

SENATE BILL 581

C8, Q3, Q1

9lr0857
CF 9lr1043

By: **Senators Ferguson, Feldman, Guzzone, and Klausmeier**

Introduced and read first time: February 4, 2019

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Economic and Community Development Tax Credits – Opportunity Zone**
3 **Enhancement Program**

4 FOR the purpose of establishing the Opportunity Zone Enhancement Program in the
5 Department of Commerce; expanding certain economic development tax credits
6 administered by the Department under certain circumstances; requiring the
7 Department to administer the tax credit enhancements under the Program;
8 requiring the Department to maintain and publish certain information on its
9 website, subject to certain limitations; authorizing a certain additional tax credit
10 under the heritage structure rehabilitation tax credit program for certain
11 commercial rehabilitations that qualify as certain opportunity zone projects;
12 requiring the Director of the Maryland Historical Trust, in consultation with the
13 Smart Growth Subcabinet, to adopt certain regulations specifying certain criteria
14 and procedures; increasing by a certain amount the maximum tax credit allowed for
15 certain rehabilitations under certain circumstances; providing for the application of
16 this Act; defining certain terms; and generally relating to an opportunity zone
17 enhancement program in the Department of Commerce and the heritage structure
18 rehabilitation tax credit.

19 BY adding to

20 Article – Economic Development

21 Section 6–1001 through 6–1009 to be under the new subtitle “Subtitle 10.
22 Opportunity Zone Enhancement Program”

23 Annotated Code of Maryland

24 (2018 Replacement Volume)

25 BY repealing and reenacting, with amendments,

26 Article – State Finance and Procurement

27 Section 5A–303(a) through (c)

28 Annotated Code of Maryland

29 (2015 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Economic Development**

4 **SUBTITLE 10. OPPORTUNITY ZONE ENHANCEMENT PROGRAM.**

5 **6–1001.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “PROGRAM” MEANS THE OPPORTUNITY ZONE ENHANCEMENT
9 PROGRAM IN THE DEPARTMENT ESTABLISHED UNDER § 6–1002 OF THIS SUBTITLE
10 THAT ALLOWS ENHANCED TAX CREDITS UNDER:

11 (1) § 6–304 OF THIS TITLE (JOB CREATION);

12 (2) § 6–403 OF THIS TITLE (ONE MARYLAND ECONOMIC
13 DEVELOPMENT);

14 (3) § 10–702 OF THE TAX – GENERAL ARTICLE (WAGES PAID IN AN
15 ENTERPRISE ZONE);

16 (4) § 10–725 OF THE TAX – GENERAL ARTICLE (BIOTECHNOLOGY
17 INVESTMENT INCENTIVE);

18 (5) § 10–733 OF THE TAX – GENERAL ARTICLE (CYBERSECURITY
19 INVESTMENT INCENTIVE);

20 (6) § 10–741 OF THE TAX – GENERAL ARTICLE (MORE JOBS FOR
21 MARYLANDERS); AND

22 (7) § 9–103.1 OF THE TAX – PROPERTY ARTICLE (QUALIFIED
23 PROPERTY IN A REGIONAL INSTITUTION STRATEGIC ENTERPRISE ZONE).

24 (C) “QUALIFIED MARYLAND OPPORTUNITY ZONE” MEANS A
25 GEOGRAPHICAL AREA DESIGNATED AND IN EFFECT AS A QUALIFIED OPPORTUNITY
26 ZONE IN THE STATE UNDER § 1400Z–1 OF THE INTERNAL REVENUE CODE.

27 (D) “QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS” MEANS A
28 TRADE OR BUSINESS IN WHICH SUBSTANTIALLY ALL OF THE TANGIBLE PROPERTY
29 USED IN THE TRADE OR BUSINESS IS QUALIFIED MARYLAND OPPORTUNITY ZONE

1 BUSINESS PROPERTY.

2 (E) “QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS PROPERTY”
3 MEANS TANGIBLE PROPERTY USED IN A TRADE OR BUSINESS OF A QUALIFIED
4 OPPORTUNITY FUND IF:

5 (1) THE PROPERTY WAS ACQUIRED BY THE QUALIFIED OPPORTUNITY
6 FUND BY PURCHASE, AS DEFINED IN § 179(D)(2) OF THE INTERNAL REVENUE CODE,
7 AFTER DECEMBER 31, 2018;

8 (2) (I) THE ORIGINAL USE OF THE PROPERTY IN THE QUALIFIED
9 MARYLAND OPPORTUNITY ZONE COMMENCES WITH THE QUALIFIED OPPORTUNITY
10 FUND; OR

11 (II) THE QUALIFIED OPPORTUNITY FUND SUBSTANTIALLY
12 IMPROVES THE PROPERTY; AND

13 (3) DURING SUBSTANTIALLY ALL OF THE QUALIFIED OPPORTUNITY
14 FUND’S HOLDING PERIOD OF THE PROPERTY, SUBSTANTIALLY ALL THE USE OF THE
15 PROPERTY WAS IN A QUALIFIED MARYLAND OPPORTUNITY ZONE.

16 (F) “QUALIFIED MARYLAND OPPORTUNITY ZONE PROPERTY” MEANS
17 PROPERTY THAT IS QUALIFIED MARYLAND OPPORTUNITY ZONE:

18 (1) STOCK;

19 (2) PARTNERSHIP INTEREST; OR

20 (3) BUSINESS PROPERTY.

21 (G) “QUALIFIED OPPORTUNITY FUND” MEANS AN INVESTMENT VEHICLE
22 THAT IS ORGANIZED AS A CORPORATION OR PARTNERSHIP FOR THE PURPOSE OF
23 INVESTING IN QUALIFIED OPPORTUNITY ZONE PROPERTY UNDER § 1400Z-1 OF THE
24 INTERNAL REVENUE CODE, OTHER THAN ANOTHER QUALIFIED OPPORTUNITY ZONE
25 FUND, THAT HOLDS AT LEAST 90% OF ITS ASSETS IN QUALIFIED MARYLAND
26 OPPORTUNITY ZONE PROPERTY, DETERMINED BY THE AVERAGE OF THE
27 PERCENTAGE OF QUALIFIED MARYLAND OPPORTUNITY ZONE PROPERTY HELD IN
28 THE FUND AS MEASURED:

29 (1) ON THE LAST DAY OF THE FIRST 6-MONTH PERIOD OF THE
30 TAXABLE YEAR OF THE FUND; AND

31 (2) ON THE LAST DAY OF THE TAXABLE YEAR OF THE FUND.

1 **(H) “TIER 1 OPPORTUNITY ZONE ENHANCEMENT” MEANS AN ENHANCED**
2 **TAX CREDIT UNDER THE PROGRAM FOR WHICH A QUALIFIED MARYLAND**
3 **OPPORTUNITY ZONE BUSINESS OR QUALIFIED OPPORTUNITY FUND IS ELIGIBLE IF**
4 **THE FOLLOWING INFORMATION IS PROVIDED TO THE DEPARTMENT:**

5 **(1) THE DATE OF THE QUALIFIED OPPORTUNITY FUND’S INVESTMENT**
6 **IN THE QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS AND THE AMOUNT OF**
7 **THE INVESTMENT;**

8 **(2) THE TOTAL PROJECT OR BUSINESS INVESTMENT, INCLUDING ANY**
9 **LEVERAGE;**

10 **(3) THE ADDRESS AND CENSUS TRACT OF THE QUALIFIED MARYLAND**
11 **OPPORTUNITY ZONE BUSINESS AND THE QUALIFIED OPPORTUNITY FUND;**

12 **(4) THE NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM**
13 **CODE FOR THE QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS;**

14 **(5) AN IMPACT REPORT, INCLUDING BOTH QUALITATIVE AND**
15 **QUANTITATIVE DATA ON THE INVESTMENT AND ITS PROGRESS; AND**

16 **(6) ANY OTHER INFORMATION REQUESTED BY THE DEPARTMENT**
17 **THAT MEETS THE TRANSPARENCY GOALS OF THE PROGRAM.**

18 **(I) “TIER 2 OPPORTUNITY ZONE ENHANCEMENT” MEANS AN ENHANCED**
19 **TAX CREDIT UNDER THE PROGRAM FOR WHICH A QUALIFIED MARYLAND**
20 **OPPORTUNITY ZONE BUSINESS OR QUALIFIED OPPORTUNITY FUND IS ELIGIBLE IF:**

21 **(1) THE REQUIREMENTS FOR A TIER 1 OPPORTUNITY ZONE**
22 **ENHANCEMENT ARE MET; AND**

23 **(2) (I) ACCOUNTABILITY TO RESIDENTS OF THE COMMUNITIES IN**
24 **THE QUALIFIED MARYLAND OPPORTUNITY ZONE IS MAINTAINED THROUGH THEIR**
25 **REPRESENTATION ON ANY GOVERNING BOARD OR ADVISORY BOARD OF THE**
26 **QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS; OR**

27 **(II) A COMMUNITY BENEFITS AGREEMENT IS NEGOTIATED AND**
28 **AGREED TO BY COMMUNITY GROUPS IN THE QUALIFIED MARYLAND OPPORTUNITY**
29 **ZONE AND THE QUALIFIED OPPORTUNITY FUND THAT SPECIFIES A RANGE OF**
30 **COMMUNITY BENEFITS THAT THE FUND AGREES TO PROVIDE AS PART OF THE**
31 **DEVELOPMENT PROJECT, INCLUDING WORKFORCE DEVELOPMENT OR LOCAL**
32 **HIRING REQUIREMENTS.**

1 **6-1002.**

2 (A) THERE IS AN OPPORTUNITY ZONE ENHANCEMENT PROGRAM IN THE
3 DEPARTMENT.

4 (B) THE DEPARTMENT SHALL ADMINISTER THE TAX CREDIT
5 ENHANCEMENTS OFFERED UNDER THE PROGRAM.

6 (C) (1) THE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE
7 INFORMATION ABOUT THE PROGRAM AND INFORMATION REPORTED BY A
8 QUALIFIED OPPORTUNITY FUND RECEIVING ENHANCED TAX CREDITS UNDER THE
9 PROGRAM.

10 (2) THE INFORMATION PUBLISHED ON THE WEBSITE MAY NOT
11 INCLUDE ANY PROPRIETARY OR CONFIDENTIAL INFORMATION.

12 (D) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
13 HOUSING AND COMMUNITY DEVELOPMENT, SHALL ADOPT REGULATIONS TO CARRY
14 OUT THIS SUBTITLE, INCLUDING CRITERIA AND PROCEDURES FOR DETERMINING
15 ELIGIBILITY FOR A TIER 1 OR TIER 2 OPPORTUNITY ZONE ENHANCEMENT.

16 **6-1003.**

17 (A) IN THIS SECTION, "REVITALIZATION AREA" HAS THE MEANING STATED
18 IN § 6-301 OF THIS TITLE.

19 (B) FOR A QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS THAT
20 QUALIFIES FOR A JOB CREATION TAX CREDIT UNDER § 6-304 OF THIS TITLE:

21 (1) THE TIER 1 OPPORTUNITY ZONE ENHANCEMENT IS EQUAL TO:

22 (I) \$3,150 MULTIPLIED BY THE NUMBER OF QUALIFIED
23 EMPLOYEES WORKING IN A FACILITY NOT LOCATED IN A REVITALIZATION AREA; AND

24 (II) \$5,250 MULTIPLIED BY THE NUMBER OF QUALIFIED
25 EMPLOYEES WORKING IN A FACILITY LOCATED IN A REVITALIZATION AREA; AND

26 (2) THE TIER 2 OPPORTUNITY ZONE ENHANCEMENT IS EQUAL TO:

27 (I) \$3,300 MULTIPLIED BY THE NUMBER OF QUALIFIED
28 EMPLOYEES WORKING IN A FACILITY NOT LOCATED IN A REVITALIZATION AREA; AND

1 **(II) \$5,500 MULTIPLIED BY THE NUMBER OF QUALIFIED**
2 **EMPLOYEES WORKING IN A FACILITY LOCATED IN A REVITALIZATION AREA.**

3 **(C) THE ENHANCED MULTIPLIER AUTHORIZED UNDER SUBSECTION (B) OF**
4 **THIS SECTION IS IN SUBSTITUTION FOR AND NOT IN ADDITION TO THE MULTIPLIER**
5 **UNDER § 6-304(B)(1) OF THIS TITLE.**

6 **6-1004.**

7 **(A) IN THIS SECTION, “ELIGIBLE ECONOMIC DEVELOPMENT PROJECT”,**
8 **“ELIGIBLE PROJECT COST”, “PROJECT TAX CREDIT”, AND “QUALIFIED POSITION”**
9 **HAVE THE MEANINGS STATED IN § 6-401 OF THIS TITLE.**

10 **(B) FOR A QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS THAT**
11 **QUALIFIES FOR THE ONE MARYLAND PROJECT TAX CREDIT UNDER § 6-403 OF THIS**
12 **TITLE AND CREATES AT LEAST 50 QUALIFIED POSITIONS:**

13 **(1) THE TIER 1 OPPORTUNITY ZONE ENHANCEMENT INCREASES THE**
14 **MAXIMUM CREDIT ALLOWED UNDER § 6-403(B)(1)(II)1 OF THIS TITLE TO THE**
15 **LESSER OF \$5,250,000 OR THE TOTAL ELIGIBLE PROJECT COST FOR THE ELIGIBLE**
16 **ECONOMIC DEVELOPMENT PROJECT, LESS THE AMOUNT OF THE CREDIT**
17 **PREVIOUSLY TAKEN FOR THE PROJECT IN PRIOR TAXABLE YEARS; AND**

18 **(2) THE TIER 2 OPPORTUNITY ZONE ENHANCEMENT INCREASES THE**
19 **MAXIMUM CREDIT ALLOWED UNDER § 6-403(B)(1)(II)1 OF THIS TITLE TO THE**
20 **LESSER OF \$5,500,000 OR THE TOTAL ELIGIBLE PROJECT COST FOR THE ELIGIBLE**
21 **ECONOMIC DEVELOPMENT PROJECT, LESS THE AMOUNT OF THE CREDIT**
22 **PREVIOUSLY TAKEN FOR THE PROJECT IN PRIOR TAXABLE YEARS.**

23 **6-1005.**

24 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
25 **INDICATED.**

26 **(2) “ECONOMICALLY DISADVANTAGED INDIVIDUAL”, “FOCUS AREA**
27 **EMPLOYEE”, AND “QUALIFIED EMPLOYEE” HAVE THE MEANINGS STATED IN §**
28 **10-702 OF THE TAX – GENERAL ARTICLE.**

29 **(3) “ENTERPRISE ZONE” AND “FOCUS AREA” HAVE THE MEANINGS**
30 **STATED IN § 5-701 OF THIS ARTICLE.**

31 **(B) FOR A QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS THAT**
32 **QUALIFIES FOR AN INCOME TAX CREDIT FOR WAGES PAID IN AN ENTERPRISE ZONE**

1 UNDER § 10-702(C) AND (D) OF THE TAX – GENERAL ARTICLE:

2 (1) THE TIER 1 OPPORTUNITY ZONE ENHANCEMENT IS:

3 (I) UP TO \$1,100 OF THE WAGES PAID TO EACH QUALIFIED
4 EMPLOYEE; AND

5 (II) FOR WAGES PAID TO EACH QUALIFIED EMPLOYEE WHO IS AN
6 ECONOMICALLY DISADVANTAGED INDIVIDUAL, THE CREDIT ALLOWED UNDER §
7 10-702(C) AND (D) IS INCREASED BY 10% IN EACH OF THE 3 TAXABLE YEARS IN
8 WHICH THE CREDIT IS CLAIMED; AND

9 (2) THE TIER 2 OPPORTUNITY ZONE ENHANCEMENT IS:

10 (I) UP TO \$1,200 OF THE WAGES PAID TO EACH QUALIFIED
11 EMPLOYEE; AND

12 (II) FOR WAGES PAID TO EACH QUALIFIED EMPLOYEE WHO IS AN
13 ECONOMICALLY DISADVANTAGED INDIVIDUAL, THE CREDIT ALLOWED UNDER §
14 10-702(E) OF THE TAX – GENERAL ARTICLE IS INCREASED BY 10% IN EACH OF THE
15 3 TAXABLE YEARS IN WHICH THE CREDIT IS CLAIMED.

16 (C) FOR A QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS THAT
17 QUALIFIES FOR AN INCOME TAX CREDIT FOR WAGES PAID IN A FOCUS AREA UNDER
18 § 10-702(E) OF THE TAX – GENERAL ARTICLE:

19 (1) THE TIER 1 OPPORTUNITY ZONE ENHANCEMENT IS:

20 (I) UP TO \$1,650 OF THE WAGES PAID TO EACH FOCUS AREA
21 EMPLOYEE; AND

22 (II) FOR WAGES PAID TO EACH FOCUS AREA EMPLOYEE WHO IS
23 AN ECONOMICALLY DISADVANTAGED INDIVIDUAL, THE CREDIT ALLOWED UNDER §
24 10-702(E) OF THE TAX – GENERAL ARTICLE IS INCREASED BY 10% IN EACH OF THE
25 3 TAXABLE YEARS IN WHICH THE CREDIT IS CLAIMED; AND

26 (2) THE TIER 2 OPPORTUNITY ZONE ENHANCEMENT IS:

27 (I) UP TO \$1,750 OF THE WAGES PAID TO EACH FOCUS AREA
28 EMPLOYEE; AND

29 (II) FOR WAGES PAID TO EACH FOCUS AREA EMPLOYEE WHO IS
30 AN ECONOMICALLY DISADVANTAGED INDIVIDUAL, THE CREDIT ALLOWED UNDER §

1 **10-702(E) OF THE TAX – GENERAL ARTICLE IS INCREASED BY 10% IN EACH OF THE**
2 **3 TAXABLE YEARS IN WHICH THE CREDIT IS CLAIMED.**

3 **(D) THE ENHANCED MULTIPLIERS AUTHORIZED UNDER SUBSECTIONS**
4 **(B)(1)(I) AND (2)(I) AND (C)(1)(I) AND (2)(I) OF THIS SECTION ARE IN SUBSTITUTION**
5 **FOR AND NOT IN ADDITION TO THE MULTIPLIERS UNDER § 10-702(E) OF THE TAX –**
6 **GENERAL ARTICLE.**

7 **6-1006.**

8 **(A) IN THIS SECTION, “INVESTMENT”, “QUALIFIED INVESTOR”, AND**
9 **“QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY” HAVE THE MEANINGS STATED**
10 **IN § 10-725 OF THE TAX – GENERAL ARTICLE.**

11 **(B) FOR A QUALIFIED OPPORTUNITY FUND THAT IS A QUALIFIED INVESTOR**
12 **IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY UNDER § 10-725 OF THE**
13 **TAX – GENERAL ARTICLE:**

14 **(1) THE TIER 1 OPPORTUNITY ZONE ENHANCEMENT IS 75% OF THE**
15 **INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY IN ANY**
16 **COUNTY, NOT TO EXCEED \$600,000; AND**

17 **(2) THE TIER 2 OPPORTUNITY ZONE ENHANCEMENT IS 75% OF THE**
18 **INVESTMENT IN THE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY IN ANY**
19 **COUNTY, NOT TO EXCEED \$750,000.**

20 **(C) THE ENHANCED TAX CREDIT PERCENTAGES AND MAXIMUMS**
21 **AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION ARE IN SUBSTITUTION FOR**
22 **AND NOT IN ADDITION TO THE PERCENTAGES AND MAXIMUMS UNDER § 10-725(D)**
23 **OF THE TAX – GENERAL ARTICLE.**

24 **6-1007.**

25 **(A) IN THIS SECTION, “INVESTMENT”, “QUALIFIED INVESTOR”, AND**
26 **“QUALIFIED MARYLAND CYBERSECURITY COMPANY” HAVE THE MEANINGS STATED**
27 **IN § 10-733 OF THE TAX – GENERAL ARTICLE.**

28 **(B) FOR A QUALIFIED OPPORTUNITY FUND THAT IS A QUALIFIED INVESTOR**
29 **IN A QUALIFIED MARYLAND CYBERSECURITY COMPANY UNDER § 10-733 OF THE**
30 **TAX – GENERAL ARTICLE, IF THE QUALIFIED MARYLAND CYBERSECURITY**
31 **COMPANY IS LOCATED IN A COUNTY OTHER THAN ALLEGANY COUNTY,**
32 **DORCHESTER COUNTY, GARRETT COUNTY, OR SOMERSET COUNTY:**

1 **(1) THE TIER 1 OPPORTUNITY ZONE ENHANCEMENT IS 33% OF THE**
2 **INVESTMENT IN A QUALIFIED MARYLAND CYBERSECURITY COMPANY, NOT TO**
3 **EXCEED \$300,000; AND**

4 **(2) THE TIER 2 OPPORTUNITY ZONE ENHANCEMENT IS 50% OF THE**
5 **INVESTMENT IN THE QUALIFIED MARYLAND CYBERSECURITY COMPANY, NOT TO**
6 **EXCEED \$500,000.**

7 **(C) THE ENHANCED TAX CREDIT PERCENTAGES AND MAXIMUMS**
8 **AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION ARE IN SUBSTITUTION FOR**
9 **AND NOT IN ADDITION TO THE PERCENTAGES AND MAXIMUMS UNDER § 10-733(D)**
10 **OF THE TAX – GENERAL ARTICLE.**

11 **6-1008.**

12 **(A) IN THIS SECTION, “ELIGIBLE PROJECT” AND “QUALIFIED POSITION”**
13 **HAVE THE MEANINGS STATED IN § 6-801 OF THIS ARTICLE.**

14 **(B) FOR A QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS THAT**
15 **QUALIFIES FOR A MORE JOBS FOR MARYLANDERS PROGRAM TAX CREDIT UNDER §**
16 **10-741(B) OF THE TAX – GENERAL ARTICLE:**

17 **(1) THE TIER 1 OPPORTUNITY ZONE ENHANCEMENT IS EQUAL TO 6%**
18 **OF THE TOTAL AMOUNT OF WAGES PAID FOR EACH QUALIFIED POSITION AT AN**
19 **ELIGIBLE PROJECT; AND**

20 **(2) THE TIER 2 OPPORTUNITY ZONE ENHANCEMENT IS EQUAL TO**
21 **6.25% OF THE TOTAL AMOUNT OF WAGES PAID FOR EACH QUALIFIED POSITION AT**
22 **AN ELIGIBLE PROJECT.**

23 **(C) THE ENHANCED TAX CREDIT PERCENTAGES AUTHORIZED UNDER**
24 **SUBSECTION (B) OF THIS SECTION ARE IN SUBSTITUTION FOR AND NOT IN ADDITION**
25 **TO THE STATE EMPLOYER WITHHOLDING AMOUNT UNDER § 10-741(B) OF THE TAX**
26 **– GENERAL ARTICLE.**

27 **Article – State Finance and Procurement**

28 5A-303.

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

30 (2) “Affordable housing” means a project or undertaking that has received
31 an allocation of federal low-income housing tax credits by the Department of Housing and
32 Community Development.

- 1 (3) “Business entity” means:
- 2 (i) a person conducting or operating a trade or business in the State;
- 3 or
- 4 (ii) an organization operating in Maryland that is exempt from
- 5 taxation under § 501(c)(3) of the Internal Revenue Code.
- 6 (4) “Certified heritage area” has the meaning stated in § 13–1101 of the
- 7 Financial Institutions Article.
- 8 (5) (i) “Certified historic structure” means a structure that is located in
- 9 the State and is:
- 10 1. listed in the National Register of Historic Places;
- 11 2. designated as a historic property under local law and
- 12 determined by the Director to be eligible for listing on the National Register of Historic
- 13 Places;
- 14 3. A. located in a historic district listed on the National
- 15 Register of Historic Places or in a local historic district that the Director determines is
- 16 eligible for listing on the National Register of Historic Places; and
- 17 B. certified by the Director as contributing to the significance
- 18 of the district; or
- 19 4. located in a certified heritage area and certified by the
- 20 Maryland Heritage Areas Authority as contributing to the significance of the certified
- 21 heritage area.
- 22 (ii) “Certified historic structure” does not include a structure that is
- 23 owned by the State, a political subdivision of the State, or the federal government.
- 24 (6) “Certified rehabilitation” means a completed rehabilitation of a
- 25 certified historic structure that the Director certifies is a substantial rehabilitation in
- 26 conformance with the rehabilitation standards of the United States Secretary of the
- 27 Interior.
- 28 (7) (i) “Commercial rehabilitation” means a rehabilitation of a
- 29 structure other than a single–family, owner–occupied residence.
- 30 (ii) “Commercial rehabilitation” does not include a small commercial
- 31 project.
- 32 (8) “Director” means the Director of the Maryland Historical Trust.

1 (9) “Financial assistance” means action by the State or a State unit to
2 award grants, loans, loan guarantees, or insurance to a public or private entity to finance,
3 wholly or partly, a project that involves or may result in building construction, building
4 alteration, or land disturbance.

5 (10) “High performance building” means a building that:

6 (i) meets or exceeds the current version of the U.S. Green Building
7 Council’s LEED (Leadership in Energy and Environmental Design) green building rating
8 system gold rating; or

9 (ii) achieves at least a comparable numeric rating according to a
10 nationally recognized, accepted, and appropriate numeric sustainable development rating
11 system, guideline, or standard approved by the Secretaries of Budget and Management and
12 General Services under § 3–602.1 of this article.

13 (11) (i) “Historic property” means a district, site, building, structure,
14 monument, or object significant to:

15 1. the prehistory or history of the State; or

16 2. the upland or underwater archeology, architecture,
17 engineering, or culture of the State.

18 (ii) “Historic property” includes related artifacts, records, and
19 remains.

20 (12) “Local historic district” means a district that the governing body of a
21 county or municipal corporation, or the Mayor and City Council of Baltimore, has
22 designated under local law as historic.

23 (13) “National register structure” means a structure that is:

24 (i) listed on the National Register of Historic Places; or

25 (ii) located in a historic district listed on the National Register of
26 Historic Places and certified by the Director as contributing to the significance of the
27 district.

28 (14) “Political subdivision” means a county or municipal corporation of the
29 State.

30 **(15) “QUALIFIED MARYLAND OPPORTUNITY ZONE” HAS THE MEANING**
31 **STATED IN § 6–1001 OF THE ECONOMIC DEVELOPMENT ARTICLE.**

32 **(16) “QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS” HAS THE**

1 MEANING STATED IN § 6–1001 OF THE ECONOMIC DEVELOPMENT ARTICLE.

2 (17) “QUALIFIED OPPORTUNITY FUND” HAS THE MEANING STATED IN
3 § 6–1001 OF THE ECONOMIC DEVELOPMENT ARTICLE.

4 [(15)] (18) “Qualified rehabilitation expenditure” means any amount that:

5 (i) is properly chargeable to a capital account;

6 (ii) is expended in the rehabilitation of a structure that by the end of
7 the calendar year in which the certified rehabilitation is completed is a certified historic
8 structure;

9 (iii) is expended in compliance with a plan of proposed rehabilitation
10 that has been approved by the Director; and

11 (iv) is not funded, financed, or otherwise reimbursed by any:

12 1. State or local grant;

13 2. grant made from the proceeds of tax–exempt bonds issued
14 by the State, a political subdivision of the State, or an instrumentality of the State or of a
15 political subdivision of the State;

16 3. State tax credit other than the tax credit under this
17 section; or

18 4. other financial assistance from the State or a political
19 subdivision of the State, other than a loan that must be repaid at an interest rate that is
20 greater than the interest rate on general obligation bonds issued by the State at the most
21 recent bond sale prior to the time the loan is made.

22 [(16)] (19) (i) “Single–family, owner–occupied residence” means a
23 structure or a portion of a structure occupied by the owner and the owner’s immediate
24 family as their primary or secondary residence.

25 (ii) “Single–family, owner–occupied residence” includes:

26 1. a residential unit in a cooperative project owned by or
27 leased to a cooperative housing corporation, as defined in § 5–6B–01 of the Corporations
28 and Associations Article, and leased for exclusive occupancy to, and occupied by, a member
29 of the corporation and the member’s immediate family under a proprietary lease; or

30 2. a small commercial project.

31 [(17)] (20) (i) “Small commercial project” means a rehabilitation of a

1 structure primarily used for commercial, income-producing purposes if the qualified
2 rehabilitation expenditures do not exceed \$500,000.

3 (ii) “Small commercial project” includes a structure that is used for
4 both commercial and residential rental purposes.

5 (iii) “Small commercial project” does not include a structure that is
6 used solely for residential purposes.

7 [(18)] (21) “Smart Growth Subcabinet” means the Smart Growth
8 Subcabinet established under Title 9, Subtitle 14 of the State Government Article.

9 [(19)] (22) “State unit” has the meaning stated in § 11-101 of the State
10 Government Article.

11 [(20)] (23) “Substantial rehabilitation” means rehabilitation of a structure
12 for which the qualified rehabilitation expenditures, during the 24-month period selected
13 by the individual or business entity ending with or within the taxable year, exceed:

14 (i) for single-family, owner-occupied residential property, \$5,000;
15 or

16 (ii) for all other property, the greater of:

17 1. the adjusted basis of the structure; or

18 2. \$25,000.

19 (24) “TIER 1 OPPORTUNITY ZONE PROJECT” MEANS A SMALL
20 COMMERCIAL PROJECT OR COMMERCIAL REHABILITATION COMPLETED BY A
21 QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS IF THE FOLLOWING
22 INFORMATION IS PROVIDED TO THE DIRECTOR:

23 (I) THE DATE OF THE QUALIFIED OPPORTUNITY FUND’S
24 INVESTMENT IN THE OPPORTUNITY ZONE PROJECT AND THE AMOUNT OF THE
25 INVESTMENT;

26 (II) THE TOTAL PROJECT OR BUSINESS INVESTMENT,
27 INCLUDING ANY LEVERAGE;

28 (III) THE ADDRESS AND CENSUS TRACT OF THE QUALIFIED
29 MARYLAND OPPORTUNITY ZONE BUSINESS AND THE QUALIFIED OPPORTUNITY
30 FUND;

31 (IV) THE NORTH AMERICAN INDUSTRIAL CLASSIFICATION

1 **SYSTEM CODE FOR THE QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS;**

2 **(v) AN IMPACT REPORT, INCLUDING BOTH QUALITATIVE AND**
3 **QUANTITATIVE DATA ON THE QUALIFIED OPPORTUNITY FUND'S INVESTMENT IN THE**
4 **OPPORTUNITY ZONE PROJECT AND ITS PROGRESS; AND**

5 **(vi) ANY OTHER INFORMATION REQUESTED BY THE DIRECTOR.**

6 **(25) "TIER 2 OPPORTUNITY ZONE PROJECT" MEANS A SMALL**
7 **COMMERCIAL PROJECT OR COMMERCIAL REHABILITATION COMPLETED BY A**
8 **QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS IF:**

9 **(i) THE REQUIREMENTS FOR A TIER 1 OPPORTUNITY ZONE**
10 **PROJECT ARE MET; AND**

11 **(ii) 1. ACCOUNTABILITY TO RESIDENTS OF THE**
12 **COMMUNITIES IN THE QUALIFIED MARYLAND OPPORTUNITY ZONE IS MAINTAINED**
13 **THROUGH THEIR REPRESENTATION ON ANY GOVERNING BOARD OR ANY ADVISORY**
14 **BOARD OF THE QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS; OR**

15 **2. A COMMUNITY BENEFITS AGREEMENT IS NEGOTIATED**
16 **AND AGREED TO BY COMMUNITY GROUPS IN THE QUALIFIED MARYLAND**
17 **OPPORTUNITY ZONE AND THE QUALIFIED MARYLAND OPPORTUNITY ZONE**
18 **BUSINESS THAT SPECIFIES A RANGE OF COMMUNITY BENEFITS THAT THE BUSINESS**
19 **AGREES TO PROVIDE AS PART OF THE DEVELOPMENT PROJECT.**

20 **(b) (1) The Director, in consultation with the Smart Growth Subcabinet, shall**
21 **adopt regulations to:**

22 **(i) establish procedures and standards for certifying historic**
23 **structures and rehabilitations under this section;**

24 **(ii) for commercial rehabilitations, establish an application process**
25 **for the award of initial credit certificates for heritage structure rehabilitation tax credits**
26 **consistent with the requirements of this subsection;**

27 **(iii) for commercial rehabilitations, establish criteria, consistent with**
28 **the requirements of this subsection, for evaluating, comparing, and rating plans of proposed**
29 **rehabilitation that have been determined by the Director to conform with the rehabilitation**
30 **standards of the United States Secretary of the Interior;**

31 **(iv) for commercial rehabilitations, establish a competitive award**
32 **process for the award of initial credit certificates for heritage structure rehabilitation tax**
33 **credits that favors the award of tax credits for rehabilitation projects that:**

1 1. are consistent with and promote current growth and
2 development policies and programs of the State;

3 2. are located in areas targeted by the State for additional
4 revitalization and economic development opportunities due to the focusing of State
5 resources and incentives;

6 3. are located in areas where the political subdivision has
7 implemented regulatory streamlining or other development incentives that foster
8 redevelopment and revitalization in priority funding areas, as defined in Title 5, Subtitle
9 7B of this article, and the appropriate local governing body or the planning board or
10 commission, if designated by the local governing body, has certified to the Smart Growth
11 Subcabinet those regulatory streamlining or other development incentives; and

12 4. include affordable and workforce housing options;

13 (v) for commercial rehabilitations, establish procedures to announce
14 to the public the selection of a rehabilitation project for an award of an initial credit
15 certificate not later than 60 days after the selection is made;

16 (vi) for commercial rehabilitations, determine whether the certified
17 rehabilitation:

18 1. is a high performance building; or

19 2. qualifies as affordable housing **OR A TIER 1 OR TIER 2**
20 **OPPORTUNITY ZONE PROJECT;**

21 (vii) for commercial rehabilitations, establish a required external
22 marker or, at a minimum, an internal marker for the rehabilitation project that identifies
23 that the rehabilitation was funded by heritage structure rehabilitation tax credits;

24 (viii) as provided in paragraph (7) of this subsection, charge
25 reasonable fees to certify historic structures and rehabilitations under this subtitle;

26 (ix) for commercial rehabilitations, require documentation that the
27 applicant has ownership or site control of the structure in order to demonstrate the ability
28 to meet the requirement to begin work as required under subsection (c)(3)(i)1 of this section;

29 (x) for commercial rehabilitations, provide a time limit for approval
30 of the additional tax credit for high performance buildings **[or]**, affordable housing, **OR**
31 **TIER 1 OR TIER 2 OPPORTUNITY ZONE PROJECTS** provided for in subsection (c)(1)(ii) of
32 this section; **[and]**

33 (xi) for small commercial projects:

1 1. establish conditions regarding the percentage of the
2 structure that may be used for residential rental purposes if the structure is used for both
3 commercial and residential rental purposes; and

4 2. specify criteria and procedures for the issuance of initial
5 credit certificates under subsection (e) of this section; **AND**

6 **(XII) SPECIFY CRITERIA AND PROCEDURES FOR APPROVAL OF**
7 **ENHANCED BENEFITS UNDER THIS SECTION FOR TIER 1 AND TIER 2 OPPORTUNITY**
8 **ZONE PROJECTS.**

9 (2) The Director may not certify that a rehabilitation is a certified
10 rehabilitation eligible for a tax credit provided under this section unless the individual or
11 business entity seeking certification states under oath the amount of the individual's or
12 business entity's qualified rehabilitation expenditures.

13 (3) Each year, the Director may accept applications for approval of plans of
14 proposed commercial rehabilitations and for the award of initial credit certificates for the
15 fiscal year that begins July 1 of that year.

16 (4) (i) Except as provided in subsection (e) of this section, a small
17 commercial project shall be treated as a single-family, owner-occupied residential
18 property, including the limitation on the amount of the tax credit provided in subsection
19 (c)(2)(ii) of this section.

20 (ii) A small commercial project is subject to the credit recapture
21 provision in subsection (f) of this section.

22 (5) (i) For commercial rehabilitations, the Director may not accept an
23 application for approval of plans of proposed rehabilitation if:

24 1. any substantial part of the proposed rehabilitation work
25 has begun; or

26 2. the applicant for a commercial rehabilitation has
27 previously submitted three or more applications for commercial rehabilitations with total
28 proposed rehabilitations exceeding \$500,000 in that year.

29 (ii) For commercial rehabilitations, the Director may accept an
30 application for approval of plans of a proposed rehabilitation for which a substantial part
31 of the proposed rehabilitation work has begun if the rehabilitation work has been approved
32 under the federal historic tax credit.

33 (6) Except as provided in subsection (d)(3)(iii) of this section, not more than
34 60% of the total credit amounts under initial credit certificates issued for any fiscal year
35 may be issued for projects in a single county or Baltimore City.

1 (7) (i) The Director shall adopt regulations to charge reasonable fees to
2 certify historic structures and rehabilitations under this section which shall include:

3 1. a minimum fee for the second phase of the application
4 process;

5 2. for a commercial rehabilitation project, a final fee that
6 may not exceed 3% of the amount of the award of an initial credit certificate; and

7 3. for any other rehabilitation project, a final fee that may
8 not exceed 3% of the amount of the credit for which the rehabilitation would be eligible
9 based on the greater of the estimated or final qualified rehabilitation expenditures for the
10 rehabilitation.

11 (ii) The Director shall set the level of the fees so that the projected
12 proceeds from the fees will cover the costs to the Trust of administering the credit under
13 this section and the federal historic tax credit.

14 (iii) If a fee charged for a commercial rehabilitation is not received by
15 the Trust within 90 days after the Trust sends notice to the applicant that the fee is due,
16 the Trust may not:

17 1. issue an initial credit certificate for the commercial
18 rehabilitation; or

19 2. accept an application for a commercial rehabilitation from
20 the applicant during the 3 fiscal years following the fiscal year in which the fee was not
21 received.

22 (iv) The proceeds from the fees shall be deposited in a special fund,
23 to be used only for the purposes of paying the costs of administering the credit under this
24 section and the federal historic tax credit.

25 (v) Any unused balance of the fund at the end of each fiscal year
26 shall be transferred to the Reserve Fund established under subsection (d) of this section
27 and shall increase the amount of the initial credit certificates that the Trust may issue for
28 the following fiscal year.

29 (8) If an initial credit certificate expires or is otherwise unclaimed as
30 provided for under this section, the amount of the credit certificate shall:

31 (i) remain in the Reserve Fund established under subsection (d) of
32 this section; and

33 (ii) increase the amount of the initial credit certificates that the
34 Trust may issue for the following fiscal year.

1 (c) (1) (i) Except as otherwise provided in this section, for the taxable year
2 in which a certified rehabilitation is completed, an individual or business entity may claim
3 a tax credit in an amount equal to 20% of the individual's or business entity's qualified
4 rehabilitation expenditures for the rehabilitation.

5 (ii) For a commercial rehabilitation, an individual or business entity
6 may claim an additional tax credit in an amount equal to 5% of the individual's or business
7 entity's qualified rehabilitation expenditures if the certified rehabilitation is a certified
8 historic structure and:

9 1. is a high performance building; or

10 2. qualifies as affordable housing **OR A TIER 1**
11 **OPPORTUNITY ZONE PROJECT.**

12 **(III) FOR A COMMERCIAL REHABILITATION, A BUSINESS ENTITY**
13 **MAY CLAIM AN ADDITIONAL TAX CREDIT IN AN AMOUNT EQUAL TO 7.5% OF THE**
14 **BUSINESS ENTITY'S QUALIFIED REHABILITATION EXPENDITURES IF THE CERTIFIED**
15 **REHABILITATION IS A CERTIFIED HISTORIC STRUCTURE AND QUALIFIES AS A TIER**
16 **2 OPPORTUNITY ZONE PROJECT.**

17 (2) (i) For any commercial rehabilitation, the State tax credit allowed
18 under this section may not exceed the lesser of:

19 1. **A. \$3,000,000 FOR ANY COMMERCIAL**
20 **REHABILITATION OTHER THAN A TIER 1 OR TIER 2 OPPORTUNITY ZONE PROJECT;**

21 **B. \$3,150,000 FOR A TIER 1 OPPORTUNITY ZONE**
22 **PROJECT; OR**

23 **C. \$3,300,000 FOR A TIER 2 OPPORTUNITY ZONE**
24 **PROJECT; or**

25 2. the maximum amount specified under the initial credit
26 certificate issued for the rehabilitation.

27 (ii) For a rehabilitation other than a commercial rehabilitation, the
28 State tax credit allowed under this section may not exceed:

29 1. **\$50,000 FOR A REHABILITATION OTHER THAN A TIER**
30 **1 OR TIER 2 OPPORTUNITY ZONE PROJECT;**

31 2. **\$55,000 FOR A TIER 1 OPPORTUNITY ZONE PROJECT;**
32 **OR**

3. \$60,000 FOR A TIER 2 OPPORTUNITY ZONE PROJECT.

(iii) For the purposes of the limitation under subparagraph (i) of this paragraph, the following shall be treated as a single commercial rehabilitation:

1. the phased rehabilitation of the same structure or property; or

2. the separate rehabilitation of different components of the same structure or property.

(3) (i) Subject to subparagraph (ii) of this paragraph, the initial credit certificate for a proposed commercial rehabilitation shall expire and the credit under this section may not be claimed if:

1. within 18 months after the initial credit certificate was issued, the applicant has not notified the Trust, in writing, that the commercial rehabilitation has begun;

2. the commercial rehabilitation is not completed within 30 months after the initial credit certificate was issued; or

3. the applicant does not submit to the Trust a request for final certification of the commercial rehabilitation within 12 months after:

A. the 30-month expiration date under subparagraph (i)2 of this paragraph; or

B. the date to which the Director postponed the expiration date under subparagraph (ii) of this paragraph.

(ii) For reasonable cause, the Director may postpone:

1. the 30-month expiration date under subparagraph (i)2 of this paragraph for an initial credit certificate for a commercial rehabilitation; or

2. if the commercial rehabilitation was completed prior to the expiration of the initial credit certificate, the deadline under subparagraph (i)3 of this paragraph for submission of a request for final certification.

(4) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the business entity or the individual for that taxable year, the individual or business entity may claim a refund in the amount of the excess.

(5) The State credit allowed under this section may be allocated among the partners, members, or shareholders of an entity in any manner agreed to by those persons in writing.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
2 as follows:

3 **Article – Economic Development**

4 **6–1009.**

5 **(A) FOR A QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS THAT**
6 **QUALIFIES FOR THE REGIONAL INSTITUTION STRATEGIC ENTERPRISE ZONE**
7 **PROPERTY TAX CREDIT UNDER § 9–103.1 OF THE TAX – PROPERTY ARTICLE:**

8 **(1) THE TIER 1 OPPORTUNITY ZONE ENHANCEMENT IS EQUAL TO 90%**
9 **OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE QUALIFIED MARYLAND**
10 **OPPORTUNITY ZONE BUSINESS PROPERTY FOR THE DURATION OF THE CREDIT; AND**

11 **(2) THE TIER 2 OPPORTUNITY ZONE ENHANCEMENT IS EQUAL TO**
12 **100% OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE QUALIFIED MARYLAND**
13 **OPPORTUNITY ZONE BUSINESS PROPERTY FOR THE DURATION OF THE CREDIT.**

14 **(B) THE ENHANCED TAX CREDIT PERCENTAGES AUTHORIZED UNDER**
15 **SUBSECTION (A) OF THIS SECTION ARE IN SUBSTITUTION FOR AND NOT IN ADDITION**
16 **TO THE PERCENTAGES UNDER § 9–103.1 OF THE TAX – PROPERTY ARTICLE.**

17 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be
18 applicable to all taxable years beginning after June 30, 2019.

19 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
20 1, 2019, and, except as provided in Section 3 of this Act, shall be applicable to all taxable
21 years beginning after December 31, 2018.