

SENATE BILL 421

Unofficial Copy  
Q3

1999 Regular Session  
9r1872  
CF HB 4

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By: **Senators Hafer, Stoltzfus, Blount, Colburn, and Sfikas**  
Introduced and read first time: February 5, 1999  
Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **One Maryland Economic Development Program for Distressed Counties -**  
3 **Income Tax Credits**

4 FOR the purpose of allowing certain credits against the State income tax for certain  
5 costs of certain economic development projects undertaken by certain business  
6 entities in certain qualified economically distressed counties and certain  
7 start-up costs of certain business entities locating in certain qualified  
8 economically distressed counties; defining certain terms; requiring the  
9 Secretary of Business and Economic Development to adopt certain regulations;  
10 providing for the application of this Act; and generally relating to certain tax  
11 credits to encourage capital investment and job creation in certain qualified  
12 economically distressed counties.

13 BY adding to  
14 Article - Tax - General  
15 Section 10-712  
16 Annotated Code of Maryland  
17 (1997 Replacement Volume and 1998 Supplement)

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

20 **Article - Tax - General**

21 10-712.

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
23 INDICATED.

24 (2) "CENTRAL FINANCIAL, REAL ESTATE, OR INSURANCE SERVICES"  
25 MEANS THE PERFORMANCE OF CENTRAL MANAGEMENT OR ADMINISTRATIVE  
26 FUNCTIONS FOR A BUSINESS ENTITY ENGAGED IN FINANCIAL, REAL ESTATE, OR  
27 INSURANCE SERVICES, SUCH AS GENERAL MANAGEMENT, ACCOUNTING, COMPUTER  
28 TABULATING, DATA PROCESSING, PURCHASING, TRANSPORTATION OR SHIPPING,  
29 ADVERTISING, LEGAL, FINANCIAL, AND RESEARCH AND DEVELOPMENT.

1           (3)    (I)    "COMPANY HEADQUARTERS" MEANS A FACILITY WHERE THE  
2 MAJORITY OF A BUSINESS ENTITY'S FINANCIAL, PERSONNEL, LEGAL, AND PLANNING  
3 FUNCTIONS ARE HANDLED EITHER ON A REGIONAL OR NATIONAL BASIS.

4                   (II)    "COMPANY HEADQUARTERS" DOES NOT INCLUDE THE  
5 HEADQUARTERS OF A PROFESSIONAL SPORTS ORGANIZATION.

6           (4)    "ELIGIBLE ECONOMIC DEVELOPMENT PROJECT" MEANS AN  
7 ECONOMIC DEVELOPMENT PROJECT ESTABLISHING OR EXPANDING A BUSINESS  
8 FACILITY WITHIN A QUALIFIED DISTRESSED COUNTY THAT IS APPROVED BY THE  
9 SECRETARY TO RECEIVE THE TAX CREDITS UNDER THIS SECTION.

10           (5)    "FULL-TIME POSITION" MEANS A POSITION REQUIRING AT LEAST 840  
11 HOURS OF AN EMPLOYEE'S TIME DURING AT LEAST 24 WEEKS IN A 6-MONTH PERIOD.

12           (6)    (I)    "PROJECT COSTS" MEANS THE COSTS AND EXPENSES  
13 INCURRED BY A BUSINESS ENTITY IN CONNECTION WITH THE ACQUISITION,  
14 CONSTRUCTION, REHABILITATION, INSTALLATION, AND EQUIPPING OF AN ELIGIBLE  
15 ECONOMIC DEVELOPMENT PROJECT.

16                   (II)    "PROJECT COSTS" INCLUDES:

17                           1.    THE COSTS OF ACQUIRING, CONSTRUCTING,  
18 REHABILITATING, INSTALLING, AND EQUIPPING THE PROJECT, INCLUDING  
19 OBLIGATIONS INCURRED FOR LABOR AND TO CONTRACTORS, SUBCONTRACTORS,  
20 BUILDERS, AND MATERIALMEN;

21                           2.    THE COSTS OF ACQUIRING LAND OR RIGHTS IN LAND AND  
22 COSTS INCIDENTAL TO ACQUIRING LAND OR RIGHTS IN LAND;

23                           3.    THE COSTS OF CONTRACT BONDS AND INSURANCE THAT  
24 ARE REQUIRED OR NECESSARY DURING THE ACQUISITION, CONSTRUCTION, OR  
25 INSTALLATION OF THE PROJECT;

26                           4.    THE COSTS OF ARCHITECTURAL AND ENGINEERING  
27 SERVICES, INCLUDING TEST BORINGS, SURVEYS, ESTIMATES, PLANS AND  
28 SPECIFICATIONS, PRELIMINARY INVESTIGATIONS, ENVIRONMENTAL MITIGATION,  
29 AND SUPERVISION OF CONSTRUCTION;

30                           5.    THE COSTS FOR THE PERFORMANCE OF ALL THE DUTIES  
31 REQUIRED BY OR CONSEQUENT TO THE ACQUISITION, CONSTRUCTION, AND  
32 INSTALLATION OF THE PROJECT;

33                           6.    THE COSTS REQUIRED FOR THE INSTALLATION OF  
34 UTILITIES SUCH AS WATER, SEWER, SEWER TREATMENT, GAS, ELECTRICITY,  
35 COMMUNICATIONS, RAILROADS, AND SIMILAR FACILITIES;

36                           7.    THE INTEREST COSTS PRIOR TO AND DURING THE  
37 ACQUISITION, CONSTRUCTION, AND INSTALLATION, AND EQUIPMENT OF THE

1 PROJECT AND FOR A PERIOD OF UP TO 2 YEARS AFTER COMPLETION OF THE  
2 PROJECT;

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

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

9 (7) "QUALIFIED BUSINESS ENTITY" MEANS A PERSON CONDUCTING OR  
10 OPERATING A TRADE OR BUSINESS IN MARYLAND WHO:

11 (I) ESTABLISHES OR EXPANDS A BUSINESS FACILITY IN A  
12 QUALIFIED DISTRESSED COUNTY IN THE STATE;

13 (II) DURING ANY 24-MONTH PERIOD CREATES AT LEAST 25  
14 QUALIFIED POSITIONS AT THE NEW OR EXPANDED BUSINESS FACILITY;

15 (III) IS PRIMARILY ENGAGED AT THE NEW OR EXPANDED BUSINESS  
16 FACILITY IN THE QUALIFIED DISTRESSED COUNTY IN ONE OR MORE OF THE  
17 FOLLOWING:

18 1. MANUFACTURING OR MINING;

19 2. TRANSPORTATION OR COMMUNICATIONS;

20 3. FILMMAKING, RESORT, AND RECREATIONAL BUSINESS;

21 4. AGRICULTURE, FORESTRY, OR FISHING;

22 5. RESEARCH, DEVELOPMENT, OR TESTING;

23 6. BIOTECHNOLOGY;

24 7. COMPUTER PROGRAMMING, DATA PROCESSING, OR  
25 OTHER COMPUTER RELATED SERVICES;

26 8. CENTRAL FINANCIAL, REAL ESTATE, OR INSURANCE  
27 SERVICES;

28 9. THE OPERATION OF CENTRAL ADMINISTRATIVE OFFICES  
29 OR A COMPANY HEADQUARTERS;

30 10. A PUBLIC UTILITY;

31 11. WAREHOUSING; OR

32 12. BUSINESS SERVICES; AND

1 (IV) IS CERTIFIED BY THE SECRETARY UNDER SUBSECTION (E) OF  
2 THIS SECTION AS QUALIFYING FOR THE TAX CREDITS UNDER THIS SECTION.

3 (8) "QUALIFIED DISTRESSED COUNTY" MEANS A COUNTY, INCLUDING  
4 BALTIMORE CITY, FOR WHICH THE AVERAGE RATE OF UNEMPLOYMENT FOR THE  
5 MOST RECENT 18-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS GREATER  
6 THAN 150% OF THE AVERAGE RATE OF UNEMPLOYMENT FOR THE ENTIRE STATE  
7 DURING THAT SAME PERIOD.

8 (9) "QUALIFIED EMPLOYEE" MEANS AN EMPLOYEE FILLING A  
9 QUALIFIED POSITION.

10 (10) (I) "QUALIFIED POSITION" MEANS A POSITION THAT:

11 1. IS A FULL-TIME POSITION AND IS OF INDEFINITE  
12 DURATION;

13 2. PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;

14 3. IS LOCATED IN A QUALIFIED DISTRESSED COUNTY IN  
15 MARYLAND;

16 4. IS NEWLY CREATED, AS A RESULT OF THE  
17 ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IN A SINGLE LOCATION IN  
18 THE QUALIFIED DISTRESSED COUNTY; AND

19 5. IS FILLED.

20 (II) "QUALIFIED POSITION" DOES NOT INCLUDE A POSITION THAT  
21 IS:

22 1. CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED  
23 FROM AN EXISTING BUSINESS FACILITY OF THE BUSINESS ENTITY LOCATED IN  
24 MARYLAND TO ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF  
25 THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE STATE;

26 2. CREATED THROUGH A CHANGE IN OWNERSHIP OF A  
27 TRADE OR BUSINESS;

28 3. CREATED THROUGH A CONSOLIDATION, MERGER, OR  
29 RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION DOES NOT REPRESENT A  
30 NET NEW JOB IN THE STATE;

31 4. CREATED WHEN AN EMPLOYMENT FUNCTION IS  
32 CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY LOCATED IN THE  
33 STATE TO ANOTHER BUSINESS ENTITY IF THE POSITION DOES NOT REPRESENT A  
34 NET NEW JOB IN THE STATE; OR

35 5. FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

1 (11) "SECRETARY" MEANS THE SECRETARY OF BUSINESS AND ECONOMIC  
2 DEVELOPMENT.

3 (12) "START-UP COSTS" MEANS:

4 (I) A COMPANY'S COST TO FURNISH AND EQUIP A NEW LOCATION  
5 FOR ORDINARY BUSINESS FUNCTIONS, INCLUDING COMPUTERS, NONRECURRING  
6 COSTS OF FIXED TELECOMMUNICATIONS EQUIPMENT, FURNISHINGS, AND OFFICE  
7 EQUIPMENT; AND

8 (II) A COMPANY'S EXPENDITURES FOR MOVING COSTS,  
9 SEPARATION COSTS, AND ANY OTHER EXPENDITURE INCURRED BY A COMPANY  
10 DIRECTLY RELATED TO A MOVE FROM AN EXISTING LOCATION OUTSIDE OF  
11 MARYLAND TO A LOCATION IN A QUALIFIED DISTRESSED COUNTY IN MARYLAND.

12 (B) (1) A QUALIFIED BUSINESS ENTITY MAY CLAIM A CREDIT UNDER THIS  
13 SUBSECTION AGAINST THE STATE INCOME TAX FOR THE COSTS OF AN ELIGIBLE  
14 ECONOMIC DEVELOPMENT PROJECT IN A QUALIFIED DISTRESSED COUNTY IF THE  
15 QUALIFIED BUSINESS ENTITY'S TOTAL PROJECT COSTS FOR THE ELIGIBLE  
16 ECONOMIC DEVELOPMENT PROJECT IS AT LEAST \$500,000.

17 (2) THE CREDIT ALLOWED UNDER THIS SUBSECTION EQUALS THE  
18 LESSER OF:

19 (I) 100% OF THE PROJECT COSTS FOR THE ELIGIBLE ECONOMIC  
20 DEVELOPMENT PROJECT, LESS THE AMOUNT OF THE CREDIT ALLOWED WITH  
21 RESPECT TO THE PROJECT FOR PRIOR TAXABLE YEARS; OR

22 (II) THE STATE INCOME TAX FOR THE TAXABLE YEAR ON THE  
23 BUSINESS ENTITY'S INCOME GENERATED BY OR ARISING OUT OF THE PROJECT, AS  
24 DETERMINED UNDER PARAGRAPH (3) OF THIS SUBSECTION.

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

28 1. THE STATE INCOME TAX WITHOUT REGARD TO THIS  
29 SECTION; AND

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

33 (II) 1. IF AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS A  
34 TOTALLY SEPARATE FACILITY, NET INCOME ATTRIBUTABLE TO THE PROJECT SHALL  
35 BE DETERMINED UNDER THE SEPARATE ACCOUNTING METHOD REFLECTING ONLY  
36 THE GROSS INCOME, DEDUCTIONS, EXPENSES, GAINS, AND LOSSES THAT ARE  
37 DIRECTLY ATTRIBUTABLE TO THE FACILITY AND OVERHEAD EXPENSES  
38 APPORTIONED TO THE FACILITY.



1           (2)     THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR EACH  
2 TAXABLE YEAR EQUALS THE LESSER OF:

3                   (I)     100% OF THE BUSINESS ENTITY'S START-UP COSTS ASSOCIATED  
4 WITH ESTABLISHING OR EXPANDING A BUSINESS FACILITY IN A QUALIFIED  
5 DISTRESSED COUNTY, LESS THE AMOUNT OF THE CREDIT ALLOWED WITH RESPECT  
6 TO THE PROJECT FOR PRIOR TAXABLE YEARS; OR

7                   (II)    THE PRODUCT OF MULTIPLYING \$10,000 TIMES THE NUMBER  
8 OF QUALIFIED EMPLOYEES EMPLOYED AT THE NEW OR EXPANDED BUSINESS  
9 FACILITY.

10           (3)     THE CREDIT ALLOWED UNDER THIS SUBSECTION MAY BE ALLOWED  
11 FOR A MAXIMUM OF 10 YEARS.

12    (D)     THE SECRETARY SHALL ADOPT REGULATIONS TO SPECIFY CRITERIA AND  
13 PROCEDURES FOR APPLICATION AND APPROVAL OF PROJECTS FOR THE TAX CREDIT  
14 UNDER THIS SECTION.

15    (E)    (1)     TO BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY, A BUSINESS  
16 ENTITY SHALL SUBMIT THE FOLLOWING TO THE SECRETARY IN ACCORDANCE WITH  
17 REGULATIONS ADOPTED BY THE SECRETARY:

18                   (I)     THE EFFECTIVE DATE OF THE START-UP OR EXPANSION;

19                   (II)    THE NUMBER OF FULL-TIME EMPLOYEES PRIOR TO THE  
20 START-UP OR EXPANSION AND THE PAYROLL OF THE EXISTING EMPLOYEES;

21                   (III)   THE NUMBER OF QUALIFIED POSITIONS CREATED, QUALIFIED  
22 EMPLOYEES HIRED, AND THE PAYROLL OF THOSE EMPLOYEES; AND

23                   (IV)   ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES  
24 BY REGULATION.

25           (2)     THE SECRETARY MAY REQUIRE ANY INFORMATION REQUIRED  
26 UNDER THIS SUBSECTION TO BE VERIFIED BY AN INDEPENDENT AUDITOR  
27 SELECTED BY THE BUSINESS ENTITY.

28    (F)     A QUALIFIED BUSINESS ENTITY MUST OBTAIN AND SUBMIT TO THE  
29 COMPTROLLER WITH THE TAX RETURN ON WHICH THE CREDIT IS CLAIMED,  
30 CERTIFICATION FROM THE SECRETARY THAT THE ENTITY HAS MET THE  
31 REQUIREMENTS OF THIS SECTION AND IS ELIGIBLE FOR THE CREDIT.

32    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 July 1, 1999, and shall be applicable to all taxable years beginning after December 31,  
34 1999.