
By: Delegates Gordon, Heller, Howard, Hixson, Beck, C. Davis, Shriver, and Workman

Introduced and read first time: January 22, 1996

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 Enterprise Zones - Economic Development Projects - Income Tax Credit

3 FOR the purpose of altering certain requirements for an area to be designated as an
4 enterprise zone within which certain businesses may benefit from certain incentives
5 and initiatives provided by the State; allowing a credit against the State income tax
6 for a portion of the project costs for certain economic development projects in
7 enterprise zones undertaken by certain existing businesses; providing for calculation
8 of the credit; requiring the Secretary of Business and Economic Development to
9 adopt certain regulations; defining certain terms; requiring certain additional
10 modifications if a certain credit is claimed; and generally relating to economic
11 development incentives within enterprise zones in the State.

12 BY repealing and reenacting, without amendments,
13 Article 83A - Department of Business and Economic Development
14 Section 5-401 and 5-402
15 Annotated Code of Maryland
16 (1995 Replacement Volume)

17 BY repealing and reenacting, with amendments,
18 Article 83A - Department of Business and Economic Development
19 Section 5-403 and 5-404
20 Annotated Code of Maryland
21 (1995 Replacement Volume)

22 BY repealing and reenacting, with amendments,
23 Article - Tax - General
24 Section 10-205(b) and 10-306(b)(1)
25 Annotated Code of Maryland
26 (1988 Volume and 1995 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article - Tax - General
29 Section 10-702
30 Annotated Code of Maryland

2

1 (1988 Volume and 1995 Supplement)

2 BY adding to

3 Article - Tax - General

4 Section 10-702.1

5 Annotated Code of Maryland

6 (1988 Volume and 1995 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article - Tax - Property

9 Section 9-103

10 Annotated Code of Maryland

11 (1994 Replacement Volume and 1995 Supplement)

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

14 **Article 83A - Department of Business and Economic Development**

15 5-401.

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

17 (b) "Area" means a geographic area within one or more political subdivisions
18 within the State described by a closed perimeter boundary.

19 (c) (1) "Business entity" means a person operating or conducting a trade or
20 business.

21 (2) Except as provided in § 9-103 of the Tax - Property Article, "business
22 entity" does not include a person owning, operating, developing, constructing, or
23 rehabilitating property intended for use primarily as single or multifamily residential
24 property located within the enterprise zone.

25 (d) "County" means a county of this State and includes the Mayor and City
26 Council of Baltimore.

27 (e) "Department" means the Department of Business and Economic
28 Development.

29 (f) "Enterprise zone" means an area:

30 (1) Meeting the requirements of § 5-403 of this subtitle and so designated
31 by the Secretary pursuant to § 5-402 of this subtitle;

32 (2) So designated by the United States government; or

33 (3) Designated as an empowerment zone by the United States government
34 pursuant to 26 U.S.C. § 1391 et seq.

35 (g) "Fund" means the Enterprise Zone Venture Capital Guarantee Fund.

36 (h) "Political subdivision" means any county or municipal corporation.

3

1 (i) "Secretary" means the Secretary of Business and Economic Development.

2 (j) "Submission date" means April 15 and October 15 of any calendar year.

3 5-402.

4 (a) Any political subdivision may apply to the Secretary for designation of an area
5 within that political subdivision as an enterprise zone, but if a county seeks to designate
6 an area within a municipal corporation as an enterprise zone, then the governing body of
7 the municipal corporation must first consent.

8 (b) Any county may apply to the Secretary on behalf of a municipal corporation,
9 with the consent of such municipal corporation, for designation of any area within that
10 municipal corporation as an enterprise zone.

11 (c) Two or more political subdivisions may apply jointly to the Secretary for
12 designation of an area as an enterprise zone which may be located astride their common
13 boundaries.

14 (d) The application shall be in the form and manner and contain such information
15 as the Secretary may, by regulation, determine, provided that the application shall:

16 (1) Contain information sufficient for the Secretary to determine if the
17 criteria established in § 5-403 have been met;

18 (2) Be submitted on behalf of the political subdivision by its chief elected
19 officer, or, if none, by the governing body of the political subdivision;

20 (3) State whether the political subdivision has examined the feasibility of
21 creating educational or training opportunities for employers and employees of business
22 entities located or to be located in the proposed enterprise zone; and

23 (4) Set forth the standards with which a business entity must comply as a
24 precondition to its receiving the incentives and initiatives set forth in this subtitle.

25 (e) Within 60 days following any submission date, the Secretary may designate
26 one or more enterprise zones from among the applications submitted to the Secretary on
27 or before that submission date, provided, however, that the Secretary may not designate
28 more than 6 enterprise zones in any 12 month period and no county may receive more
29 than 1 area designated as an enterprise zone in any calendar year. The determination of
30 the Secretary as to the areas designated enterprise zones shall be final, except that, for
31 any area not designated an enterprise zone, a political subdivision may reapply at any
32 time to the Secretary for designation of that area as an enterprise zone.

33 (f) Any area that is designated an enterprise zone or an empowerment zone
34 under federal law shall automatically and without any additional action by the political
35 subdivision or the Secretary be designated an enterprise zone under this section without
36 regard to any limitation on the number of enterprise zones that may be designated by the
37 Secretary. However, the incentives and initiatives provided for in this subtitle shall not be
38 available to business entities located in an enterprise zone designated under federal law
39 unless the Secretary and the Board of Public Works shall consent to the designation.

4

1 (g) An application by a political subdivision and the designation by the Secretary
2 of an area as an enterprise zone shall constitute the State approval that may be required
3 for designation as an enterprise zone under federal law.

4 (h) Before designating an enterprise zone, the Secretary shall consult with and ask
5 the advice of the appropriate individuals and advisors.

6 5-403.

7 (a) The Secretary may not designate any area an enterprise zone unless that area
8 satisfies at least one of the following requirements:

9 (1) The average rate of unemployment in the area, or within a reasonable
10 proximity within that county to that area, for the most recent 18-month period for which
11 data are available must be at least 150 percent of the average rate of unemployment in
12 either the State of Maryland or the United States, whichever average rate is greater,
13 during that same period;

14 (2) THE AVERAGE RATE OF UNEMPLOYMENT IN THE AREA, OR WITHIN
15 A REASONABLE PROXIMITY WITHIN THAT COUNTY TO THAT AREA, FOR EACH OF
16 THE MOST RECENT 5 YEARS FOR WHICH DATA ARE AVAILABLE MUST BE GREATER
17 THAN THE AVERAGE RATE OF UNEMPLOYMENT IN THE STATE DURING EACH OF
18 THOSE YEARS;

19 [(2)] (3) The population in the area or within a reasonable proximity within
20 that county to that area is a low-income poverty area on the basis of the most recent
21 census;

22 [(3)] (4) At least 70 percent of the families living in the area or within a
23 reasonable proximity within that county to that area have incomes that are less than an
24 amount equal to 80 percent of the median family income within the political subdivision
25 in which the area is located; or

26 [(4)] (5) Population in the area or within a reasonable proximity within that
27 county to that area decreased by 10 percent between the date of the most recent census
28 and the date of the immediately preceding census, and the political subdivision can
29 demonstrate to the Secretary's satisfaction that either chronic abandonment or
30 demolition of property is occurring in that area or substantial property tax arrearages
31 exist within that area.

32 (b) The Secretary may establish by regulation any other requirements that the
33 Secretary reasonably determines are necessary and appropriate to assure that the
34 purposes of this subtitle are satisfied.

35 (c) In determining if an area meets the requirements of this section the Secretary
36 may consider data provided by the United States Bureau of the Census from the most
37 recent census or any other reliable data which the Secretary determines to be acceptable
38 for the purposes for which such data are used.

39 5-404.

40 (a) The following incentives and initiatives shall be available to business entities
41 to the extent provided for in this section:

5

1 (1) The special property tax credit set forth in § 9-103 of the Tax - Property
2 Article.

3 (2) The income tax credits set forth in [§ 10-702] §§ 10-702 AND 10-702.1 of
4 the Tax - General Article.

5 (3) The consideration for loans under the Maryland Industrial Land Act set
6 forth in § 5-710 of this article.

7 (4) The consideration for grants and loans from the Maryland Industrial and
8 Commercial Redevelopment Fund set forth in § 5-803(c) of this article.

9 (5) Insurance by the Enterprise Zone Venture Capital Guarantee Fund
10 established in § 5-405 of this article.

11 (b) Any business entity moving into or locating within an enterprise zone on or
12 after the date on which the enterprise zone is designated pursuant to § 5-402 of this
13 subtitle may benefit from the incentives and initiatives set forth in this section, if:

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

16 (2) The business entity is certified by the respective political subdivision that
17 it is in compliance with the standards submitted by the subdivision under § 5-402(d)(4) of
18 this subtitle; and

19 (3) (i) The business entity creates new or additional jobs or makes a
20 capital investment in order to qualify for the property tax credit under § 9-103 of the Tax
21 - Property Article and the income tax credits under [§ 10-702] §§ 10-702 AND 10-702.1 of
22 the Tax - General Article; and

23 (ii) In considering whether the business entity qualifies for loans and
24 grants under the Maryland Industrial Land Act and the Maryland Industrial and
25 Commercial Redevelopment Fund and for insurance under the Enterprise Zone Venture
26 Capital Guarantee Fund, the Secretary determines that the business entity will create
27 new or additional jobs.

28 (c) Any business entity located within an enterprise zone before the date on
29 which the enterprise zone is designated pursuant to § 5-402 of this subtitle may not
30 benefit from the incentives and initiatives set forth in this section except with respect to
31 any capital investment or any expansion of its labor force occurring after the date on
32 which the enterprise zone is designated.

33 (d) Except as provided in [§ 10-702] §§ 10-702 AND 10-702.1 of the Tax - General
34 Article and § 9-103 of the Tax - Property Article, the incentives and initiatives set forth
35 in this section shall be available for a period of 10 years following the date on which the
36 area is designated an enterprise zone pursuant to § 5-402 of this subtitle. No law
37 hereinafter enacted that eliminates or reduces the benefits available to business entities
38 under this section shall be applicable to any business entity located in an enterprise zone
39 prior to the effective date of such law.

6

1 **Article - Tax - General**

2 10-205.

3 (b) The addition under subsection (a) of this section includes the amount of a
4 credit claimed under:

5 (1) § 10-702 OR § 10-702.1 of this title [for wages paid to an employee in an
6 enterprise zone] RELATING TO ENTERPRISE ZONES; or

7 (2) § 10-704.2 of this title or § 8-213 of this article for wages paid and
8 qualified child care expenses incurred with respect to qualified employment opportunity
9 employees.

10 10-306.

11 (b) The addition under subsection (a) of this section includes the additions
12 required for an individual under:

13 (1) § 10-205(b) of this title (Enterprise zone [wage credit] CREDITS and
14 employment opportunity credit);

15 10-702.

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

17 (2) (i) "Business entity" means a person conducting or operating a trade
18 or business;

19 (ii) "Business entity" does not include a person owning, operating,
20 developing, constructing, or rehabilitating property intended for use primarily as single or
21 multifamily residential property located within the enterprise zone.

22 (3) "Enterprise zone" means an area designated under Article 83A, § 5-402
23 of the Code.

24 (4) "Qualified employee" means an individual who:

25 (i) is a new employee or an employee rehired after being laid off for
26 more than one year by a business entity;

27 (ii) is employed by a business entity at least 25 hours each week for at
28 least 6 months before or during the taxable year for which the entity claims a credit;

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

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

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

34 2. the date on which the business entity locates in the enterprise
35 zone.

7

1 (5) "Economically disadvantaged individual" means an individual who is
2 certified by provisions that the Department of Business and Economic Development
3 adopts as an individual who, before becoming employed by a business entity in an
4 enterprise zone:

5 (i) was both unemployed for at least 30 consecutive days and qualified
6 to participate in training activities for the economically disadvantaged under Title II, Part
7 B of the federal Job Training Partnership Act or its successor; or

8 (ii) in the absence of an applicable federal act, met the criteria for an
9 economically disadvantaged individual that the Secretary of Business and Economic
10 Development sets.

11 (b) Any business entity that is located in an enterprise zone and satisfies the
12 requirements of Article 83A, § 5-404 of the Code may claim a credit only against the
13 State income tax for the wages specified in subsections (c) and (d) of this section that are
14 paid in the taxable year for which the entity claims the credit.

15 (c) For the taxable year in which a business entity satisfies the requirements of
16 Article 83A, § 5-404 of the Code, a credit is allowed that equals:

17 (1) up to \$1,500 of the wages paid to each qualified employee who:

18 (i) is an economically disadvantaged individual; and

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

21 (2) up to \$500 of the wages paid to each qualified employee who:

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

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

25 (d) (1) For each taxable year after the taxable year described in subsection (c)
26 of this section, while the area is designated an enterprise zone, a credit is allowed that
27 equals:

28 (i) up to \$1,500 of the wages paid to each qualified employee who:

29 1. is an economically disadvantaged individual;

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

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

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

8

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

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

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

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

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

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

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

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

24 10-702.1.

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

27 (2) (I) "BUSINESS ENTITY" MEANS A PERSON THAT CONDUCTS OR
28 OPERATES A TRADE OR BUSINESS LOCATED IN THE STATE ON A PERMANENT BASIS
29 FOR A REASONABLE TIME BEFORE THE PERSON APPLIES FOR A TAX CREDIT UNDER
30 THIS SECTION.

31 (II) "BUSINESS ENTITY" DOES NOT INCLUDE A PERSON OWNING,
32 OPERATING, DEVELOPING, CONSTRUCTING, OR REHABILITATING PROPERTY
33 INTENDED FOR USE PRIMARILY AS SINGLE OR MULTIFAMILY RESIDENTIAL
34 PROPERTY LOCATED WITHIN THE ENTERPRISE ZONE.

35 (3) "ELIGIBLE ECONOMIC DEVELOPMENT PROJECT" MEANS AN
36 ECONOMIC DEVELOPMENT PROJECT THAT IS WITHIN AN ENTERPRISE ZONE AND IS
37 APPROVED BY THE SECRETARY TO RECEIVE THE TAX CREDIT UNDER THIS
38 SECTION.

39 (4) "ENTERPRISE ZONE" MEANS AN AREA DESIGNATED UNDER
40 ARTICLE 83A, § 5-402 OF THE CODE.

9

1 (5) "PROJECT" MEANS AN ECONOMIC DEVELOPMENT PROJECT.

2 (6) (I) "PROJECT COSTS" MEANS THE COSTS AND EXPENSES
3 INCURRED BY A BUSINESS ENTITY IN CONNECTION WITH THE ACQUISITION,
4 CONSTRUCTION, INSTALLATION, AND EQUIPMENT OF AN ELIGIBLE ECONOMIC
5 DEVELOPMENT PROJECT.

6 (II) "PROJECT COSTS" INCLUDES:

7 1. THE COSTS OF ACQUIRING, CONSTRUCTING, INSTALLING,
8 AND EQUIPPING THE PROJECT, INCLUDING OBLIGATIONS INCURRED FOR LABOR
9 AND TO CONTRACTORS, SUBCONTRACTORS, BUILDERS, AND MATERIALMEN;

10 2. THE COSTS OF ACQUIRING LAND OR RIGHTS IN LAND
11 AND COSTS INCIDENTAL TO ACQUIRING LAND OR RIGHTS IN LAND;

12 3. THE COSTS OF CONTRACT BONDS AND INSURANCE THAT
13 ARE REQUIRED OR NECESSARY DURING THE ACQUISITION, CONSTRUCTION, OR
14 INSTALLATION OF THE PROJECT;

15 4. THE COSTS OF ARCHITECTURAL AND ENGINEERING
16 SERVICES, INCLUDING TEST BORINGS, SURVEYS, ESTIMATES, PLANS AND
17 SPECIFICATIONS, PRELIMINARY INVESTIGATIONS, ENVIRONMENTAL MITIGATION,
18 AND SUPERVISION OF CONSTRUCTION;

19 5. THE COSTS FOR THE PERFORMANCE OF ALL THE DUTIES
20 REQUIRED BY OR CONSEQUENT TO THE ACQUISITION, CONSTRUCTION, AND
21 INSTALLATION OF THE PROJECT;

22 6. THE COSTS ASSOCIATED WITH:

23 A. INSTALLATION OF FIXTURES AND EQUIPMENT;

24 B. SURVEYS, INCLUDING ARCHAEOLOGICAL AND
25 ENVIRONMENTAL SURVEYS;

26 C. SITE TESTS AND INSPECTIONS;

27 D. SUBSURFACE SITE WORK;

28 E. EXCAVATION;

29 F. REMOVAL OF STRUCTURES, ROADWAYS, CEMETERIES,
30 AND OTHER SURFACE OBSTRUCTIONS;

31 G. FILLING, GRADING, AND PROVISIONS FOR DRAINAGE
32 AND STORMWATER RETENTION;

33 H. INSTALLATION OF UTILITIES, INCLUDING WATER, SEWER,
34 SEWAGE TREATMENT, GAS, ELECTRICITY, AND COMMUNICATIONS FACILITIES;

35 I. OFF-SITE CONSTRUCTION OF UTILITY EXTENSIONS TO
36 THE BOUNDARIES OF THE PROPERTY; AND

37 J. PAVING;

10

1 7. THE INTEREST COSTS PRIOR TO AND DURING THE
2 ACQUISITION, CONSTRUCTION, AND INSTALLATION, AND EQUIPMENT OF THE
3 PROJECT AND FOR A PERIOD OF UP TO 2 YEARS AFTER COMPLETION OF THE
4 PROJECT;

5 8. THE COSTS, EXPENSES, AND FEES INCURRED IN
6 CONNECTION WITH THE FINANCING OF THE PROJECT, INCLUDING LEGAL,
7 ACCOUNTING, FINANCIAL, PRINTING, RECORDING, FILING COSTS, FEES, AND
8 EXPENSES; AND

9 9. THE COSTS OF OBTAINING BOND INSURANCE, LETTERS
10 OF CREDIT, OR OTHER FORMS OF CREDIT ENHANCEMENT OR LIQUIDITY
11 FACILITIES.

12 (7) "SECRETARY" MEANS THE SECRETARY OF BUSINESS AND
13 ECONOMIC DEVELOPMENT.

14 (B) A BUSINESS ENTITY MAY CLAIM A CREDIT ONLY AGAINST THE STATE
15 INCOME TAX FOR 50% OF THE PROJECT COSTS OF AN ECONOMIC DEVELOPMENT
16 PROJECT IN AN ENTERPRISE ZONE IF THE PROJECT IS APPROVED BY THE
17 SECRETARY AS AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT UNDER
18 SUBSECTION (G) OF THIS SECTION.

19 (C) THE CREDIT ALLOWED UNDER THIS SECTION EQUALS THE LESSER OF:

20 (1) 50% OF THE PROJECT COSTS FOR AN ELIGIBLE ECONOMIC
21 DEVELOPMENT PROJECT, LESS THE AMOUNT OF THE CREDIT ALLOWED WITH
22 RESPECT TO THE PROJECT FOR PRIOR TAXABLE YEARS; OR

23 (2) THE STATE INCOME TAX FOR THE TAXABLE YEAR ON THE BUSINESS
24 ENTITY'S INCOME GENERATED BY OR ARISING OUT OF THE PROJECT, AS
25 DETERMINED UNDER SUBSECTION (D) OF THIS SECTION.

26 (D) (1) THE STATE INCOME TAX FOR THE TAXABLE YEAR ON THE BUSINESS
27 ENTITY'S INCOME GENERATED BY OR ARISING OUT OF AN ELIGIBLE ECONOMIC
28 DEVELOPMENT PROJECT SHALL EQUAL THE DIFFERENCE BETWEEN:

29 (I) THE STATE INCOME TAX WITHOUT REGARD TO THIS SECTION;
30 AND

31 (II) THE STATE INCOME TAX ON THE BUSINESS ENTITY'S
32 MARYLAND TAXABLE INCOME REDUCED BY THE AMOUNT OF ITS NET INCOME
33 ATTRIBUTABLE TO THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT.

34 (2) (I) IF AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS A
35 TOTALLY SEPARATE FACILITY, NET INCOME ATTRIBUTABLE TO THE PROJECT
36 SHALL BE DETERMINED UNDER THE SEPARATE ACCOUNTING METHOD
37 REFLECTING ONLY THE GROSS INCOME, DEDUCTIONS, EXPENSES, GAINS, AND
38 LOSSES THAT ARE DIRECTLY ATTRIBUTABLE TO THE FACILITY AND OVERHEAD
39 EXPENSES APPORTIONED TO THE FACILITY.

40 (II) IF THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS AN
41 EXPANSION TO A PREVIOUSLY EXISTING FACILITY:

11

1 1. NET INCOME ATTRIBUTABLE TO THE ENTIRE FACILITY
2 SHALL BE DETERMINED UNDER THE SEPARATE ACCOUNTING METHOD
3 REFLECTING ONLY THE GROSS INCOME, DEDUCTIONS, EXPENSES, GAINS, AND
4 LOSSES THAT ARE DIRECTLY ATTRIBUTABLE TO THE FACILITY AND OVERHEAD
5 EXPENSES APPORTIONED TO THE FACILITY; AND

6 2. THE NET INCOME ATTRIBUTABLE TO THE ELIGIBLE
7 ECONOMIC DEVELOPMENT PROJECT SHALL BE DETERMINED BY APPORTIONING
8 THE SEPARATE ACCOUNTING NET INCOME OF THE ENTIRE FACILITY TO THE
9 ELIGIBLE ECONOMIC DEVELOPMENT PROJECT BY A FORMULA APPROVED BY THE
10 COMPTROLLER.

11 (III) IF A BUSINESS ENTITY CAN SHOW TO THE SATISFACTION OF
12 THE COMPTROLLER THAT THE NATURE OF THE OPERATIONS AND ACTIVITIES OF
13 THE BUSINESS ENTITY ARE SUCH THAT IT IS NOT PRACTICAL TO USE THE SEPARATE
14 ACCOUNTING METHOD TO DETERMINE THE NET INCOME FROM THE FACILITY AT
15 WHICH THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS LOCATED, THE
16 BUSINESS ENTITY SHALL DETERMINE NET INCOME FROM THE ELIGIBLE ECONOMIC
17 DEVELOPMENT PROJECT USING AN ALTERNATIVE METHOD APPROVED BY THE
18 COMPTROLLER.

19 (E) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR
20 EXCEEDS THE STATE INCOME TAX ON THE BUSINESS ENTITY'S INCOME GENERATED
21 BY OR ARISING OUT OF THE PROJECT FOR THAT TAXABLE YEAR, A BUSINESS
22 ENTITY MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX ON
23 THE BUSINESS ENTITY'S INCOME GENERATED BY OR ARISING OUT OF THE PROJECT
24 FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

25 (1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

26 (2) THE EXPIRATION OF THE 9TH TAXABLE YEAR AFTER THE 1ST
27 TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED WITH RESPECT TO THE ELIGIBLE
28 ECONOMIC DEVELOPMENT PROJECT.

29 (F) IF A CREDIT IS CLAIMED UNDER THIS SECTION, THE CLAIMANT MUST
30 MAKE THE ADDITION REQUIRED IN §§ 10-205, 10-206, AND 10-306 OF THIS TITLE.

31 (G) (1) THE SECRETARY SHALL ADOPT REGULATIONS TO SPECIFY:

32 (I) PROCEDURES FOR APPLICATION AND APPROVAL OF PROJECTS
33 FOR THE TAX CREDIT UNDER THIS SECTION; AND

34 (II) CRITERIA FOR APPROVAL OF PROJECTS FOR THE TAX CREDIT
35 UNDER THIS SECTION.

36 (2) THE CRITERIA FOR THE APPROVAL OF PROJECTS FOR THE TAX
37 CREDIT UNDER THIS SUBSECTION SHALL GIVE THE GREATEST WEIGHT TO:

38 (I) THE CREDITWORTHINESS OF THE BUSINESS ENTITY;

39 (II) THE NUMBER TYPE, AND QUALITY OF NEW JOBS TO BE
40 PROVIDED BY THE PROJECT TO RESIDENTS OF THE STATE; AND

12

1 (III) THE ECONOMIC VITALITY OF THE PROJECT.

2 **Article - Tax - Property**

3 9-103.

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

5 (2) "Base year" means the taxable year immediately before the taxable year
6 in which a property tax credit under this section is to be granted.

7 (3) (i) "Base year assessment" means the assessment on which the
8 property tax on real property was imposed for the base year.

9 (ii) "Base year assessment" does not include any new real property
10 that was first assessed in the base year.

11 (4) (i) "Business entity" means a person who operates or conducts a trade
12 or business.

13 (ii) "Business entity" includes a person who owns, operates, develops,
14 constructs, or rehabilitates real property, if the real property:

15 1. is intended for use primarily as single or multifamily
16 residential property located in the enterprise zone; and

17 2. is partially devoted to a nonresidential use.

18 (5) "Eligible assessment" means the difference between the baseyear
19 assessment and the actual assessment as determined by the Department for the
20 applicable taxable year in which the tax credit under this section is to be granted.

21 (6) "Qualified property" means real property that is:

22 (i) not used for residential purposes;

23 (ii) used in a trade or business by a business entity that meets the
24 requirements of Article 83A, § 5-404 of the Code; and

25 (iii) located in an enterprise zone that is designated under Article 83A,
26 § 5-402 of the Code.

27 (b) The governing body of a county or of a municipal corporation shall grant a tax
28 credit under this section against the property tax imposed on the eligible assessment of
29 qualified property.

30 (c) Unless the county in which a municipal corporation is located agrees to the
31 designation of an enterprise zone in the municipal corporation, qualified property in the
32 municipal corporation may not receive a tax credit against county property tax.

33 (d) (1) The appropriate governing body shall calculate the amount of the tax
34 credit under this section equal to a percentage of the amount of property tax imposed on
35 the eligible assessment of the qualified property, as follows:

13

1 (i) 80% in each of the 1st 5 taxable years following the calendar year
2 in which the property initially becomes a qualified property;

3 (ii) 70% in the 6th taxable year;

4 (iii) 60% in the 7th taxable year;

5 (iv) 50% in the 8th taxable year;

6 (v) 40% in the 9th taxable year; and

7 (vi) 30% in the 10th taxable year.

8 (2) The Department shall allocate the eligible assessment to the
9 nonresidential part of the qualified property at the same percentage as the square footage
10 of the nonresidential part is to the total square footage of the building.

11 (e) (1) A tax credit under this section is available to a qualified property for no
12 more than 10 consecutive years beginning with the taxable year following the calendar
13 year in which the real property initially becomes a qualified property.

14 (2) Even if the designation of an enterprise zone expires, the tax credit
15 under this section continues to be available to a qualified property.

16 (3) State property tax imposed on real property is not affected by this
17 section.

18 (f) When an enterprise zone is designated by the Secretary of the Department of
19 Business and Economic Development, the appropriate governing body shall certify to the
20 Department of Assessments and Taxation:

21 (1) the real properties in the enterprise zone that are qualified properties
22 for each taxable year for which the property tax credit under this section is to be granted;
23 and

24 (2) the date that the real properties became qualified properties.

25 (g) Before property tax bills are sent, the Department of Assessments and
26 Taxation shall submit to the appropriate governing body a list of:

27 (1) each qualified property;

28 (2) the amount of the base year assessment for each qualified property; and

29 (3) the amount of the eligible assessment for each qualified property.

30 (h) As provided in the State budget, the State shall remit to each county or
31 municipal corporation an amount equal to one-half of the funds that would have been
32 collected if the property tax credit under this section had not been granted.

33 (i) (1) Quarterly or more frequently, the county or municipal corporation shall
34 submit a request to the Department of Assessments and Taxation for the amount
35 required by subsection (h) of this section.

14

1 (2) Within 5 working days after the Department of Assessments and
2 Taxation receives the request from the county or municipal corporation, the Department
3 shall certify to the Comptroller the reimbursement due to each county or municipal
4 corporation.

5 (3) Within 5 working days after the Comptroller receives the certification
6 from the Department, the Comptroller shall reimburse each county or municipal
7 corporation.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 July 1, 1996.