

HOUSE BILL 872

C8, Q1, Q3

7lr0204

By: **Chair, Ways and Means Committee (By Request – Departmental – Commerce)**

Introduced and read first time: February 6, 2017

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Credits – Enterprise Zones, RISE Zones, and Maryland Jobs Development**
3 **Projects**

4 FOR the purpose of altering the length of time the designation of an enterprise zone is
5 effective; altering the length of time that an enterprise zone designation and certain
6 benefits under the enterprise zone program last; repealing the authority to claim
7 certain income tax credits under the enterprise zone program; altering one of the
8 units of State government responsible for the assessment of the enterprise zone
9 program; requiring each political subdivision in which an enterprise zone is located
10 to submit a certain annual report; altering the income tax credit available under the
11 Regional Institution Strategic Enterprise Zone program; establishing the Maryland
12 Jobs Development Tax Credit; authorizing the Department of Commerce to
13 designate certain eligible tax credit projects to authorize a qualified business entity
14 operating the project to receive certain credits against certain State taxes; requiring
15 certain business entities to apply for the credit in a certain manner; providing for the
16 calculation of the credit and number of years the credit may be claimed; making the
17 credit refundable; authorizing the Department to make a certain designation;
18 authorizing the Secretary of Commerce to determine that a project is a certain high
19 impact economic development project; authorizing the Secretary to determine the
20 amount and term of tax credits issued to certain high impact economic development
21 projects; authorizing the tax credits to be claimed against certain State taxes;
22 providing for the recapture of the tax credits under certain circumstances;
23 authorizing the Secretary to establish certain regulations; requiring the Department
24 to submit a certain report; making conforming changes; defining certain terms;
25 providing for the application of this Act; and generally relating to certain tax credits.

26 BY repealing and reenacting, without amendments,
27 Article – Economic Development
28 Section 1–101(a), (c), and (f)
29 Annotated Code of Maryland
30 (2008 Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY repealing and reenacting, with amendments,
2 Article – Economic Development
3 Section 2.5–109(a), 5–704(b), 5–706(a), 5–707, 5–709, and 5–1406(a)
4 Annotated Code of Maryland
5 (2008 Volume and 2016 Supplement)
- 6 BY adding to
7 Article – Economic Development
8 Section 6–801 through 6–811 to be under the new subtitle “Subtitle 8. Maryland Jobs
9 Development Tax Credit”
10 Annotated Code of Maryland
11 (2008 Volume and 2016 Supplement)
- 12 BY adding to
13 Article – Insurance
14 Section 6–123
15 Annotated Code of Maryland
16 (2011 Replacement Volume and 2016 Supplement)
- 17 BY adding to
18 Article – Tax – General
19 Section 8–222 and 10–741
20 Annotated Code of Maryland
21 (2016 Replacement Volume)
- 22 BY repealing
23 Article – Tax – General
24 Section 10–702
25 Annotated Code of Maryland
26 (2016 Replacement Volume)
- 27 BY repealing
28 Article – Tax – Property
29 Section 9–103(e)(3)
30 Annotated Code of Maryland
31 (2012 Replacement Volume and 2016 Supplement)
- 32 BY repealing and reenacting, with amendments,
33 Article – Tax – Property
34 Section 9–103(e)(4)
35 Annotated Code of Maryland
36 (2012 Replacement Volume and 2016 Supplement)

1 WHEREAS, Recent studies by the Tax Credit Evaluation Committee and the
2 Maryland Economic Development and Business Climate Commission have highlighted
3 concerns regarding the cost and effectiveness of tax credits provided as incentives to
4 businesses to locate or expand in the State; and

5 WHEREAS, The State's business incentives should focus on creating full-time,
6 permanent jobs paying family supporting wages; and

7 WHEREAS, Business incentive programs should recognize and reflect the positive
8 impact of new and expanded business activities in the State's rural or economically
9 distressed areas; and

10 WHEREAS, Maryland possesses enviable assets, such as a highly educated
11 workforce, strong transportation and distribution networks, numerous military and federal
12 facilities, cultural amenities, and quality of life activities, that make starting, expanding,
13 and locating a business in the State attractive; and

14 WHEREAS, The competition for attracting and retaining business headquarters and
15 expansions is fierce, with many states offering incentives that outstrip Maryland's capacity
16 to offer competitive job creation incentives; and

17 WHEREAS, The State's tax incentive programs are in need of comprehensive
18 revision to make them more responsive to current business needs and market conditions,
19 particularly to promote the location and expansion in, and to assist businesses located
20 within enterprise zones, RISE zones, and in rural areas; now, therefore,

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

23 **Article – Economic Development**

24 1–101.

25 (a) In this division the following words have the meanings indicated.

26 (c) “Department” means the Department of Commerce.

27 (f) “Secretary” means the Secretary of Commerce.

28 2.5–109.

29 (a) In this section, “economic development program” means:

30 (1) the Economic Development Opportunities Program Account
31 established under § 7–314 of the State Finance and Procurement Article;

1 (2) the Partnership for Workforce Quality Program established under Title
2 3, Subtitle 4 of this article;

3 (3) each of the economic development and financial assistance programs
4 established under Title 5 of this article; and

5 (4) each of the tax credit programs administered by the Department,
6 including:

7 (i) the Film Production Activity Tax Credit;

8 (ii) the Job Creation Tax Credit;

9 (iii) the One Maryland Economic Development Tax Credit;

10 (iv) the Biotechnology Investment Incentive Tax Credit;

11 (v) the Research and Development Tax Credit;

12 (vi) the Security Clearance Administrative Expenses and
13 Construction and Equipment Costs Tax Credit;

14 (vii) the Cybersecurity Investment Incentive Tax Credit; [and]

15 (viii) the Aerospace, Electronics, or Defense Contract Tax Credit; AND

16 **(IX) THE MARYLAND JOBS DEVELOPMENT TAX CREDIT.**

17 5-704.

18 (b) (1) Within 60 days after a submission date, the Secretary may designate
19 one or more enterprise zones from among the areas described in the applications timely
20 submitted.

21 (2) The designation of an area as an enterprise zone is effective for [10] 5
22 years.

23 (3) The Secretary may not designate more than six enterprise zones in a
24 calendar year.

25 (4) A county may not receive more than two enterprise zones in a calendar
26 year.

27 5-706.

28 (a) A political subdivision may request the Secretary to designate all or part of an
29 enterprise zone as a focus area for the lesser of:

1 (1) 5 years; or

2 (2) the remainder of the [10-year] term of the applicable enterprise zone.

3 5-707.

4 (a) To the extent provided for in this section, a business entity is entitled to:

5 (1) the special property tax credit in § 9-103 of the Tax – Property Article;

6 AND

7 (2) [the income tax credits in § 10-702 of the Tax – General Article; and

8 (3)] consideration for financial assistance from programs in Subtitle 1 of
9 this title.

10 (b) A business entity that moves into or locates in an enterprise zone on or after
11 the date that the enterprise zone is designated under § 5-704 of this subtitle may benefit
12 from the incentives and initiatives in this section if:

13 (1) the business entity meets the requirements and conditions of the Code
14 section applicable to each incentive or initiative;

15 (2) the respective political subdivision certifies that the business entity has
16 complied with the standards that the subdivision submitted under § 5-703(b)(5) of this
17 subtitle;

18 (3) the business entity [creates new or additional jobs or] makes a capital
19 investment to qualify for the property tax credit under § 9-103 of the Tax – Property Article
20 [and the income tax credits under § 10-702 of the Tax – General Article]; and

21 (4) in considering whether the business entity qualifies for financial
22 assistance from the programs in Subtitle 1 of this title, the Secretary determines that the
23 business entity will create new or additional jobs.

24 (c) The incentives and initiatives provided for in this section are not available to
25 a business entity that:

26 (1) was in an enterprise zone before the date that the enterprise zone is
27 designated, except for a capital investment or expansion of its labor force that occurs on or
28 after the enterprise zone is designated; or

29 (2) is located in an enterprise zone that was designated under federal law
30 unless the Secretary and the Board of Public Works consent to the designation.

1 (d) (1) Except as provided in [§ 10–702 of the Tax – General Article and] §
2 9–103 of the Tax – Property Article, the incentives and initiatives set forth in this section
3 are available for [10] 5 years after the date that an area is designated an enterprise zone.

4 (2) A law enacted after the enactment of this section that eliminates or
5 reduces the benefits available to a business entity under this section does not apply to a
6 business entity that was in an enterprise zone before the effective date of the law.

7 (e) (1) (i) Notwithstanding subsection (d) of this section, except for a
8 business entity certified to receive a property tax credit under § 9–103 of the Tax – Property
9 Article for a tax year beginning before July 1, 2008, a business entity located in an
10 enterprise zone may not receive the incentives and initiatives set forth in subsection (a)(1)
11 and (2) of this section if the entity is located on land or within improvements owned by the
12 federal government, the State, a county, or a municipal corporation unless the business
13 entity has first utilized all applicable property tax exemptions under Title 7 of the Tax –
14 Property Article, including entering into any available payment in lieu of tax agreement.

15 (ii) Subparagraph (i) of this paragraph does not apply to a business
16 entity leasing land or improvements owned by the Maryland Economic Development
17 Corporation.

18 (2) Notwithstanding subsection (d) of this section, a business entity located
19 in a BRAC Revitalization and Incentive Zone established under Subtitle 13 of this title may
20 not receive the property tax credit under § 9–103 of the Tax – Property Article unless:

21 (i) the business entity qualified for the property tax credit before the
22 date that the BRAC Revitalization and Incentive Zone is designated; or

23 (ii) the political subdivision where the business entity is located
24 expressly grants the property tax credit to the business entity.

25 5–709.

26 (a) The Department and the [Comptroller] **STATE DEPARTMENT OF**
27 **ASSESSMENTS AND TAXATION** jointly shall assess each year the effectiveness of the tax
28 credits provided to business entities in enterprise zones and focus areas in enterprise zones,
29 including:

30 (1) the number and amounts of credits granted each year; and

31 (2) the success of the tax credits in attracting and retaining business
32 entities in enterprise zones and focus areas.

33 **(B) (1) TO ASSIST IN THE ASSESSMENT REQUIRED UNDER SUBSECTION**
34 **(A) OF THIS SECTION, EACH POLITICAL SUBDIVISION IN WHICH AN ENTERPRISE**
35 **ZONE IS LOCATED SHALL SUBMIT TO THE DEPARTMENT AND TO THE STATE**

1 DEPARTMENT OF ASSESSMENTS AND TAXATION A DETAILED REPORT ON EACH
2 ZONE WITHIN ITS BOUNDARIES.

3 (2) (I) IF A POLITICAL SUBDIVISION FAILS TO PROVIDE THE
4 REPORT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT
5 SHALL NOTIFY THE POLITICAL SUBDIVISION THAT THE REPORT IS DUE.

6 (II) IF, AFTER THE DEPARTMENT HAS PROVIDED THE NOTICE
7 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, A POLITICAL SUBDIVISION
8 FAILS TO PROMPTLY PROVIDE THE REQUESTED REPORT, THE DEPARTMENT MAY
9 REVOKE THE DESIGNATION OF AN ENTERPRISE ZONE THAT IS THE SUBJECT OF THE
10 REQUESTED REPORT.

11 [(b)] (C) On or before December 15 of each year, the Department and the
12 [Comptroller] STATE DEPARTMENT OF ASSESSMENTS AND TAXATION shall submit to
13 the Governor and, in accordance with § 2–1246 of the State Government Article, the
14 General Assembly a report outlining the findings of the Department and the [Comptroller]
15 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION and any other information of
16 value in determining the effectiveness of the tax credits provided under § 5–707(b) of this
17 subtitle.

18 5–1406.

19 (a) [(1)] To the extent provided for in this section, a business entity that locates
20 in a RISE zone is entitled to:

21 [(i)] (1) the property tax credit under § 9–103.1 of the Tax –
22 Property Article;

23 [(ii)] (2) [the income tax credit under § 10–702 of the Tax – General
24 Article] THE MARYLAND JOBS DEVELOPMENT TAX CREDIT UNDER TITLE 6,
25 SUBTITLE 8 OF THIS ARTICLE; and

26 [(iii)] (3) priority consideration for financial assistance from
27 programs in Subtitle 1 of this title.

28 [(2)] For purposes of the income tax credit authorized under paragraph (1)(ii)
29 of this subsection, the business entity is treated as being located in an enterprise zone.]

30 SUBTITLE 8. MARYLAND JOBS DEVELOPMENT TAX CREDIT.

31 6–801.

1 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(B) “CREDIT YEAR” MEANS THE TAXABLE YEAR IN WHICH A QUALIFIED**
4 **BUSINESS ENTITY CLAIMS THE MARYLAND JOBS DEVELOPMENT TAX CREDIT**
5 **ALLOWED IN ACCORDANCE WITH THIS SUBTITLE.**

6 **(C) “HIGH IMPACT ECONOMIC DEVELOPMENT PROJECT” MEANS A PROJECT**
7 **DESIGNATED BY THE SECRETARY UNDER § 6-806 OF THIS SUBTITLE AS HAVING A**
8 **SUBSTANTIAL EFFECT ON THE STATE AND LOCAL ECONOMY.**

9 **(D) “MARYLAND JOBS DEVELOPMENT TAX CREDIT” MEANS A CREDIT**
10 **AGAINST THE STATE:**

11 **(1) INCOME TAX ASSESSED AGAINST INDIVIDUALS OR**
12 **CORPORATIONS;**

13 **(2) INSURANCE PREMIUM TAX; OR**

14 **(3) FINANCIAL INSTITUTIONS FRANCHISE TAX.**

15 **(E) “MARYLAND JOBS DEVELOPMENT TAX CREDIT PROJECT” MEANS A**
16 **PROJECT THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE AND IS DESIGNATED**
17 **AS AN ELIGIBLE TAX CREDIT PROJECT BY THE DEPARTMENT UNDER § 6-803 OF THIS**
18 **SUBTITLE.**

19 **(F) “QUALIFIED BUSINESS ENTITY” MEANS A PERSON CONDUCTING OR**
20 **OPERATING A TRADE OR BUSINESS IN THE STATE THAT IS CERTIFIED IN**
21 **ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AS QUALIFYING FOR THE**
22 **MARYLAND JOBS DEVELOPMENT TAX CREDIT UNDER THIS SUBTITLE.**

23 **(G) (1) “QUALIFIED POSITION” MEANS A POSITION THAT:**

24 **(I) IS FULL-TIME AND OF INDEFINITE DURATION;**

25 **(II) PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;**

26 **(III) IS LOCATED IN THE STATE;**

27 **(IV) IS NEWLY CREATED AT A SINGLE ESTABLISHMENT IN THE**
28 **STATE; AND**

29 **(V) IS FILLED.**

1 **(2) “QUALIFIED POSITION” DOES NOT INCLUDE A POSITION THAT IS:**

2 **(I) CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED**
3 **FROM AN EXISTING BUSINESS ESTABLISHMENT OF A BUSINESS ENTITY IN THE STATE**
4 **TO ANOTHER BUSINESS ESTABLISHMENT OF THE SAME BUSINESS ENTITY IF THE**
5 **POSITION IS NOT A NET NEW JOB IN THE STATE;**

6 **(II) CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE**
7 **OR BUSINESS;**

8 **(III) CREATED THROUGH A CONSOLIDATION, MERGER, OR**
9 **RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN**
10 **THE STATE;**

11 **(IV) CREATED WHEN AN EMPLOYMENT FUNCTION IS**
12 **CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY TO ANOTHER**
13 **BUSINESS ENTITY IN THE STATE IF THE POSITION IS NOT A NET NEW JOB IN THE**
14 **STATE; OR**

15 **(V) FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.**

16 **(H) “RISE ZONE” MEANS A REGIONAL INSTITUTION STRATEGIC**
17 **ENTERPRISE ZONE DESIGNATED UNDER TITLE 5, SUBTITLE 14 OF THIS ARTICLE.**

18 **(I) “TIER I” MEANS A DESIGNATION MADE BY THE DEPARTMENT THAT A**
19 **COUNTY MEETS THE REQUIREMENTS FOR A TIER I DESIGNATION UNDER § 6-805 OF**
20 **THIS SUBTITLE.**

21 **(J) “TIER II” MEANS A DESIGNATION MADE BY THE DEPARTMENT THAT A**
22 **COUNTY MEETS THE REQUIREMENTS FOR A TIER II DESIGNATION UNDER §**
23 **6-805 OF THIS SUBTITLE.**

24 **6-802.**

25 **(A) (1) THERE IS A MARYLAND JOBS DEVELOPMENT TAX CREDIT**
26 **PROGRAM IN THE DEPARTMENT.**

27 **(2) THE DEPARTMENT MAY DESIGNATE ELIGIBLE TAX CREDIT**
28 **PROJECTS TO PERMIT QUALIFIED BUSINESS ENTITIES TO RECEIVE MARYLAND**
29 **JOBS DEVELOPMENT TAX CREDITS FOR CREATING A MINIMUM NUMBER OF**
30 **QUALIFIED POSITIONS OR FOR CARRYING OUT A HIGH IMPACT ECONOMIC**
31 **DEVELOPMENT PROJECT IN THE STATE.**

1 **(B) A BUSINESS ENTITY THAT IS RECEIVING BENEFITS UNDER THE ONE**
2 **MARYLAND TAX CREDIT PROGRAM, THE JOB CREATION TAX CREDIT PROGRAM,**
3 **OR INCOME TAX BENEFITS UNDER THE ENTERPRISE ZONE PROGRAM IS NOT**
4 **ELIGIBLE TO RECEIVE BENEFITS UNDER THE TAX CREDIT PROGRAM UNDER THIS**
5 **SUBTITLE.**

6 **6-803.**

7 **(A) (1) TO QUALIFY FOR MARYLAND JOBS DEVELOPMENT TAX CREDITS,**
8 **A BUSINESS ENTITY SHALL APPLY TO THE DEPARTMENT FOR DESIGNATION OF A**
9 **PROJECT AS AN ELIGIBLE TAX CREDIT PROJECT AND SATISFY THE REQUIREMENTS**
10 **OF THIS SUBTITLE.**

11 **(2) A BUSINESS ENTITY IS ELIGIBLE FOR THE MARYLAND JOBS**
12 **DEVELOPMENT TAX CREDITS DESCRIBED IN § 6-804 OF THIS SUBTITLE IF THE**
13 **BUSINESS ENTITY:**

14 **(I) OPERATES OR WILL OPERATE A TRADE OR BUSINESS IN**
15 **CONNECTION WITH THE PROJECT IN AN ELIGIBLE INDUSTRY SECTOR, AS**
16 **DETERMINED BY THE DEPARTMENT IN CONSULTATION WITH THE MARYLAND**
17 **ECONOMIC DEVELOPMENT COMMISSION THAT:**

18 **1. IS IN A PRIORITY FUNDING AREA UNDER § 5-7B-02 OF**
19 **THE STATE FINANCE AND PROCUREMENT ARTICLE; OR**

20 **2. IS ELIGIBLE FOR FUNDING OUTSIDE OF A PRIORITY**
21 **FUNDING AREA UNDER § 5-7B-05 OR § 5-7B-06 OF THE STATE FINANCE AND**
22 **PROCUREMENT ARTICLE;**

23 **(II) 1. IN A TIER I COUNTY, DURING A 24-MONTH PERIOD**
24 **CREATES AT LEAST 10 QUALIFIED POSITIONS AT THE PROJECT LOCATION;**

25 **2. IN A TIER II COUNTY, DURING A 24-MONTH PERIOD**
26 **CREATES AT LEAST 20 QUALIFIED POSITIONS AT THE PROJECT LOCATION; OR**

27 **3. FOR A HIGH IMPACT ECONOMIC DEVELOPMENT**
28 **PROJECT, FULFILLS THE REQUIREMENTS DETERMINED BY THE SECRETARY UNDER**
29 **§ 6-806 OF THIS SUBTITLE; AND**

30 **(III) SUBMITS AN APPLICATION CONTAINING SUFFICIENT**
31 **INFORMATION TO ALLOW THE DEPARTMENT TO DETERMINE IF THE PROPOSED**
32 **PROJECT MEETS THE CRITERIA ESTABLISHED IN THIS SUBTITLE.**

1 **(3) AN APPLICATION SHALL SPECIFY:**

2 **(I) THE EFFECTIVE DATE OF THE START-UP OR EXPANSION;**

3 **(II) THE NUMBER OF FULL-TIME EMPLOYEES EXISTING BEFORE**
4 **THE START-UP OR EXPANSION AND THE PAYROLL OF THE EXISTING EMPLOYEES;**

5 **(III) THE NUMBER OF QUALIFIED POSITIONS CREATED AND**
6 **QUALIFIED EMPLOYEES HIRED AND THE PAYROLL OF THE NEW QUALIFIED**
7 **EMPLOYEES; AND**

8 **(IV) ANY OTHER INFORMATION THAT THE DEPARTMENT**
9 **REQUIRES.**

10 **(B) (1) A BUSINESS ENTITY MAY NOT BE CERTIFIED AS A QUALIFIED**
11 **BUSINESS ENTITY UNLESS THE BUSINESS ENTITY NOTIFIES THE DEPARTMENT OF**
12 **ITS INTENT TO SEEK DESIGNATION OF AN ELIGIBLE TAX CREDIT PROJECT PRIOR TO**
13 **HIRING ANY EMPLOYEES TO FILL THE QUALIFIED POSITIONS NECESSARY TO MEET**
14 **THE REQUIREMENTS OF THIS SECTION.**

15 **(2) A BUSINESS ENTITY MUST BEGIN HIRING THE EMPLOYEES TO FILL**
16 **THE QUALIFIED POSITIONS NECESSARY TO MEET THE REQUIREMENTS OF THIS**
17 **SECTION WITHIN 12 MONTHS AFTER IT NOTIFIES THE DEPARTMENT OF ITS INTENT**
18 **TO SEEK DESIGNATION OF AN ELIGIBLE TAX CREDIT PROJECT.**

19 **(C) (1) A QUALIFIED BUSINESS ENTITY MAY CLAIM A MARYLAND JOBS**
20 **DEVELOPMENT TAX CREDIT IN THE AMOUNT DETERMINED UNDER THIS SUBTITLE.**

21 **(2) A QUALIFIED BUSINESS ENTITY SHALL SUBMIT TO THE**
22 **APPROPRIATE STATE UNITS, WITH THE TAX RETURN ON WHICH THE CREDIT IS**
23 **CLAIMED, CERTIFICATION FROM THE DEPARTMENT THAT THE BUSINESS ENTITY**
24 **HAS MET THE REQUIREMENTS OF THIS SUBTITLE AND IS ELIGIBLE FOR THE**
25 **MARYLAND JOBS DEVELOPMENT TAX CREDIT.**

26 **(D) (1) IF THE CREDIT ALLOWED UNDER THIS SUBTITLE EXCEEDS THE**
27 **TOTAL TAX OTHERWISE DUE FROM A QUALIFIED BUSINESS ENTITY IN A TAXABLE**
28 **YEAR, THE QUALIFIED BUSINESS ENTITY MAY CLAIM A REFUND IN THE AMOUNT OF**
29 **THE EXCESS.**

30 **(2) THE CREDIT UNDER THIS SUBTITLE MAY NOT BE CARRIED BACK**
31 **TO A PRECEDING TAXABLE YEAR.**

1 **6-804.**

2 (A) A QUALIFIED BUSINESS ENTITY MAY CLAIM A MARYLAND JOBS
3 DEVELOPMENT TAX CREDIT IN THE AMOUNT DETERMINED UNDER THIS SECTION.

4 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND EXCEPT
5 AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE MARYLAND JOBS
6 DEVELOPMENT TAX CREDIT ALLOWED UNDER THIS SUBTITLE:

7 (I) FOR A QUALIFIED BUSINESS ENTITY OPERATING AN
8 ELIGIBLE TAX CREDIT PROJECT IN A TIER I COUNTY, IS THE LESSER OF:

9 1. 5.625% OF THE WAGES PAID TO EMPLOYEES IN
10 QUALIFIED POSITIONS DURING THE TAXABLE YEAR; OR

11 2. \$11,250 FOR EACH EMPLOYEE IN A QUALIFIED
12 POSITION DURING THE TAXABLE YEAR;

13 (II) FOR A QUALIFIED BUSINESS ENTITY OPERATING AN
14 ELIGIBLE TAX CREDIT PROJECT IN A TIER II COUNTY, IS THE LESSER OF:

15 1. 3.75% OF THE WAGES PAID TO EMPLOYEES IN
16 QUALIFIED POSITIONS DURING THE TAXABLE YEAR; OR

17 2. \$7,500 FOR EACH EMPLOYEE IN A QUALIFIED
18 POSITION DURING THE TAXABLE YEAR; OR

19 (III) FOR A QUALIFIED BUSINESS ENTITY OPERATING AN
20 ELIGIBLE TAX CREDIT PROJECT IN AN ENTERPRISE ZONE OR IN A RISE ZONE THAT
21 IS LOCATED IN A TIER II COUNTY, IS THE LESSER OF:

22 1. 5.625% OF THE WAGES PAID TO EMPLOYEES IN
23 QUALIFIED POSITIONS DURING THE TAXABLE YEAR; OR

24 2. \$11,250 FOR EACH EMPLOYEE IN A QUALIFIED
25 POSITION DURING THE TAXABLE YEAR.

26 (2) THE CREDIT UNDER THIS SUBTITLE FOR EACH DESIGNATED
27 ELIGIBLE TAX CREDIT PROJECT MAY NOT:

28 (I) EXCEED \$1,000,000 FOR ANY TAXABLE YEAR; OR

1 **(II) BE CLAIMED FOR MORE THAN 3 CONSECUTIVE TAXABLE**
2 **YEARS.**

3 **(C) A QUALIFIED BUSINESS ENTITY THAT CARRIES OUT A HIGH IMPACT**
4 **ECONOMIC DEVELOPMENT PROJECT IN THE STATE IS ELIGIBLE FOR A CREDIT IN**
5 **ACCORDANCE WITH THE PROVISIONS OF § 6-806 OF THIS SUBTITLE.**

6 **6-805.**

7 **(A) THE DEPARTMENT MAY DESIGNATE A COUNTY TO BE A TIER I COUNTY**
8 **IF THE COUNTY HAS:**

9 **(1) ANNUAL AVERAGE EMPLOYMENT THAT IS LESS THAN 75,000; OR**

10 **(2) MEDIAN HOUSEHOLD INCOME THAT IS LESS THAN TWO-THIRDS**
11 **OF THE STATEWIDE MEDIAN HOUSEHOLD INCOME.**

12 **(B) A COUNTY THAT IS NOT A COUNTY DESCRIBED IN SUBSECTION (A) OF**
13 **THIS SECTION IS A TIER II COUNTY.**

14 **(C) TO DETERMINE IF A COUNTY IS A TIER I COUNTY, THE DEPARTMENT**
15 **MAY CONSIDER THE MOST RECENT DATA PROVIDED BY THE UNITED STATES**
16 **BUREAU OF THE CENSUS, OR OTHER COMPARABLY RELIABLE DATA.**

17 **(D) THE DESIGNATION OF A COUNTY AS TIER I INDICATES THE HIGHEST**
18 **LEVEL OF NEED FOR ECONOMIC DEVELOPMENT INCENTIVES.**

19 **6-806.**

20 **(A) (1) THE SECRETARY MAY DESIGNATE A PROJECT TO BE A HIGH**
21 **IMPACT ECONOMIC DEVELOPMENT PROJECT IF THE SECRETARY FINDS THAT THE**
22 **PROJECT IS EXPECTED TO HAVE A SUBSTANTIAL POSITIVE IMPACT ON THE STATE**
23 **AND LOCAL ECONOMY.**

24 **(2) TO MAKE THE DETERMINATION THAT A PROJECT IS A HIGH**
25 **IMPACT ECONOMIC DEVELOPMENT PROJECT, THE SECRETARY MAY CONSIDER ALL**
26 **RELEVANT FACTORS, INCLUDING:**

27 **(I) THE NUMBER AND TYPES OF JOBS TO BE CREATED OR**
28 **RETAINED BY THE PROJECT;**

29 **(II) THE CAPITAL INVESTMENT TO BE EXPENDED IN**
30 **CONNECTION WITH THE PROJECT;**

1 (III) THE IMPACT THAT THE PROJECT WOULD HAVE ON THE
2 LOCAL ECONOMY AND THE COMMUNITY; AND

3 (IV) THE LIKELIHOOD THAT THE PROJECT WILL CREATE
4 ADDITIONAL ECONOMIC DEVELOPMENT IN THE REGION AND THE STATE.

5 (B) THE SECRETARY MAY DETERMINE THE AMOUNT AND TERM OF
6 MARYLAND JOBS DEVELOPMENT TAX CREDITS FOR A HIGH IMPACT ECONOMIC
7 DEVELOPMENT PROJECT.

8 (C) FOR ANY TAXABLE YEAR, A BUSINESS ENTITY MAY NOT QUALIFY FOR
9 MORE THAN ONE HIGH IMPACT ECONOMIC DEVELOPMENT PROJECT.

10 (D) THE SECRETARY MAY NOT APPROVE MORE THAN THREE HIGH IMPACT
11 ECONOMIC DEVELOPMENT PROJECTS IN ANY TAXABLE YEAR.

12 **6-807.**

13 (A) THE MARYLAND JOBS DEVELOPMENT TAX CREDITS MAY BE CLAIMED
14 AGAINST:

15 (1) THE INCOME TAX UNDER § 10-741 OF THE TAX - GENERAL
16 ARTICLE;

17 (2) THE FINANCIAL INSTITUTIONS FRANCHISE TAX UNDER § 8-222 OF
18 THE TAX - GENERAL ARTICLE; OR

19 (3) THE INSURANCE PREMIUM TAX UNDER § 6-123 OF THE
20 INSURANCE ARTICLE.

21 (B) FOR EACH CREDIT YEAR, THE AMOUNT OF MARYLAND JOBS
22 DEVELOPMENT TAX CREDITS THAT A QUALIFIED BUSINESS ENTITY MAY CLAIM
23 EQUALS THE LESSER OF:

24 (1) THE AMOUNT OF MARYLAND JOBS DEVELOPMENT TAX CREDIT
25 STATED IN THE CERTIFICATION OF ELIGIBILITY; OR

26 (2) THE AMOUNT DETERMINED UNDER § 6-804 OF THIS SUBTITLE.

27 **6-808.**

1 (A) THE DEPARTMENT MAY REVOKE ITS CERTIFICATION OF A CREDIT
2 UNDER THIS SUBTITLE, IN WHOLE OR IN PART, IF ANY REPRESENTATION IN
3 CONNECTION WITH THE APPLICATION FOR THE CERTIFICATION IS DETERMINED BY
4 THE DEPARTMENT TO HAVE BEEN FALSE WHEN MADE.

5 (B) THE STATE COMPTROLLER OR OTHER APPROPRIATE UNIT OF STATE
6 GOVERNMENT MAY MAKE AN ASSESSMENT AGAINST THE QUALIFIED BUSINESS
7 ENTITY TO RECAPTURE ANY AMOUNT OF THE TAX CREDIT THAT THE BUSINESS
8 ENTITY HAS CLAIMED.

9 **6-809.**

10 (A) THE DEPARTMENT MAY REQUIRE THAT ANY INFORMATION PROVIDED
11 UNDER THIS SUBTITLE BE VERIFIED BY AN INDEPENDENT CERTIFIED PUBLIC
12 ACCOUNTANT THAT THE QUALIFIED BUSINESS ENTITY AND THE DEPARTMENT
13 SELECT.

14 (B) (1) CLAIMING THE TAX CREDITS UNDER THIS SUBTITLE AUTHORIZES
15 THE STATE COMPTROLLER OR OTHER APPROPRIATE UNIT OF STATE GOVERNMENT
16 TO SHARE WITH THE DEPARTMENT ANY INFORMATION RECEIVED FROM A
17 QUALIFIED BUSINESS ENTITY ABOUT ELIGIBILITY FOR A CREDIT ALLOWED UNDER
18 THIS SUBTITLE.

19 (2) INFORMATION THAT IS RECEIVED UNDER PARAGRAPH (1) OF THIS
20 SUBSECTION IS SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS ESTABLISHED
21 BY STATUTE OR REGULATION THAT APPLY TO THE STATE COMPTROLLER OR UNIT
22 OF STATE GOVERNMENT THAT RECEIVES THE INFORMATION.

23 **6-810.**

24 THE SECRETARY MAY ESTABLISH BY REGULATION ANY OTHER
25 REQUIREMENTS NECESSARY AND APPROPRIATE TO CARRY OUT THIS SUBTITLE.

26 **6-811.**

27 IN ACCORDANCE WITH § 2.5-109 OF THIS ARTICLE, THE DEPARTMENT SHALL
28 SUBMIT A REPORT ON THE BUSINESS ENTITIES CERTIFIED AS ELIGIBLE FOR THE TAX
29 CREDITS AUTHORIZED UNDER THIS SUBTITLE IN THE PRECEDING FISCAL YEAR.

30 Article – Insurance

31 **6-123.**

1 (6) "Focus area employee" means an individual who:

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

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

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

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

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

11 2. the date on which the business entity located in the focus

12 area; and

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

14 (7) "Qualified employee" means an individual who:

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

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

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

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

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

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

25 2. the date on which the business entity locates in the

26 enterprise zone.

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

1 (2) A business entity that is located in a focus area and satisfies the
2 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 subsection (e) of this section that
4 are paid to a focus area employee in the taxable year for which the entity claims the credit.

5 (3) An organization that is exempt from taxation under § 501(c)(3) or (4) of
6 the Internal Revenue Code may apply the credit under this section as a credit against
7 income tax due on unrelated business taxable income as provided under §§ 10–304 and
8 10–812 of this title.

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

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

14 (i) is an economically disadvantaged individual; and

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

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

18 (i) is not 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.

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

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

26 1. is an economically disadvantaged individual;

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

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

31 (ii) up to \$2,000 of the wages paid to each qualified employee who is
32 an economically disadvantaged individual, if the business entity received a credit under

1 subsection (c)(1) of this section for the qualified employee in the immediately preceding
2 taxable year; and

3 (iii) up to \$1,000 of the wages paid to each qualified employee who is
4 not hired to replace an individual whom the business entity employed in that or any of the
5 3 preceding taxable years if the qualified employee:

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

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

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

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

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

22 1. is an economically disadvantaged individual; and

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

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

26 1. is not 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.

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

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

32 1. is an economically disadvantaged individual;

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

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

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

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

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

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

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

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

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

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

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

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

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

33 **10-741.**

1 AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE
2 INCOME TAX AS PROVIDED UNDER TITLE 6, SUBTITLE 8 OF THE ECONOMIC
3 DEVELOPMENT ARTICLE.

4 Article – Tax – Property

5 9–103.

6 (e) [(3) Notwithstanding § 5–707(d) of the Economic Development Article but
7 subject to § 5–707(b) and (c) of the Economic Development Article, a business entity
8 operating in an enterprise zone when the designation of the enterprise zone expires may
9 claim the credits allowed under this section for real property that:

10 (i) the business owns, operates, develops, constructs, or
11 rehabilitates within 5 years after the date the designation of the enterprise zone expired;
12 and

13 (ii) otherwise qualifies for the credits allowed under this section.]

14 [(4) (3) State property tax imposed on real property is not affected by
15 this section.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
17 1, 2017, and shall be applicable to all taxable years beginning after December 31, 2016.