

**PROPOSED SUBSTITUTE TO FILE 17-9977
(Business and Economic Development Committee 12/13/2017))**

Sponsored by: TONI PRECKWINKLE, President, Cook County Board of Commissioners

PROPOSED ORDINANCE AMENDMENT

TAX INCENTIVE ORDINANCE

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 74 TAXATION, Sections 74-68 through 74-74 of the Cook County Code are hereby amended as follows:

Sec. 74-68. - Classification system to apply with tax assessment year.

(a) The incentive provisions of this Division provided to qualifying parcels of real estate for Class 6b, Class C, Class 7a, Class 7b, and Class 8 shall expire on December 31, 2025, unless otherwise reviewed by action of the County. Real estate granted a Class 6, Class 6a, Class 6b, Class 7, ~~or Class 8, Class 9, Class C, Class S or Class L~~ classification on or before April 15, 2017, and any renewals thereof, shall retain such classification under the terms and conditions of this Division prior to April 16, 2017. Real estate for which an application for Class 6a, Class 6b, Class 7, ~~or Class 8, Class 9, Class C, Class S or Class L~~ classification is filed with the Assessor on or before April 15, 2017, and which thereafter is determined by the Assessor to be eligible for the classification under the terms and conditions of this Division after April 16, 2017, and any renewals thereof, shall be entitled to receive such classification under such terms and conditions.

(b) Real estate granted a Class 6b, Class 6c, Class 7a, Class 7b or Class 8 classification on or before December 31, 1999, shall retain such classification under the terms and conditions of this Division prior to January 1, 2000. Real estate for which an application for Class 6b, Class 6c, Class 7a, Class 7b or Class 8 classification is filed with the Assessor on or before December 31, 1999, and which thereafter is determined by the Assessor to be eligible for classification under the terms and conditions of this Division existing prior to January 1, 2000, shall be entitled to receive such classification under such terms and conditions.

(c) Real Estate granted a Class 6b, Class 7a, Class 7b or Class 8 classification on or before December 31, 2004, shall retain such classification under the terms and conditions of the Ordinance prior to January 1, 2005. Real estate for which an application for Class 6b, Class 7a, Class 7b or Class 8 classification is filed with the Assessor on or before December 31, 2004, and which thereafter is determined by the Assessor to be eligible for classification under the terms and conditions of this Ordinance existing prior to January 1, 2005, shall be entitled to receive such classification under such terms and conditions.

(d) Notwithstanding any provision to the contrary and for purposes of clarity, the State and Federal wage law and Cook County Minimum Wage provisions of prior versions of Section 74-74 shall not apply to any real estate granted a Class 7, Class 8 commercial, Class C, Class S, Class L incentive classification nor to any pending application, renewal application or applicant for any such classification regardless of when the classification was granted, renewed or sought.

Sec. 74-71. - Laws regulating the payment of wages.

(a) For the purposes of this Section:

Property tax incentive means a reduction in the assessment level as set forth in Division 2 of this Article for Class 6b industrial property, Class 8 industrial property, or Class 9 multifamily residential property. "Property tax incentive" shall not include a Class 9 designation granted to supportive living facilities, which establish an alternative to nursing home care for low income older persons and persons with disabilities under Medicaid and which are certified by the State Department of Public Aid pursuant to Division 2 of this Article; and Sales tax means the Retailer's Occupation Tax, the Service Occupation Tax and/or the Use Tax.

~~(a)~~(b) Living wage requirement.

- (1) Unless expressly waived by the County Board, any Employer occupying a property that receives a property tax incentive for Class 6b industrial property, Class 8 industrial property, or Class 9 multifamily residential property shall pay not less than the Living Wage, as defined in the Cook County Procurement Code (Cook County, Ill., Code, Ch. 34, Art. IV, Div. 1 § 34-121), to each of its onsite Employees, unless such Employees' Wages are governed by Federal or State prevailing wage law. For purpose of this Section, the term "Employee" shall mean an Employee who performs duties or services for an Employer on average at least 30 hours per week in any two-week period for which the Employee is paid; "hours per week" shall mean hours for which an Employee is paid or entitled to payment by the Employer for a period of time during which no duties are performed by the Employee due to vacation, holiday, illness, incapacity, jury duty, military duty or approved leave of absence.
- (2) On and after July 1, 2020, the owner of any property that receives a property tax incentive shall notify all Employers who occupy such property as lessees of the Living Wage requirements of this Section. Upon commencement of a lease, on or after July 1, 2020, of a property that receives a property tax incentive, any new lessee shall be required to submit to the municipality or the Cook County Board, as the case may be, an affidavit stating that such lessee is paying a Living Wage to its Employees in compliance with this Section. Notwithstanding anything herein to the contrary, the Living Wage requirements ~~of this Section~~ shall not apply to an Employer who is a lessee and not an owner-occupant of a property that receives a Class 8 industrial property tax incentive or an Employer who was a lessee and not an owner-occupant of a property that receives a property tax incentive prior to July 1, 2020.
- (3) ~~This Section~~ The requirement to pay a Living Wage shall not apply to Employers that are not-for-profit organizations or funded by Federal grants or Federal loans or Employers who are lessees but are not owners of a property that receives a property tax incentive prior to ~~adoption of this amended Ordinance~~ July 1, 2020. Further, ~~this Section~~ the requirement to pay a Living Wage shall not apply to Employers who can demonstrate to the County Board that compliance with the requirements of this Section would cause such Employer to be in violation of the terms of a collective bargaining agreement between the Employer and a labor union.
- (4) Every Employer required to pay the Living Wage shall notify its Employees of the Living Wage requirements and shall notify all of its Employees annually of any adjustment to the Living Wage. In addition, the Employer shall notify its Employees that if any Employee contends that the Employer is not paying a Living Wage or has otherwise violated this section, that Employee may file a complaint with the Cook County Commissioner on Human Rights ("Commission"). The Commissioner shall investigate alleged violations of the Living Wage Ordinance and is authorized to adopt regulations for the proper administration and enforcement of its provisions. If at the conclusion of the Commission's investigation, the Commission finds that the Employer has violated this section, it shall (i) in the case of an Employer receiving a property tax incentive, notify the Assessor and the municipality, or the County, as the case may be; or (ii)

in the case of a Contractor or a subcontractor required to pay the Living Wage, notify the Chief Procurement Officer, who shall exercise such remedies as are in the best interest of the County, including ordering the Employer to pay back pay and penalties, as provided in this section.

- (5) If an Employer is found to be in violation of this section, such Employer may be required to pay back pay to each affected Employee, and may also be fined by the County up to \$100.00 for each affected Employee for each day paid at less than the Living Wage. Such penalties will not be imposed on any Person except after a hearing (Cook County, Ill., Code, Ch. 2, Art. IX). Further, if an Employer is found to be in violation of this section, the property tax incentive for this property is subject to revocation.
- (6) If an Employer is found to have retaliated against an affected Employee, the Employer's property tax incentive may be terminated unless such Employer appropriately reinstates or compensates such Employee.

~~(7) For the purposes of this Section:~~

~~Property tax incentive means a reduction in the assessment level as set forth in Division 2 of this Article for Class 6b industrial property, Class 8 industrial property, or Class 9 multifamily residential property. "Property tax incentive" shall not include a Class 9 designation granted to supportive living facilities, which establish an alternative to nursing home care for low income older persons and persons with disabilities under Medicaid and which are certified by the State Department of Public Aid pursuant to Division 2 of this Article; and Sales tax means the Retailer's Occupation Tax, the Service Occupation Tax and/or the Use Tax.~~

~~(8)~~(7) Living Wage Affidavit. Every municipality or the Cook County Board that provides a Resolution or Ordinance or authorized officer letter, as the case may be, to an applicant for a Class 6b industrial property or a Class 8 industrial property tax incentive shall maintain in its files and records documentation that such municipality or the County Board received and filed the Living Wage Affidavit submitted by the owner or lessee of such property stating that such owner or lessee is paying a Living Wage to its Employees in compliance with this Section. Further, an applicant or lessee of a Class 9 multifamily residential property tax incentive shall provide the municipality or the Cook County Board, as the case may be, a Living Wage Affidavit which shall be maintained by such municipality or the Cook County Board in its files and records. For purposes of clarity and notwithstanding anything herein to the contrary, Employers who are lessees and not owner-occupants shall not be required to comply with the requirements of this paragraph until on or after July 1, 2020. Further, the requirements of this paragraph shall not be applicable to a lessee of a property that receives a Class 8 industrial property tax incentive.

~~(b)~~(c) State or Federal Laws.

(1) Except where a Person has requested an exception from the Assessor and the County Board expressly finds that granting the exception is in the best interest of the County, such Person including any Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) shall be ineligible to receive any property tax incentive noted in Division 2 of this Article if, during the five-year period prior to the date of the application, such Person or Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois

Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.

- (2) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) who seeks a property tax incentive from the County as noted in Division 2 of this Article certifying that the Person or Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) has not violated the statutory provisions identified in Subsection ~~(a)~~(c)(1) of this Section.
- (3) If the County or Assessor becomes aware that a Person or Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages during the five-year period prior to the date of the application, but after the County has reclassified the Person's or Substantial Owner's (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) subject property under a property tax incentive classification, then, after notice from the Assessor of such violation, the Person or Substantial Owner shall have 45 days to cure its violation and request an exception or waiver from the Assessor. Failure to cure or obtain an exception or waiver of ineligibility from the Assessor shall serve as grounds for revocation of the classification as provided by the Assessor or by the County Board by Resolution or Ordinance. In case of revocation or cancellation, the Incentive Classification shall be deemed null and void for the tax year in which the incentive was revoked or cancelled as to the subject property. In such an instance, the taxpayer shall be liable for and shall reimburse to the County Collector an amount equal to the difference in the amount of taxes that would have been collected had the subject property not received the property tax incentive.

(d) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner who seeks a property tax incentive from the County that the applicant pays a Wage as defined in Section 42-8 to its employees in accordance with Sections 42-7 through 42-15 of the Cook County Code.

Sec. 74-72. - Compliance with laws.

(a) Beginning on July 1, 2018, Aan owner of real estate that is an applicant for an incentive under any Assessment Class for which a Resolution or Ordinance from the municipality or the County Board is required, or where an authorized officer letter is obtained in lieu of such Resolution or Ordinance, that describes why the incentive is necessary for the development to occur and that an Economic Disclosure Statement was received and filed by the municipality or the County Board, ~~or a lessee of such real estate is, hereby, required to conduct its business or activities comply in Cook County in compliance with the following all applicable ordinances, laws and regulations for as long as such owner or lessee occupies such real estate that is the recipient of an incentive, including, but not limited to, the following:~~

- (1) The Cook County Workforce Resource Ordinance (Cook County, Ill., Code, Ch. 2, Art. XIV) as applicable;

- (2) The Cook County Wage Theft Ordinance (Cook County, Ill., Code, Ch. 34, Art. IV, Div. 4 § 34-179);
- (3) The Cook County Human Rights Ordinance (Cook County, Ill., Code, Ch. 42, Art. II);
- (4) The Illinois Human Rights Act (775 ILCS 5/2-105);
- (5) Title VII and Title IX of the Civil Rights Act (42 USC § 2000e, et seq.);
- (6) The Age Discrimination in Employment Act (29 USC §§ 621-634); and
- (7) The Americans with Disabilities Act (42 USC §§ 12101-12213).

(b) Every municipality, or the Cook County Board as the case may be, that provides a Resolution or Ordinance or authorized officer letter to an applicant for an incentive under any Assessment Class shall maintain in its files and records documentation that such municipality, or the Cook County Board as the case may be, received and filed such applicant's Economic Disclosure Statement. Further, every municipality, or the Cook County Board as the case may be, that provides a Resolution or Ordinance or authorized officer letter shall require that the owner of real estate that is an applicant for an incentive under any Assessment Class, ~~or a lessee of such real estate~~, submit an affidavit, at the same time, to such municipality, or the Cook County Board as the case may be, that such ~~applicant~~ owner or lessee is in compliance in Cook County with ~~all~~ the laws listed in subsection (a) herein. ~~applicable laws.~~

Sec. 74-73. - Revocation or cancellation of incentive classification.

(a) The following Incentive Classifications are subject to revocation herein: Class 6b (special circumstances); Class 6b TEERM; Class 6b SER; Class 7a; Class 7b; Class 7c; Class 8; and Class 8 TEERM.

(b) The incentive may be revoked under the following circumstances:

1. By rule, as provided by the Assessor;
2. By the County Board by Resolution or Ordinance for property tax incentives awarded in unincorporated Cook County, which revocation is based on a report from the Bureau of Economic Development that has been approved by the Economic Development Advisory Committee of the County;
3. By the County Board by Resolution or Ordinance at the request of the Municipality by submission of a Municipal Resolution or Ordinance; and
4. By request of the taxpayer to cancel.

(c) A basis for revocation pursuant to Section 74-73(b)(2) or (b)(3) above includes, but is not limited to, the following:

1. Failure to comply with the requirements of Section 74-71 or 74-72;
2. Delinquency in the payment of any property taxes administered by Cook County or by a local municipality; or
3. Inaccuracies or omissions in documents submitted by the taxpayer, including, but not limited to, the application and the Economic Disclosure Statement.

Sec. 74-74 - Laws regulating the payment of wages and Employer Paid Sick Leave.

~~(a) Except where a Person has requested an exception from the Assessor and the County Board expressly finds that granting the exception is in the best interest of the County, such Person including any Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) shall be ineligible to receive any property tax incentive noted in Division 2 of this Article if, during the five-year period prior to the date of the application, such Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.~~

~~(b) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) who seeks is an applicant for a property tax incentive from the County as noted in Division 2 of this Article certifying that the Person or Substantial Owner (as defined in Part I, Chapter, Article V, Section 34-367 of the Cook County Code) has not violated the statutory provisions identified in Subsection (a) of this Section.~~

~~(c) If the County or Assessor becomes aware that a Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages during the five-year period prior to the date of the application, but after the County has reclassified the Person's or Substantial Owner's (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) subject property under a property tax incentive classification, then, after notice from the Assessor of such violation, the Person or Substantial Owner shall have 45 days to cure its violation and request an exception or waiver from the Assessor. Failure to cure or obtain an exception or waiver of ineligibility from the Assessor shall serve as grounds for revocation of the classification as provided by the Assessor or by the County Board by Resolution or Ordinance. In case of revocation or cancellation, the Incentive Classification shall be deemed null and void for the tax year in which the incentive was revoked or cancelled as to the subject property. In such an instance, the taxpayer shall be liable for and shall reimburse to the County Collector an amount equal to the difference in the amount of taxes that would have been collected had the subject property not received the property tax incentive.~~

~~(d) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner who seeks is an applicant for a property tax incentive from the County that the applicant pays a Wage as defined in Section 42-12 to its employees in accordance with Sections 42-11 through 42-19 of the Cook County Code.~~

Sec. 74-74 - Incentive Classification Affidavit Requirement Waiver.

(a) This Section shall apply to existing incentives classifications, pending applications and eligibility/renewal applications submitted during the 2017 and 2018 assessment year. The Assessor's Office shall liberally construe this Section to effectuate its intent as set forth in subsections (b) and (c) below.

(b) Compliance with the affidavit requirements of Sections 74-71(c), 74-71 (d), 74-72 and prior Sections 74-71(b) and 74-74 shall be waived for the 2017 and 2018 assessment years. Such waiver shall be lifted at the beginning of the 2019 assessment year and the affidavit requirements of Sections 74-71 and 74-72 that are then in effect shall be effective for the 2019 assessment year and subsequent assessment years.

(c) Existing incentives classifications, pending applications and eligibility/renewal applications submitted during the 2017 and 2018 assessment year shall not be suspended, revoked or terminated for failure to comply with the affidavit requirements of Sections 74-71(c), 74-71 (d), 74-72 and prior Sections 74-71(b) and 74-74, and all affidavits submitted pursuant to such Sections shall be considered void for any purpose.

Effective date: This ordinance shall be in effect immediately upon adoption