

COOK COUNTY OFFERS TEMPORARY TAX INCENTIVE EXPANSION

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Original Incentives

Cook County offers various tax incentives to qualifying property owners. Among these incentives are the Class 6b and Class 8 incentive which are available to qualifying commercial and industrial property owners through Section 74-63 of the Cook County Code. These incentives are generous and reduce taxes by 60% for 10 years, with a phase up of taxes in years 11 and 12.

The incentives are available for newly constructed, substantially rehabilitated property, additions to existing buildings or re-occupied vacant buildings (referred to as “abandoned property” in the law). For commercial properties, Class 8 also requires that the property be located in a blighted area¹. Class 6b does not include the blight requirement. Both Class 6b and Class 8 tax incentives have renewal provisions which give owners the opportunity to file to have the incentives renewed if a timely renewal application is filed during the 10th, 11th and 12th year of the incentive.

Temporary Expansion

Recently, the Cook County Board expanded these incentives, but for a limited time. Under a new ordinance, emergency tax relief will be available for Class 6b industrial properties or Class 8 commercial properties until November 30, 2018. After this time the extensions are set to sunset. The Cook County Board has instituted the “TEERM Program” or Temporary Emergency Economic Recovery Modification Program for both industrial and commercial properties that have been vacant and the “SER Program” or Sustainable Emergency Relief Program for industrial properties. Unlike the Class 6b and Class 8 tax incentives, the TEERM Program and SER Program tax incentives are **not** eligible for renewal during the 10th, 11th and 12th year of the incentive.

The new law relaxes the vacancy requirement for both industrial and commercial properties. The new law also allows industrial businesses who have operated in the same location for 10 years or more and can demonstrate economic hardship to obtain a Class 6b tax incentive. As a result of these changes, more properties will qualify for these incentives.

TEERM - Vacant Property (both Commercial and Industrial Property)

Under TEERM if property has been vacant for as little as one year, the property may be considered “abandoned property” even if it is not being sold and the incentive may apply if the existing owner finds a qualifying tenant. Over the years, the definition of abandoned property has been expanded several times. The most recent changes continue the expansion giving more taxpayers the opportunity to qualify for the incentive.

Under the new rules, “abandoned property” includes:

- Property that has not been sold, but has been vacant for at least 12 months if there is a finding of special circumstances.

SER - Industrial Properties Without Vacancy (not applicable to commercial property)

Prior to the recent changes in the law, occupied industrial properties were not eligible for Class 6b incentives unless they were being substantially rehabilitated or putting on an addition. Under recent changes, however, occupied industrial properties, that are not undergoing any physical changes to their building, may be eligible for the Class 6b incentive under a new program known as the SER Program if the municipality and County Board conclude a financial hardship exists and that the business is not viable without the incentive.

SER requirements set forth in the Ordinance are:

- An industrial enterprise must have occupied the property for at least 10 years;
- The industrial enterprise must prove the tax incentive is necessary for the business to “continue operations at the current location and maintain its staff” and without the incentive, the business would “not be economically viable causing the property to be in imminent risk of becoming vacant and unused”;
- The applicant must not receive any other tax incentives for the property;
- The municipality and the County Board must find special circumstances exist and that the property is qualified for the SER Program;
- Applicant and/or Employer(s) must be paying a Living Wage to each employee; and
- The application must be made before November 30, 2018.

Additional Qualifications and requirements set forth in the current SER application

- The facility must be 20 years of age or older.
- The applicant must be able to show evidence of three (3) of the thirteen (13) factors of blight as defined by the Illinois Tax Increment Allocation Act (Conservation Area).
- The area where the facility is located should have above average industrial vacancy rate when compared to the overall vacancy rate for the entire Chicagoland industrial market.
- The applicant must provide an explanation and financial analysis detailing why the SER incentive is necessary for the company to maintain operations at its current location. The financial analysis must compare the operations of the company with and without the incentive including a return on investment analysis.
- The company may be requested to meet with the Cook County Bureau of Economic Development and/or its agents on an annual basis to verify the Applicant’s operations while the SER is in effect.
- The industrial enterprise must occupy a minimum 51% of the property (“substantial occupancy”).
- The company must file an annual report that states that the Applicant’s industrial enterprise continues to occupy the property and that the Applicant is in compliance with the substantial occupancy requirement.
- The application contains a recapture provision, which states that, in the event of a termination, the Owner “shall be personally liable for and shall reimburse to the County Collector an amount equal to the difference, if any, in the amount of taxes that would have been collected had the subject property been assessed as a Class 5 property and the amount of taxes actually billed and collected under the Class 6b classification for the tax year in which the incentive was revoked or cancelled” .

Process

It should also be noted that the process to apply for a 6b under SER is more involved than a standard 6b. The SER application should include a completed SER application along with all supporting documents required for CCBED review. The first review is done by the CCBED Staff. Applications will then be submitted to the Economic Development Advisory Committee (EDAC). A formal package will then be submitted to the Board

of Commissioners for consideration. Upon Cook County Board approval, a resolution is then submitted to the Assessor's office along with the Municipality's resolution for the final approval of the SER.

Cause for early termination of incentive

The term of the Class 6b SER incentive will be the customary 12 years or when the SER Applicant vacates the property, whichever is sooner. Per the ordinance and application the Class 6b designation under SER Program may be terminated by the Assessor for any of the following circumstances:

- Failure to file the required annual affidavit prior to the filing deadline; and
- Failure to comply with the Class 6b requirements of occupancy by the same industrial enterprise that occupied the premises at the time of the SER application.
- Failure to maintain the property in substantial compliance with all applicable local building, safety, and health codes and requirements

It is hoped that these new rules will help deter businesses from moving to locations outside Cook County where commercial and industrial property taxes are generally less expensive.

¹ The term "blighted area" means an area "certified as in need of substantial revitalization" under the Cook County Classification Ordinance, an "enterprise community" or properties located in Bloom, Bremen, Calumet, Rich and Thornton Townships.