Kay; Fox, Greg; Knight, Karen; Pruim, Kimberly; Clay, Mary; CouncilMail; Calvin Yahoo [philosopherpoet2@yahoo.com]
Cc: Delorenzo, Carl; Siddiqui, Jahantab; Wilson, B Diane; Allan Kittleman [allan.kittleman@gmail.com]; Kathleen Maloney [katmaloney@verizon.net]; Bob Kaufman [bkaufman@marylandbuilders.org]; Lori Graf [LGraf@marylandbuilders.org]; Kristin Hogle [khogle@marylandbuilders.org]; Kelly Grudziecki [kgrudziecki@marylandbuilders.org]; Tom Ballentine [naiop.md.tom@verizon.net]; jamie@i-s-land.com; Annette Rosenblum [arosenblum@marylandbuilders.org]; Marcus Jackson [mjackson@marylandbuilders.org]
Attachments: MBIA Letter of Support for~1.pdf (256 KB) ; MBIA Letter of Concern For~1.pdf (251 KB)

Chairman Ball and Members of the Howard County Council,

Please find attached letters from the Maryland Building Industry Association in support of CB5-2016 (High Performance Home Tax Credits) and of concern with CB52-2015 (Watershed Protection and Restoration Fee). Please call me with any questions about these or any other development related issues. Thank you for your support of the residential home building industry in Howard County.

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



NAHB's International Builders Show - Jan. 19-21
 See you in Las Vegas! [Register here.](#)

MBIA's Utilities Improvement Task Force Networking Event - Jan. 28
 Mingle with utility staff & officials. [Register here.](#)

Professional Women in Building's Wine & Chocolate Tasting - Feb. 9
 Eat, drink & shop at Grace's Boutique in Laurel. [Register here.](#)

Check out NAHB's Member Advantage Program at www.nahb.org/ma

January 19, 2016

Re: LETTER OF SUPPORT FOR CB5-2016 – Extension of High Performance Home Tax Credits

Dear Chairman Ball and Members of the Howard County Council:

The MBIA writes in support of CB5-2016 which extends the life of the High Performance Home Tax Credit until 2018 and allows all applicants to receive the full credit until 2021. 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 and recent homebuyers receive their full credits continuing to spur the rebounding home building sector.

Going forward, the MBIA encourages the County Council and the County Executive to make this tax credit permanent Promoting and implementing green solutions is an asset for all County residents, and the home building industry is happy to be a part of this move into the 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 Jon Weinstein

Jessica Feldmark
Diane Wilson
Jahantab Siddiqui

CB5-2016

Residential High Performance Building Credit,

Mark Stevens [mark@stevensbuilders.com]

Sent: Tuesday, January 19, 2016 11:55 AM

To: CouncilMail

Good morning,

I am writing in support of the legislation proposed by County Executive Alan Kittleman

I have been a custom home builder in Howard County for 17 years. Over the years, the cost of construction has increased tremendously for many reasons, including, permit fees, code regulations, storm water management requirements, structural codes, improved safety features, and many more. As a Certified Green Builder, we have always been a proponent of green features in our homes. We strive to educate our homeowners of the importance of these energy efficient features. Because we price our homes with what is required 1st, the optional green features come at the end of their budget. We would love to include them as a standard, but unfortunately we would price ourselves out of the market.

Since we strongly support energy efficient homes, we feel that the tax incentives are critical to owners being able to afford these features. Without them, most owners simply can't afford the increased cost. The green features typically cost more because the technology, equipment, and labor is more expensive. A clean environment benefits us all, and these incentives will absolutely create more opportunity for our owners to build more energy efficient homes.

We at Stevens Builders fully support these tax incentives being permanent.

I will be at the hearing Tuesday the 19th in support of passing this legislation.

Sincerely,

Mark Stevens
Stevens Builders, Inc.
4829 Ten Oaks Road
Dayton, MD 21036
410-984-7296
Office 410-531-2100
Fax 410-531-4900
mark@stevensbuilders.com
www.stevensbuilders.com

Hester Residence/ Energy

Ralph Cunningham [rcunningham@cunninghamquill.com]

Sent: Tuesday, January 19, 2016 2:42 PM**To:** CouncilMail**Cc:** Anton Markin [AMarkin@cunninghamquill.com]**FILE COPY**

Dear County Council Members,

I am writing to you on behalf of our clients Bill and Katie Hester, to urge you to support to adoption of the CB5-2016 bill currently under review.

When Bill and Katie first came to us in 2012 seeking to build an energy efficient and environmentally friendly home for their growing family they explained to us that they were not necessarily interested in certification for certification's sake. Instead they were interested in building the greenest house they could because of a sense of responsibility they felt to personally care for the environment, to raise their family in a safe and non-toxic home, and to be a good examples of environmental stewards for their children so that these values would be instilled in the next generation. We were pleased to assist them in the pursuit of this goal.

While there are long term cost savings for high efficiency and this technology is becoming more common, it is still far from common and still often has a high up-front cost. The costs of the very high standard of efficiency and indoor environmental quality the Hesters were seeking quickly added up to a large budget. In our efforts to make their goals achievable we suggested that they do pursue certification to take advantage of the generous tax credit program in question here. This would help justify and offset some of the extra expenditures they would have above and beyond that of a "standard" house built to meet the code minimums. Seeing a four year tax schedule we understood the program to provide four years of credits, despite the 2017 expiration date, as this new legislation would allow for.

With this understanding the Hesters enlisted the aid of certified National Green Building Standard consultants and verifiers to form a strategy for certification, monitor compliance during the construction, and to test, verify and submit for certification upon completion of the project. This was an additional up-front cost but one we felt was worth it given the tax credit program.

As we embraced the certification process we found that it also gave us new ideas of how to be greener in ways we hadn't thought of before. We also found that the discipline it imposed on us to keep to our goal was very helpful, assigning points and values to the different items and strategies so we could help understand them quantitatively and keep track of where we were. It would have been more tempting to cut more green features if we did not have this frame work to guide us.

While the Hesters were committed to an efficient, safe and environmentally friendly home before they decided to have their home certified or before they became aware of this tax credit program, both helped them to move forward with this project and remain on track. I urge you on behalf of both the Hesters and the other families in Howard county who might be considering many of the same issues the Hesters were back in 2012 and are trying to justify the premiums they would pay for a greener house, to enact this legislation to help them to move forward and build for the future in a responsible manner.

Thank you for your time and consideration,

Ralph Cunningham, FAIA
Founding Principal
CUNNINGHAM | QUILL ARCHITECTS PLLC

RALPH CUNNINGHAM FAIA

PRINCIPAL

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