
By: **Delegates Hill, Brown, R. Baker, Barve, Benson, Branch, Conroy, D. Davis, Dobson, Franchot, Frush, Giannetti, Griffith, Healey, Howard, V. Jones, Kirk, Krysiak, Marriott, Menes, Minnick, Moe, Montague, Oaks, Paige, Palumbo, Patterson, Pitkin, Proctor, Rawlings, Swain, Valderrama, and Vallario**

Introduced and read first time: February 12, 1999
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development - Enterprise Zones - Intensive Care Areas**

3 FOR the purpose of providing that a political subdivision may request the Secretary
4 of Business and Economic Development to designate all or part of an enterprise
5 zone as an intensive care area; specifying when the request may be made;
6 providing that the Secretary may grant the request if certain requirements are
7 met; requiring that the request include an intensive care area strategic plan;
8 specifying the contents of a strategic plan; requiring each unit of State
9 government to give priority to funding projects that would further the goals and
10 objectives identified in a strategic plan; requiring the Department of Business
11 and Economic Development to give funding preference to business projects
12 located in an intensive care area; permitting the Department of Business and
13 Economic Development to adopt certain regulations; requiring the Department
14 to consult with the Department of Business and Economic Development with
15 respect to certain regulations; altering the calculation of a certain State income
16 tax credit allowed for certain wages paid by certain business entities located in
17 certain designated enterprise zones under certain circumstances; making the
18 credit refundable under certain circumstances; providing a credit against the
19 sales and use tax for certain sales and use tax paid on certain tangible personal
20 property that becomes an integral part of certain real property located in certain
21 designated areas; requiring the Comptroller to provide by regulation for refunds
22 in lieu of the sales and use tax credit under certain circumstances; defining a
23 certain term; providing for the application of this Act; and generally relating to
24 enterprise zones and intensive care areas.

25 BY adding to
26 Article 83A - Department of Business and Economic Development
27 Section 5-105
28 Annotated Code of Maryland
29 (1998 Replacement Volume)

1 BY repealing and reenacting, with amendments,
2 Article 83A - Department of Business and Economic Development
3 Section 5-401, 5-402, and 5-404
4 Annotated Code of Maryland
5 (1998 Replacement Volume)

6 BY repealing and reenacting, with amendments,
7 Article - Tax - General
8 Section 10-702
9 Annotated Code of Maryland
10 (1997 Replacement Volume and 1998 Supplement)

11 BY adding to
12 Article - Tax - General
13 Section 11-108
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 1998 Supplement)

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

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

19 5-105.

20 THE DEPARTMENT SHALL GIVE FUNDING PREFERENCE TO BUSINESS
21 PROJECTS LOCATED IN AN INTENSIVE CARE AREA AS DESIGNATED UNDER § 5-402 OF
22 THIS TITLE.

23 5-401.

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

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

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

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

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

1 (e) "Department" means the Department of Business and Economic
2 Development.

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

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

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

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

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

10 (H) "INTENSIVE CARE AREA" MEANS AN AREA MEETING THE REQUIREMENTS
11 OF § 5-402(K) OF THIS SUBTITLE AND SO DESIGNATED BY THE SECRETARY PURSUANT
12 TO § 5-402 OF THIS SUBTITLE.

13 [(h)] (I) "Political subdivision" means any county or municipal corporation.

14 [(i)] (J) "Secretary" means the Secretary of Business and Economic
15 Development.

16 [(j)] (K) "Submission date" means April 15 and October 15 of any calendar
17 year.

18 5-402.

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

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

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

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

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

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

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

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

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

15 (f) Any area that is designated an enterprise zone or an empowerment zone
16 under federal law shall automatically and without any additional action by the
17 political subdivision or the Secretary be designated an enterprise zone under this
18 section without regard to any limitation on the number of enterprise zones that may
19 be designated by the Secretary. However, the incentives and initiatives provided for in
20 this subtitle shall not be available to business entities located in an enterprise zone
21 designated under federal law unless the Secretary and the Board of Public Works
22 shall consent to the designation.

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

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

28 (i) (1) A political subdivision may apply to the Secretary for the expansion
29 of an existing enterprise zone in the same manner as the political subdivision would
30 apply for the designation of a new enterprise zone.

31 (2) The Secretary may grant an expansion of an enterprise zone into any
32 area that meets the requirements of § 5-403 of this subtitle.

33 (j) (1) The Secretary may grant an extraordinary expansion of an enterprise
34 zone into any area that:

35 (i) Meets the requirements of § 5-403 of this subtitle; and

36 (ii) In the determination of the Secretary, has suffered a significant
37 loss of economic base.

38 (2) The extraordinary expansion of an enterprise zone may not count
39 towards the limitations, provided under subsection (e) of this section, on the number

1 of enterprise zones that the Secretary may designate in a 12-month period or that a
2 county may receive in a calendar year.

3 (3) The Secretary may not grant more than one extraordinary expansion
4 of an enterprise zone throughout the State in any 12-month period.

5 (K) (1) A POLITICAL SUBDIVISION MAY REQUEST THE SECRETARY TO
6 DESIGNATE ALL OR PART OF AN ENTERPRISE ZONE AS AN INTENSIVE CARE AREA.

7 (2) THE REQUEST MAY BE MADE AT THE TIME THE POLITICAL
8 SUBDIVISION APPLIES FOR THE DESIGNATION OF A NEW ENTERPRISE ZONE OR AT
9 ANY TIME AFTER AN ENTERPRISE ZONE HAS BEEN DESIGNATED BY THE SECRETARY.

10 (3) THE SECRETARY MAY GRANT THE REQUEST IF:

11 (I) THE AREA IS LOCATED IN AN ENTERPRISE ZONE DESIGNATED
12 BY THE SECRETARY;

13 (II) THE AREA IS LOCATED BETWEEN INTERSTATE HIGHWAY 495
14 AND THE DISTRICT OF COLUMBIA OR IS CONTIGUOUS TO INTERSTATE 495;

15 (III) THE AREA IS LOCATED BETWEEN INTERSTATE HIGHWAY 695
16 AND BALTIMORE CITY OR IS CONTIGUOUS TO INTERSTATE 695; AND

17 (IV) THE REQUEST INCLUDES AN INTENSIVE CARE AREA
18 STRATEGIC PLAN THAT MEETS THE REQUIREMENTS OF PARAGRAPH (4) OF THIS
19 SUBSECTION.

20 (L) (1) THE DEPARTMENT MAY ADOPT REGULATIONS FOR THE
21 IMPLEMENTATION OF THIS SUBTITLE.

22 (2) THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF
23 HOUSING AND COMMUNITY DEVELOPMENT IN PROMULGATING REGULATIONS
24 UNDER THIS SUBTITLE.

25 (4) AN INTENSIVE CARE AREA STRATEGIC PLAN SHALL INCLUDE:

26 (I) A DISCUSSION OF THE BACKGROUND AND HISTORY OF THE
27 AREA, INCLUDING A DISCUSSION OF THE AREA'S ECONOMY, GEOGRAPHY,
28 POPULATION, LABOR FORCE, AND RESOURCES;

29 (II) AN ANALYSIS OF THE ECONOMIC AND COMMUNITY
30 DEVELOPMENT PROBLEMS AND OPPORTUNITIES IN THE AREA;

31 (III) A DISCUSSION OF THE NATURE AND EXTENT OF COMMUNITY
32 PARTICIPATION IN THE DEVELOPMENT OF THE STRATEGIC PLAN;

33 (IV) A STATEMENT OF THE GOALS AND OBJECTIVES FOR TAKING
34 ADVANTAGE OF THE OPPORTUNITIES IN, AND SOLVING THE ECONOMIC AND
35 COMMUNITY DEVELOPMENT PROBLEMS OF, THE AREA;

1 (V) A PLAN OF ACTION FOR IMPLEMENTING THE GOALS AND
2 OBJECTIVES IDENTIFIED, INCLUDING SUGGESTED PROJECTS AND A DISCUSSION OF
3 THE NATURE OF FINANCIAL AND TECHNICAL SUPPORT FROM GOVERNMENT AND
4 THE PRIVATE SECTOR THAT IS NEEDED TO IMPLEMENT THE GOALS AND
5 OBJECTIVES; AND

6 (VI) PERFORMANCE MEASURES THAT WILL BE USED TO EVALUATE
7 WHETHER AND TO WHAT EXTENT THE PLAN'S GOALS AND OBJECTIVES ARE BEING
8 MET.

9 (5) PRIORITY SHALL BE GIVEN BY EACH UNIT OF STATE GOVERNMENT
10 TO FUNDING PROJECTS THAT WOULD FURTHER THE GOALS AND OBJECTIVES
11 IDENTIFIED IN AN INTENSIVE CARE AREA STRATEGIC PLAN.

12 5-404.

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

15 (1) The special property tax credit set forth in § 9-103 of the Tax -
16 Property Article[.];

17 (2) The income tax credits set forth in § 10-702 of the Tax - General
18 Article[.];

19 (3) THE SALES AND USE TAX CREDIT SET FORTH IN § 11-108 OF THE TAX
20 - GENERAL ARTICLE FOR A BUSINESS ENTITY LOCATED IN AN INTENSIVE CARE
21 AREA;

22 [(3)] (4) The consideration for loans under the Maryland Industrial
23 Land Act set forth in § 5-710 of this article[.];

24 [(4)] (5) The consideration for grants and loans from the Maryland
25 Industrial and Commercial Redevelopment Fund set forth in § 5-803(c) of this
26 article[.]; AND

27 [(5)] (6) Insurance by the Enterprise Zone Venture Capital Guarantee
28 Fund established in § 5-405 of this article.

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

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

34 (2) The business entity is certified by the respective political subdivision
35 that it is in compliance with the standards submitted by the subdivision under §
36 5-402(d)(4) of this subtitle; and

1 (3) (i) The business entity creates new or additional jobs or makes a
2 capital investment in order to qualify for the property tax credit under § 9-103 of the
3 Tax - Property Article and the income tax credits under § 10-702 of the Tax - General
4 Article; and

5 (ii) In considering whether the business entity qualifies for loans
6 and grants under the Maryland Industrial Land Act and the Maryland Industrial and
7 Commercial Redevelopment Fund and for insurance under the Enterprise Zone
8 Venture Capital Guarantee Fund, the Secretary determines that the business entity
9 will create new or additional jobs.

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

15 (d) Except as provided in § 10-702 of the Tax - General Article and § 9-103 of
16 the Tax - Property Article, the incentives and initiatives set forth in this section shall
17 be available for a period of 10 years following the date on which the area is designated
18 an enterprise zone pursuant to § 5-402 of this subtitle. No law hereinafter enacted
19 that eliminates or reduces the benefits available to business entities under this
20 section shall be applicable to any business entity located in an enterprise zone prior to
21 the effective date of such law.

22

Article - Tax - General

23 10-702.

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

25 (2) (i) "Business entity" means:

26 1. a person conducting or operating a trade or business; or

27 2. an organization that is exempt from taxation under §
28 501(c)(3) or (4) of the Internal Revenue Code.

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

32 (3) "Enterprise zone" means an area designated under Article 83A, §
33 5-402 of the Code.

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

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

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

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

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

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

9 2. the date on which the business entity locates in the
10 enterprise zone.

11 (5) "Economically disadvantaged individual" means an individual who is
12 certified by provisions that the Department of Labor, Licensing, and Regulation
13 adopts as an individual who, before becoming employed by a business entity in an
14 enterprise zone:

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

18 (ii) in the absence of an applicable federal act, met the criteria for
19 an economically disadvantaged individual that the Secretary of Labor, Licensing, and
20 Regulation sets.

21 (6) "INTENSIVE CARE AREA" HAS THE MEANING STATED IN ARTICLE 83A,
22 § 5-401 OF THE CODE.

23 (b) (1) Any business entity that is located in an enterprise zone and satisfies
24 the requirements of Article 83A, § 5-404 of the Code may claim a credit only against
25 the State income tax for the wages specified in subsections (c) and (d) of this section
26 that are paid in the taxable year for which the entity claims the credit.

27 (2) An organization that is exempt from taxation under § 501(c)(3) or (4)
28 of the Internal Revenue Code may apply the credit under this section as a credit
29 against income tax due on unrelated business taxable income as provided under §§
30 10-304 and 10-812 of this title.

31 (c) [For] SUBJECT TO SUBSECTION (F) OF THIS SECTION, FOR the taxable
32 year in which a business entity satisfies the requirements of Article 83A, § 5-404 of
33 the Code, a credit is allowed that equals:

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

35 (i) is an economically disadvantaged individual; and

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

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

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

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

7 (d) (1) [For] SUBJECT TO SUBSECTION (F) OF THIS SECTION, FOR each
8 taxable year after the taxable year described in subsection (c) of this section, while
9 the area is designated an enterprise zone, a credit is allowed that equals:

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

11 1. is an economically disadvantaged individual;

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

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

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

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

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

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

29 (2) A business entity that hires a qualified employee to replace another
30 qualified employee for whom the business entity received a credit under subsection
31 (c)(1) of this section and paragraph (1)(ii) of this subsection in the immediately
32 preceding taxable year may treat the new qualified employee as the replacement for
33 the other qualified employee to determine any credit that may be available to the
34 business entity under paragraph (1)(ii) or (iii) of this subsection.

35 (e) [If] SUBJECT TO SUBSECTION (F) OF THIS SECTION, IF the credit allowed
36 under this section in any taxable year exceeds the State income tax for that taxable

1 year, a business entity may apply the excess as a credit against the State income tax
2 for succeeding taxable years until the earlier of:

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

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

6 (F) FOR A BUSINESS ENTITY THAT IS LOCATED IN AN INTENSIVE CARE AREA:

7 (1) FOR EACH QUALIFIED EMPLOYEE WHO RESIDES IN THE ENTERPRISE
8 ZONE WHERE THE BUSINESS IS LOCATED, THE MAXIMUM WAGES SPECIFIED IN
9 SUBSECTIONS (C)(1) AND (2) AND (D)(1)(I), (II), AND (III) OF THIS SECTION, FOR WHICH
10 THE CREDIT UNDER THIS SECTION IS ALLOWABLE, SHALL BE DOUBLED; AND

11 (2) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
12 YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, CALCULATED
13 BEFORE THE APPLICATION OF THE CREDITS ALLOWED UNDER THIS SECTION AND §§
14 10-701 AND 10-701.1 BUT AFTER THE APPLICATION OF ANY OTHER CREDITS
15 ALLOWED UNDER THIS SUBTITLE, THE EXCESS OF THE CREDIT SHALL BE
16 REFUNDED.

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

19 11-108.

20 (A) A PERSON MAY CLAIM A CREDIT AGAINST THE SALES AND USE TAX THAT
21 THE PERSON IS REQUIRED TO PAY TO THE COMPTROLLER IN AN AMOUNT EQUAL TO
22 THE SALES AND USE TAX THAT THE PERSON PAYS ON THE SALE OF TANGIBLE
23 PERSONAL PROPERTY PURCHASED FOR USE IN CONSTRUCTING, EXPANDING, OR
24 REHABILITATING INDUSTRIAL OR COMMERCIAL REAL PROPERTY LOCATED IN AN
25 AREA DESIGNATED AS AN INTENSIVE CARE AREA UNDER ARTICLE 83A, § 5-402 OF
26 THE CODE, TO THE EXTENT THE TANGIBLE PERSONAL PROPERTY BECOMES AN
27 INTEGRAL COMPONENT PART OF THE REAL PROPERTY.

28 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
29 PERSON SHALL CLAIM THE CREDIT UNDER THIS SECTION ON THE PERSON'S SALES
30 AND USE TAX RETURN WITHIN 4 YEARS AFTER THE DUE DATE OF THE SALES AND
31 USE TAX RETURN FOR THE PERIOD DURING WHICH THE SALES AND USE TAX ON THE
32 PURCHASE WAS PAID.

33 (2) A CLAIM FOR A CREDIT UNDER THIS SECTION SHALL BE MADE IN
34 THE MANNER THAT THE COMPTROLLER REQUIRES BY REGULATION.

35 (C) THE COMPTROLLER BY REGULATION SHALL PROVIDE FOR REFUNDS IN
36 LIEU OF THE CREDIT ALLOWED UNDER THIS SECTION FOR PERSONS WHOSE ANNUAL
37 SALES AND USE TAX PAYMENTS TO THE COMPTROLLER ARE INSUFFICIENT TO USE
38 THE FULL AMOUNT OF THE CREDIT WITHIN 1 YEAR.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the changes to § 10-702
2 of the Tax - General Article under this Act shall be applicable to all taxable years
3 beginning after December 31, 1998.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1999.