

HOUSE BILL 858

C8, Q3

6lr0380

By: **Delegates Smith, Anderson, Fennell, C. Howard, Luedtke, Morales, Platt, Simonaire, A. Washington, and M. Washington**

Introduced and read first time: February 8, 2016

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Enterprise Zone Income Tax Credit – Expansion**

3 FOR the purpose of altering the definition of “economically disadvantaged individual” to
4 include certain qualified ex–felons for purposes of the State income tax credit
5 authorized for certain business entities that hire certain economically disadvantaged
6 individuals in certain enterprise zones; defining a certain term; providing for the
7 application of this Act; and generally relating to a State income tax credit for
8 business entities hiring certain individuals in certain enterprise zones.

9 BY repealing and reenacting, with amendments,
10 Article – Tax – General
11 Section 10–702
12 Annotated Code of Maryland
13 (2010 Replacement Volume and 2015 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Tax – General**

17 10–702.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) (i) “Business entity” means:

20 1. a person conducting or operating a trade or business; or

21 2. an organization that is exempt from taxation under §
22 501(c)(3) or (4) of the Internal Revenue Code.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) “Business entity” does not include a person owning, operating,
2 developing, constructing, or rehabilitating property intended for use primarily as single or
3 multifamily residential property located within the enterprise zone.

4 (3) (i) “Enterprise zone” has the meaning stated in § 5–701 of the
5 Economic Development Article.

6 (ii) “Enterprise zone” includes a Regional Institution Strategic
7 Enterprise zone established under Title 5, Subtitle 14 of the Economic Development Article.

8 (4) (I) “Economically disadvantaged individual” means an individual
9 who is certified by provisions that the Department of Labor, Licensing, and Regulation
10 adopts as an individual who, before becoming employed by a business entity in an
11 enterprise zone:

12 [(i)] 1. was both unemployed for at least 30 consecutive days and
13 qualified to participate in training activities for the economically disadvantaged under the
14 federal Workforce Investment Act or its successor; or

15 [(ii)] 2. in the absence of an applicable federal act, met the criteria
16 for an economically disadvantaged individual that the Secretary of Labor, Licensing, and
17 Regulation sets.

18 (II) **“ECONOMICALLY DISADVANTAGED INDIVIDUAL” INCLUDES**
19 **A QUALIFIED EX–FELON.**

20 (5) “Focus area” has the meaning stated in § 5–701 of the Economic
21 Development Article.

22 (6) “Focus area employee” means an individual who:

23 (i) is a new employee or an employee rehired after being laid off for
24 more than 1 year by a business entity;

25 (ii) is employed by a business entity at least 35 hours each week for
26 at least 12 months before or during the taxable year for which the entity claims a credit;

27 (iii) spends at least 50 percent of the hours under item (ii) of this
28 paragraph either in the focus area or on activities of the business entity resulting directly
29 from its location in the focus area;

30 (iv) is hired by the business entity after the later of:

31 1. the date on which the focus area is designated; or

1 2. the date on which the business entity located in the focus
2 area; and

3 (v) earns at least 150 percent of the federal minimum wage.

4 (7) “Qualified employee” means an individual who:

5 (i) is a new employee or an employee rehired after being laid off for
6 more than 1 year by a business entity;

7 (ii) is employed by a business entity at least 35 hours each week for
8 at least 6 months before or during the taxable year for which the entity claims a credit;

9 (iii) spends at least 50% of the hours under item (ii) of this paragraph,
10 either in the enterprise zone or on activities of the business entity resulting directly from
11 its location in the enterprise zone;

12 (iv) earns at least 150% of the federal minimum wage; and

13 (v) is hired by the business entity after the later of:

14 1. the date on which the enterprise zone is designated; or

15 2. the date on which the business entity locates in the
16 enterprise zone.

17 (8) (I) “QUALIFIED EX-FELON” HAS THE MEANING STATED IN §
18 51(D)(4) OF THE INTERNAL REVENUE CODE.

19 (II) “QUALIFIED EX-FELON” DOES NOT INCLUDE:

20 1. AN INDIVIDUAL WHO IS THE SPOUSE OF, OR HAS ANY
21 RELATIONSHIP SPECIFIED IN § 152 OF THE INTERNAL REVENUE CODE TO, A
22 PERSON WHO CONTROLS, DIRECTLY OR INDIRECTLY, MORE THAN 50% OF THE
23 OWNERSHIP OF THE BUSINESS ENTITY THAT EMPLOYS THE EX-FELON;

24 2. AN INDIVIDUAL WHO IS REQUIRED TO REGISTER
25 UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE;

26 3. AN INDIVIDUAL WHO IS CONVICTED OF AN OFFENSE
27 UNDER TITLE 2, SUBTITLE 2 OF THE CRIMINAL LAW ARTICLE; OR

28 4. AN INDIVIDUAL WHO IS CONVICTED OF A VIOLENT
29 CRIME.

1 (b) (1) Any business entity that is located in an enterprise zone and satisfies
2 the requirements of § 5–707 of the Economic Development Article may claim a credit only
3 against the State income tax for the wages specified in subsections (c) and (d) of this section
4 that are paid in the taxable year for which the entity claims the credit.

5 (2) A business entity that is located in a focus area and satisfies the
6 requirements of § 5–707 of the Economic Development Article may claim a credit only
7 against the State income tax for the wages specified in subsection (e) of this section that
8 are paid to a focus area employee in the taxable year for which the entity claims the credit.

9 (3) An organization that is exempt from taxation under § 501(c)(3) or (4) of
10 the Internal Revenue Code may apply the credit under this section as a credit against
11 income tax due on unrelated business taxable income as provided under §§ 10–304 and
12 10–812 of this title.

13 (c) If a business entity does not claim an enhanced tax credit under subsection (e)
14 of this section for a focus area employee, for the taxable year in which a business entity
15 satisfies the requirements of § 5–707 or § 5–1406 of the Economic Development Article, a
16 credit is allowed that equals:

17 (1) up to \$3,000 of the wages paid to each qualified employee who:

18 (i) is an economically disadvantaged individual; and

19 (ii) is not hired to replace an individual whom the business entity
20 employed in that or any of the 3 preceding taxable years; and

21 (2) up to \$1,000 of the wages paid to each qualified employee who:

22 (i) is not an economically disadvantaged individual; and

23 (ii) is not hired to replace an individual whom the business entity
24 employed in that or any of the 3 preceding taxable years.

25 (d) (1) If a business entity does not claim an enhanced tax credit under
26 subsection (e) of this section for a focus area employee, for each taxable year after the
27 taxable year described in subsection (c) of this section, while the area is designated an
28 enterprise zone, a credit is allowed that equals:

29 (i) up to \$3,000 of the wages paid to each qualified employee who:

30 1. is an economically disadvantaged individual;

31 2. became a qualified employee during the taxable year to
32 which the credit applies; and

1 3. is not hired to replace an individual whom the business
2 entity employed in that or any of the 3 preceding taxable years;

3 (ii) up to \$2,000 of the wages paid to each qualified employee who is
4 an economically disadvantaged individual, if the business entity received a credit under
5 subsection (c)(1) of this section for the qualified employee in the immediately preceding
6 taxable year; and

7 (iii) up to \$1,000 of the wages paid to each qualified employee who is
8 not hired to replace an individual whom the business entity employed in that or any of the
9 3 preceding taxable years if the qualified employee:

10 1. is an economically disadvantaged individual for whom the
11 business entity received a credit under subsection (c)(1) of this section or item (i) of this
12 paragraph and a credit under item (ii) of this paragraph in the 2 immediately preceding
13 taxable years; or

14 2. is not an economically disadvantaged individual but
15 became a qualified employee during the taxable year to which the credit applies.

16 (2) A business entity that hires a qualified employee to replace another
17 qualified employee for whom the business entity received a credit under subsection (c)(1) of
18 this section and paragraph (1)(ii) of this subsection in the immediately preceding taxable
19 year may treat the new qualified employee as the replacement for the other qualified
20 employee to determine any credit that may be available to the business entity under
21 paragraph (1)(ii) or (iii) of this subsection.

22 (e) (1) For the taxable year in which a business entity satisfies the
23 requirements of §§ 5-706 and 5-707 or § 5-1406 of the Economic Development Article, a
24 credit is allowed that equals:

25 (i) up to \$4,500 of the wages paid to each focus area employee who:

26 1. is an economically disadvantaged individual; and

27 2. is not hired to replace an individual whom the business
28 entity employed in that year or any of the 3 preceding taxable years; and

29 (ii) up to \$1,500 of the wages paid to each focus area employee who:

30 1. is not an economically disadvantaged individual; and

31 2. is not hired to replace an individual whom the business
32 entity employed in that year or any of the 3 preceding taxable years.

33 (2) For each taxable year after the taxable year described in paragraph (1)
34 of this subsection, while the area is designated a focus area, a credit is allowed that equals:

1 (i) up to \$4,500 of the wages paid to each focus area employee who:

2 1. is an economically disadvantaged individual;

3 2. became a focus area employee during the taxable year to
4 which the credit applies; and

5 3. is not hired to replace an individual whom the business
6 entity employed in that year or any of the 3 preceding taxable years;

7 (ii) up to \$3,000 of the wages paid to each focus area employee who
8 is an economically disadvantaged individual, if the business entity received a credit under
9 paragraph (1)(i) of this subsection for the focus area employee in the immediately preceding
10 taxable year; and

11 (iii) up to \$1,500 of the wages paid to each focus area employee who
12 is not hired to replace an individual whom the business entity employed in that year or any
13 of the 3 preceding taxable years if the focus area employee:

14 1. is an economically disadvantaged individual for whom the
15 business entity received a credit under item (ii) of this paragraph in the 2 immediately
16 preceding taxable years and under:

17 A. paragraph (1)(i) of this subsection; or

18 B. item (i) of this paragraph; or

19 2. is not an economically disadvantaged individual but
20 became a focus area employee during the taxable year to which the credit applies.

21 (3) A business entity that hires a focus area employee to replace another
22 focus area employee for whom the business entity received a credit under paragraph (1)(i)
23 of this subsection and paragraph (2)(ii) of this subsection in the immediately preceding
24 taxable year may treat the focus area employee as the replacement for the other focus area
25 employee to determine any credit that may be available to the business entity under
26 paragraph (2)(ii) or (iii) of this subsection.

27 (f) If the credit allowed under this section in any taxable year exceeds the State
28 income tax for that taxable year, a business entity may apply the excess as a credit against
29 the State income tax for succeeding taxable years until the earlier of:

30 (1) the full amount of the excess is used; or

31 (2) the expiration of the 5th taxable year from the date on which the
32 business entity hired the qualified employee to whom the credit first applies.

1 (g) If a credit is claimed under this section, the claimant must make the addition
2 required in § 10–205, § 10–206, or § 10–306 of this title.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2016, and shall be applicable to all taxable years beginning after December 31, 2015.