

# SENATE BILL 796

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By: **Senators Edwards, Conway, Eckardt, Ferguson, Hershey, Mathias, and McFadden**

Introduced and read first time: February 3, 2017

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – County Economic Development Tax Incentives**  
3 **Program and One Maryland Tax Credit**

4 FOR the purpose of establishing the County Economic Development Tax Incentives  
5 Program to encourage businesses to locate and expand in certain counties of the  
6 State; establishing an application process for the Department of Commerce to certify  
7 businesses that meet certain criteria as eligible for certain tax incentives; prohibiting  
8 the Department from designating a business as a qualified business after a certain  
9 date; requiring the Department to adopt certain regulations; altering the definition  
10 of a qualified distressed county for purposes of the One Maryland Tax Credit  
11 program to provide that certain counties are not included as a qualified distressed  
12 county for purposes of the program; allowing a subtraction modification under the  
13 State income tax for certain income of certain qualified businesses; exempting from  
14 the sales and use tax the sale of certain capital equipment used by certain qualified  
15 businesses; exempting from State property tax certain property owned by certain  
16 qualified businesses; authorizing a county or municipal corporation to exempt  
17 certain property from the county or municipal corporation property tax; providing  
18 for the interpretation of a certain provision of this Act; defining certain terms; and  
19 generally relating to establishing the County Economic Development Tax Incentives  
20 Program and economic development in the State.

21 BY repealing and reenacting, without amendments,  
22 Article – Economic Development  
23 Section 1–101(e)  
24 Annotated Code of Maryland  
25 (2008 Volume and 2016 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article – Economic Development  
28 Section 6–401

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2008 Volume and 2016 Supplement)

3 BY adding to  
4 Article – Economic Development  
5 Section 6–801 and 6–802 to be under the new subtitle “Subtitle 8. County Economic  
6 Development Tax Incentives Program”  
7 Annotated Code of Maryland  
8 (2008 Volume and 2016 Supplement)

9 BY repealing and reenacting, without amendments,  
10 Article – Tax – General  
11 Section 10–207(a)  
12 Annotated Code of Maryland  
13 (2016 Replacement Volume)

14 BY adding to  
15 Article – Tax – General  
16 Section 10–207(ee) and 11–233  
17 Annotated Code of Maryland  
18 (2016 Replacement Volume)

19 BY repealing and reenacting, with amendments,  
20 Article – Tax – General  
21 Section 10–307(g)  
22 Annotated Code of Maryland  
23 (2016 Replacement Volume)

24 BY adding to  
25 Article – Tax – Property  
26 Section 7–308 and 7–520  
27 Annotated Code of Maryland  
28 (2012 Replacement Volume and 2016 Supplement)

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

31 **Article – Economic Development**

32 1–101.

33 (e) (1) “Qualified distressed county” means a county with:

34 (i) an average rate of unemployment for the most recent 24–month  
35 period for which data are available that exceeds 150% of the average rate of unemployment  
36 for the State during that period; or

1 (ii) an average per capita personal income for the most recent  
2 24-month period for which data are available that is equal to or less than 67% of the  
3 average per capita personal income for the State during that period.

4 (2) “Qualified distressed county” includes a county that:

5 (i) no longer meets either criterion stated in paragraph (1) of this  
6 subsection; but

7 (ii) has met at least one of the criteria at some time during the  
8 preceding 24-month period.

9 6-401.

10 (a) In this subtitle the following words have the meanings indicated.

11 (b) “Eligible economic development project” means an economic development  
12 project that:

13 (1) establishes or expands a business facility within a qualified distressed  
14 county; and

15 (2) is approved for a project tax credit or a start-up tax credit in accordance  
16 with this subtitle.

17 (c) (1) “Eligible project cost” means the cost and expense a qualified business  
18 entity incurs to acquire, construct, rehabilitate, install, or equip an eligible economic  
19 development project.

20 (2) “Eligible project cost” includes:

21 (i) the cost of:

22 1. obligations for labor and payments made to contractors,  
23 subcontractors, builders, and suppliers;

24 2. acquiring land, rights in land, and costs incidental to  
25 acquiring land or rights in land;

26 3. contract bonds and insurance needed during the  
27 acquisition, construction, or installation of the project;

28 4. test borings, surveys, estimates, plans, specifications,  
29 preliminary investigations, environmental mitigation, supervision of construction, and  
30 other architectural and engineering services;

1                   5. performing duties required by or consequent to the  
2 acquisition, construction, and installation of the project;

3                   6. installing water, sewer, sewer treatment, gas, electricity,  
4 communications, railroads, and similar utilities; and

5                   7. bond insurance, letters of credit, or other forms of credit  
6 enhancement or liquidity facilities;

7                   (ii) the interest cost before and during the acquisition, construction,  
8 installation, and equipping of the project, and for up to 2 years after project completion;  
9 and

10                  (iii) legal, accounting, financial, printing, recording, filing, and other  
11 fees and expenses incurred to finance the project.

12           (d) (1) “Eligible start-up cost” means a qualified business entity’s cost to  
13 furnish and equip a new location for ordinary business functions.

14                   (2) “Eligible start-up cost” includes:

15                   (i) the cost of computers, nonrecurring costs of fixed  
16 telecommunications equipment, furnishings, and office equipment; and

17                   (ii) expenditures for moving costs, separation costs, and other costs  
18 directly related to moving from outside of the State to a location in a qualified distressed  
19 county.

20           (e) “Project tax credit” means a tax credit for eligible project costs allowed under  
21 § 6-403 of this subtitle.

22           (f) “Qualified business entity” means a person that:

23                   (1) (i) conducts or operates a trade or business in the State; or

24                   (ii) operates in the State and is exempt from taxation under §  
25 501(c)(3) or (4) of the Internal Revenue Code; and

26                   (2) is certified in accordance with § 6-402 of this subtitle as qualifying for  
27 a project tax credit or a start-up tax credit under this subtitle.

28           (g) **“QUALIFIED DISTRESSED COUNTY” DOES NOT INCLUDE A COUNTY**  
29 **THAT:**

30                   **(1) MET, DURING A PRIOR YEAR, THE DEFINITION OF A QUALIFIED**  
31 **DISTRESSED COUNTY UNDER § 1-101(E) OF THIS ARTICLE;**

1           **(2) HAD A QUALIFIED BUSINESS ENTITY QUALIFY FOR A PROJECT TAX**  
2 **CREDIT OR START-UP TAX CREDIT WITHIN THE COUNTY; AND**

3           **(3) DURING A SUBSEQUENT YEAR DID NOT MEET THE DEFINITION OF**  
4 **A QUALIFIED DISTRESSED COUNTY UNDER § 1-101(E) OF THIS ARTICLE.**

5           **(H) (1) “Qualified position” means a position that:**

6                   (i) is a full-time position and is of indefinite duration;

7                   (ii) pays at least 150% of the federal minimum wage;

8                   (iii) is in a qualified distressed county;

9                   (iv) is newly created because a business facility begins or expands in  
10 one location in a qualified distressed county; and

11                   (v) is filled.

12           **(2) “Qualified position” does not include a position that is:**

13                   (i) created when an employment function is shifted from an existing  
14 business facility of a business entity in the State to another business facility of the same  
15 business entity if the position is not a net new job in the State;

16                   (ii) created through a change in ownership of a trade or business;

17                   (iii) created through a consolidation, merger, or restructuring of a  
18 business entity if the position is not a net new job in the State;

19                   (iv) created when an employment function is contractually shifted  
20 from an existing business entity in the State to another business entity if the position is  
21 not a net new job in the State; or

22                   (v) filled for a period of less than 12 months.

23           **[(h)] (I) “Start-up tax credit” means a tax credit for eligible start-up costs**  
24 **allowed under § 6-404 of this subtitle.**

25           **SUBTITLE 8. COUNTY ECONOMIC DEVELOPMENT TAX INCENTIVES PROGRAM.**

26           **6-801.**

27           **(A) THERE IS A COUNTY ECONOMIC DEVELOPMENT TAX INCENTIVES**  
28 **PROGRAM.**

1           **(B) THE PURPOSE OF THE COUNTY ECONOMIC DEVELOPMENT TAX**  
2 **INCENTIVES PROGRAM IS TO ENCOURAGE BUSINESSES TO LOCATE AND EXPAND IN**  
3 **SPECIFIED COUNTIES OF THE STATE.**

4 **6-802.**

5           **(A) THIS SECTION APPLIES TO THE FOLLOWING COUNTIES:**

6                   **(1) ALLEGANY COUNTY;**

7                   **(2) BALTIMORE CITY;**

8                   **(3) CAROLINE COUNTY;**

9                   **(4) DORCHESTER COUNTY;**

10                  **(5) GARRETT COUNTY;**

11                  **(6) KENT COUNTY;**

12                  **(7) SOMERSET COUNTY;**

13                  **(8) WASHINGTON COUNTY;**

14                  **(9) WICOMICO COUNTY; AND**

15                  **(10) WORCESTER COUNTY.**

16           **(B) (1) THE DEPARTMENT MAY CERTIFY A BUSINESS AS A QUALIFIED**  
17 **BUSINESS IN A COUNTY LISTED UNDER SUBSECTION (A) OF THIS SECTION IF THE**  
18 **BUSINESS MEETS THE REQUIREMENTS UNDER THIS SECTION.**

19                   **(2) TO BE ELIGIBLE FOR DESIGNATION AS A QUALIFIED BUSINESS, AN**  
20 **APPLICANT SHALL:**

21                           **(I) APPLY TO THE DEPARTMENT;**

22                           **(II) PROVIDE EVIDENCE OF AN INTENTION:**

23                                   **1. TO LOCATE OR EXPAND A BUSINESS IN A COUNTY**  
24 **LISTED UNDER SUBSECTION (A) OF THIS SECTION; AND**



1 (a) To the extent included in federal adjusted gross income, the amounts under  
2 this section are subtracted from the federal adjusted gross income of a resident to determine  
3 Maryland adjusted gross income.

4 (EE) (1) IN THIS SUBSECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS  
5 THAT IS CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER § 6-802 OF THE  
6 ECONOMIC DEVELOPMENT ARTICLE.

7 (2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION  
8 INCLUDES THE AMOUNT OF INCOME A QUALIFIED BUSINESS RECEIVES THAT IS  
9 ATTRIBUTABLE TO ACTIVITIES IN A COUNTY IN WHICH THE QUALIFIED BUSINESS  
10 LOCATED OR EXPANDED AS PART OF ITS APPLICATION UNDER § 6-802(B) OF THE  
11 ECONOMIC DEVELOPMENT ARTICLE.

12 (3) THE SUBTRACTION UNDER PARAGRAPH (2) OF THIS SUBSECTION  
13 MAY BE CLAIMED ONLY FOR THE 10 TAXABLE YEARS FOLLOWING THE YEAR IN  
14 WHICH THE BUSINESS IS DESIGNATED AS A QUALIFIED BUSINESS UNDER § 6-802 OF  
15 THE ECONOMIC DEVELOPMENT ARTICLE.

16 10-307.

17 (g) The subtraction under subsection (a) of this section includes the amounts  
18 allowed to be subtracted for an individual under:

19 (1) § 10-207(i) of this title (Profits on sale or exchange of State or local  
20 bonds);

21 (2) § 10-207(k) of this title (Relocation and assistance payments);

22 (3) § 10-207(m) of this title (State or local income tax refunds); [or]

23 (4) § 10-207(c-1) of this title (State tax-exempt interest from mutual  
24 funds); OR

25 (5) § 10-207(EE) OF THIS TITLE (INCOME FROM A QUALIFIED  
26 BUSINESS).

27 11-233.

28 (A) IN THIS SECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS  
29 CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER § 6-802 OF THE ECONOMIC  
30 DEVELOPMENT ARTICLE.

31 (B) THE SALES AND USE TAX DOES NOT APPLY TO A SALE OF CAPITAL  
32 EQUIPMENT USED AS PART OF THE ACTIVITIES OF A QUALIFIED BUSINESS IN A



1 COUNTY IN WHICH THE QUALIFIED BUSINESS LOCATED OR EXPANDED AS PART OF  
2 ITS APPLICATION UNDER § 6-802(B) OF THE ECONOMIC DEVELOPMENT ARTICLE.

3 **Article – Tax – Property**

4 **7-308.**

5 (A) IN THIS SECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS  
6 CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER § 6-802 OF THE ECONOMIC  
7 DEVELOPMENT ARTICLE.

8 (B) PROPERTY IS NOT SUBJECT TO STATE PROPERTY TAX IF THE PROPERTY  
9 IS OWNED BY A QUALIFIED BUSINESS.

10 (C) A QUALIFIED BUSINESS IS ENTITLED TO THE EXEMPTION UNDER THIS  
11 SECTION ONLY FOR THE 10 TAXABLE YEARS FOLLOWING THE YEAR THE BUSINESS IS  
12 DESIGNATED AS A QUALIFIED BUSINESS UNDER § 6-802 OF THE ECONOMIC  
13 DEVELOPMENT ARTICLE.

14 **7-520.**

15 (A) IN THIS SECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS  
16 CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER § 6-802 OF THE ECONOMIC  
17 DEVELOPMENT ARTICLE.

18 (B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE  
19 GOVERNING BODY OF A COUNTY OR A MUNICIPAL CORPORATION MAY EXEMPT  
20 PROPERTY OWNED BY A QUALIFIED BUSINESS FROM THE COUNTY OR MUNICIPAL  
21 CORPORATION PROPERTY TAX.

22 (C) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE  
23 GOVERNING BODY OF A COUNTY OR A MUNICIPAL CORPORATION MAY ESTABLISH,  
24 BY LAW, THE LENGTH OF TIME A QUALIFIED BUSINESS IS ENTITLED TO THE  
25 EXEMPTION.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the change in the definition  
27 of “qualified distressed county” under § 6-401(g) of the Economic Development Article, as  
28 enacted by Section 1 of this Act, may not be construed to prohibit Baltimore City or Allegany  
29 County, Caroline County, Dorchester County, Somerset County, Washington County, or  
30 Worcester County from participating in the One Maryland Tax Credit program until the  
31 jurisdiction fails to meet the definition of a qualified distressed county under § 1-101(e) of  
32 the Economic Development Article.

1           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
2 1, 2017.