

HOUSE BILL 476

Q3

8lr0926

By: **Delegates Ali, Gibson, Morales, Mosby, and Rosenberg**

Introduced and read first time: January 25, 2018

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 27, 2018

CHAPTER _____

1 AN ACT concerning

2 **Income Tax Credit – Employment of Diversion Program Participants**
3 **(Second Chance Act)**

4 FOR the purpose of allowing a credit against the State income tax for certain wages paid
5 by certain business entities to certain employees who participate in a certain
6 diversion program; providing for the calculation of the credit; prohibiting a business
7 entity from claiming the credit under certain circumstances; allowing certain tax
8 exempt business entities to apply the credit against certain withholdings; providing
9 that the credit may not exceed the total tax payable by a business entity for a taxable
10 year and may not be carried over to any other taxable year; requiring the
11 Department of Labor, Licensing, and Regulation, on application of a business entity,
12 to issue a tax credit certificate under certain circumstances; requiring the application
13 to contain certain information; requiring the Department to approve applications on
14 a first-come, first-served basis and notify applicants of approval or denial of an
15 application within a certain number of days after receipt of the application; providing
16 that the total amount of tax credit certificates issued by the Department may not
17 exceed a certain amount for each taxable year; requiring the Department to adopt
18 certain regulations and to report to the General Assembly on or before a certain date
19 on the effectiveness of the tax credit; defining certain terms; providing for the
20 application and termination of this Act; and generally relating to a State income tax
21 credit for wages paid to employees who participate in a diversion program.

22 BY adding to

23 Article – Tax – General

24 Section 10–746

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2016 Replacement Volume and 2017 Supplement)

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

5 **Article – Tax – General**

6 **10-746.**

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) “BUSINESS ENTITY” MEANS:

10 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR
11 BUSINESS IN THE STATE; OR

12 (II) AN ORGANIZATION OPERATING IN THE STATE THAT IS
13 EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE
14 CODE.

15 (3) “DEPARTMENT” MEANS THE DEPARTMENT OF LABOR,
16 LICENSING, AND REGULATION.

17 ~~(3)~~ (4) “DIVERSION PROGRAM” MEANS A PROGRAM IN THE STATE
18 THAT PROVIDES REHABILITATION AND TRAINING SERVICES IN LIEU OF CRIMINAL
19 PROSECUTION TO AN INDIVIDUAL CHARGED WITH A NONVIOLENT CRIMINAL
20 OFFENSE.

21 ~~(4)~~ (5) “QUALIFIED EMPLOYEE” MEANS AN INDIVIDUAL WHO
22 PARTICIPATES IN A DIVERSION PROGRAM.

23 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
24 BUSINESS ENTITY THAT HIRES A QUALIFIED EMPLOYEE MAY CLAIM A CREDIT
25 AGAINST THE STATE INCOME TAX ~~IN THE AMOUNT DETERMINED UNDER~~
26 SUBSECTION (C) IN THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE ISSUED
27 UNDER SUBSECTION (F) OF THIS SECTION FOR WAGES PAID TO THE QUALIFIED
28 EMPLOYEE.

29 (2) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS
30 SECTION FOR A QUALIFIED EMPLOYEE WHO IS HIRED TO REPLACE A LAID-OFF
31 EMPLOYEE OR AN EMPLOYEE WHO IS ON STRIKE.

1 (C) FOR EACH TAXABLE YEAR, FOR THE WAGES PAID TO EACH QUALIFIED
2 EMPLOYEE, A CREDIT ~~IS ALLOWED IN AN AMOUNT EQUAL TO~~ MAY NOT EXCEED:

3 (1) 30% OF UP TO THE FIRST \$6,000 OF WAGES PAID TO THE
4 QUALIFIED EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT; AND

5 (2) 20% OF UP TO THE FIRST \$6,000 OF WAGES PAID TO THE
6 QUALIFIED EMPLOYEE DURING THE SECOND YEAR OF EMPLOYMENT.

7 (D) A BUSINESS ENTITY THAT IS EXEMPT FROM TAXATION UNDER §
8 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER
9 THIS SECTION AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER OF TAXES
10 THAT THE BUSINESS ENTITY:

11 (1) IS REQUIRED TO WITHHOLD FROM THE WAGES OF EMPLOYEES
12 UNDER § 10-908 OF THIS TITLE; AND

13 (2) IS REQUIRED TO PAY TO THE COMPTROLLER UNDER § 10-906(A)
14 OF THIS TITLE.

15 (E) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, FOR
16 ANY TAXABLE YEAR, THE TOTAL AMOUNT OF THE CREDITS ALLOWED UNDER THIS
17 SECTION MAY NOT EXCEED THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS
18 ENTITY FOR THAT TAXABLE YEAR.

19 (2) ANY UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED
20 OVER TO ANY OTHER TAXABLE YEAR.

21 (F) (1) ON APPLICATION BY A BUSINESS ENTITY, THE DEPARTMENT
22 SHALL ISSUE A TAX CREDIT CERTIFICATE IN THE AMOUNT ALLOWABLE UNDER
23 SUBSECTION (C) OF THIS SECTION FOR EACH QUALIFIED EMPLOYEE EMPLOYED BY
24 THE BUSINESS ENTITY IN A TAXABLE YEAR.

25 (2) THE APPLICATION SHALL INCLUDE:

26 (I) THE NAME OF THE BUSINESS ENTITY;

27 (II) INFORMATION IDENTIFYING THE NAME AND DATE OF HIRE
28 OF THE QUALIFIED EMPLOYEE;

29 (III) PROOF OF THE WAGES PAID TO THE QUALIFIED EMPLOYEE;

30 AND

1 (IV) ANY OTHER INFORMATION THAT THE DEPARTMENT
2 REQUIRES.

3 (3) THE DEPARTMENT SHALL:

4 (I) APPROVE ALL APPLICATIONS THAT QUALIFY FOR THE TAX
5 CREDIT CERTIFICATE UNDER THIS SUBSECTION ON A FIRST-COME, FIRST-SERVED
6 BASIS; AND

7 (II) NOTIFY THE BUSINESS ENTITY WITHIN 45 DAYS AFTER
8 RECEIPT OF THE APPLICATION OF THE DEPARTMENT'S APPROVAL OR DENIAL.

9 (G) FOR EACH TAXABLE YEAR, THE TOTAL AMOUNT OF THE TAX CREDIT
10 CERTIFICATES THAT MAY BE ISSUED BY THE DEPARTMENT UNDER THIS SECTION
11 MAY NOT EXCEED \$100,000.

12 (H) THE DEPARTMENT SHALL ADOPT REGULATIONS TO:

13 (1) IMPLEMENT THE PROVISIONS OF THIS SECTION; AND

14 (2) SPECIFY CRITERIA AND PROCEDURES FOR THE APPLICATION
15 FOR, APPROVAL OF, AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX
16 CREDIT UNDER THIS SECTION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31,
18 2021, the Department of Labor, Licensing, and Regulation shall report to the General
19 Assembly, in accordance with § 2-1246 of the State Government Article, on the
20 effectiveness of the tax credit established under this Act.

21 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 July 1, 2018, and shall be applicable to all taxable years beginning after December 31, 2017,
23 but before January 1, 2023. It shall remain effective for a period of 5 years and, at the end
24 of June 30, 2023, this Act, with no further action required by the General Assembly, shall
25 be abrogated and of no further force and effect.