

HOUSE BILL 691

Unofficial Copy
C8

2001 Regular Session
11r1901
CF 11r1900

By: **Delegates Pitkin, Goldwater, and Healey**
Introduced and read first time: February 8, 2001
Assigned to: Economic Matters and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Smart Growth - Arts and Entertainment Districts**

3 FOR the purpose of authorizing the Secretary of the Department of Business and
4 Economic Development to designate one or more arts and entertainment
5 districts within which certain tax benefits would apply; establishing an
6 application process for a county or municipal corporation to apply to the
7 Secretary to designate an area as an arts and entertainment district;
8 establishing the Art and Entertainment Districts Fund; authorizing certain uses
9 of the moneys in the Fund; exempting certain projects from certain procurement
10 laws; limiting property tax credits under this Act to ten years; and generally
11 relating to the establishment of arts and entertainment districts in which
12 certain tax benefits would apply.

13 BY adding to
14 Article 83A - Department of Business and Economic Development
15 Section 4-701 through 4-703, inclusive, to be under the new subtitle "Subtitle 7.
16 Arts and Entertainment Districts"
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 2000 Supplement)

19 BY adding to
20 Article - Tax - General
21 Section 4-104(e), 10-207(v), and 11-229
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 2000 Supplement)

24 BY adding to
25 Article - Tax - Property
26 Section 9-239
27 Annotated Code of Maryland
28 (1994 Replacement Volume and 2000 Supplement)

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

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

4 SUBTITLE 7. ARTS AND ENTERTAINMENT DISTRICTS.

5 4-701.

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

8 (2) (I) "ARTISTIC WORK" MEANS AN ORIGINAL AND CREATIVE WORK,
9 WHETHER WRITTEN, COMPOSED, OR EXECUTED, THAT FALLS INTO ONE OF THE
10 FOLLOWING CATEGORIES:

- 11 1. A BOOK OR OTHER WRITING;
- 12 2. A PLAY OR PERFORMANCE OF A PLAY;
- 13 3. A MUSICAL COMPOSITION OR THE PERFORMANCE OF A
14 MUSICAL COMPOSITION;
- 15 4. A PAINTING OR OTHER PICTURE;
- 16 5. A SCULPTURE;
- 17 6. TRADITIONAL AND FINE CRAFTS;
- 18 7. THE CREATION OF A FILM OR THE ACTING WITHIN A FILM;
19 OR
- 20 8. THE CREATION OF A DANCE OR THE PERFORMANCE OF A
21 DANCE.

22 (II) "ARTISTIC WORK" INCLUDES ANY PRODUCT GENERATED AS A
23 RESULT OF ANY OF THE CATEGORIES LISTED UNDER SUBPARAGRAPH (I) OF THIS
24 PARAGRAPH.

25 (III) "ARTISTIC WORK" DOES NOT INCLUDE ANY PIECE OR
26 PERFORMANCE CREATED OR EXECUTED FOR INDUSTRY-ORIENTED OR
27 INDUSTRY-RELATED PRODUCTION.

28 (3) "ARTS AND ENTERTAINMENT DISTRICT" MEANS A DEVELOPED
29 DISTRICT OF PUBLIC AND PRIVATE USES THAT:

30 (I) RANGES IN SIZE FROM A PORTION OF A COUNTY OR MUNICIPAL
31 CORPORATION TO A REGIONAL DISTRICT WITH A SPECIAL COHERENCE; AND

32 (II) IS DISTINGUISHED BY PHYSICAL AND CULTURAL RESOURCES
33 WHICH PLAY A VITAL ROLE IN THE LIFE AND DEVELOPMENT OF THE COMMUNITY

1 AND CONTRIBUTE TO THE PUBLIC THROUGH INTERPRETIVE, EDUCATIONAL, AND
2 RECREATIONAL USES.

3 (4) "ARTS AND ENTERTAINMENT ENTERPRISE" MEANS A FOR PROFIT OR
4 NONPROFIT ENTITY DEDICATED TO VISUAL AND PERFORMING ARTS.

5 (5) "QUALIFYING RESIDING ARTIST" MEANS AN INDIVIDUAL WHO:

6 (I) RESIDES AT LEAST 180 DAYS ANNUALLY IN AN ARTS AND
7 ENTERTAINMENT DISTRICT AND CONDUCTS A BUSINESS IN THE ARTS AND
8 ENTERTAINMENT DISTRICT; AND

9 (II) DERIVES INCOME FROM THE SALE OR PERFORMANCE WITHIN
10 THE ARTS AND ENTERTAINMENT DISTRICT OF AN ARTISTIC WORK THAT THE
11 INDIVIDUAL WROTE, COMPOSED, OR EXECUTED, EITHER SOLELY OR WITH ANOTHER
12 INDIVIDUAL.

13 (B) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, THE MAYOR AND
14 CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR
15 MUNICIPAL CORPORATION MAY APPLY TO THE SECRETARY FOR DESIGNATION OF AN
16 ARTS AND ENTERTAINMENT DISTRICT IN THE COUNTY OR MUNICIPAL CORPORATION
17 IN WHICH:

18 (1) QUALIFYING RESIDING ARTISTS ARE ELIGIBLE FOR THE INCOME
19 TAX SUBTRACTION MODIFICATION UNDER § 10-207(V) OF THE TAX - GENERAL
20 ARTICLE;

21 (2) THE SALES AND USE TAX EXEMPTION UNDER § 11-229 OF THE TAX -
22 GENERAL ARTICLE APPLIES;

23 (3) A PROPERTY TAX CREDIT UNDER § 9-239 OF THE TAX - PROPERTY
24 ARTICLE APPLIES; AND

25 (4) AN EXEMPTION FROM THE ADMISSIONS AND AMUSEMENT TAX
26 UNDER § 4-102 OF THE TAX - GENERAL ARTICLE APPLIES.

27 (C) AN ARTS AND ENTERTAINMENT DISTRICT SHALL BE A CONTIGUOUS
28 GEOGRAPHIC AREA OF A COUNTY THAT IS:

29 (1) WHOLLY WITHIN A PRIORITY FUNDING AREA AS PROVIDED UNDER §
30 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

31 (2) WHOLLY WITHIN A DESIGNATED NEIGHBORHOOD AS DEFINED
32 UNDER ARTICLE 83B, § 4-202 OF THE CODE.

33 (D) (1) THE SECRETARY SHALL GIVE THE COMPTROLLER NOTICE OF THE
34 ESTABLISHMENT OF AN ARTS AND ENTERTAINMENT DISTRICT ON OR BEFORE JULY 1
35 PRIOR TO THE EFFECTIVE DATE OF ITS ESTABLISHMENT.

1 (2) THE SUBTRACTION MODIFICATION UNDER § 10-207(V) OF THE TAX -
2 GENERAL ARTICLE SHALL BE APPLICABLE TO ALL TAXABLE YEARS BEGINNING
3 AFTER DECEMBER 31 OF THE YEAR IN WHICH THE NOTICE UNDER PARAGRAPH (1) OF
4 THIS SUBSECTION IS PROVIDED.

5 (3) THE SALES AND USE TAX EXEMPTION UNDER § 11-229 OF THE TAX -
6 GENERAL ARTICLE SHALL TAKE EFFECT THE FIRST JANUARY 1 AFTER THE NOTICE
7 UNDER PARAGRAPH (1) OF THIS SUBSECTION IS PROVIDED.

8 4-702.

9 (A) A COUNTY OR MUNICIPAL CORPORATION MAY APPLY TO THE SECRETARY
10 FOR DESIGNATION OF AN AREA WITHIN THAT POLITICAL SUBDIVISION AS AN ARTS
11 AND ENTERTAINMENT DISTRICT, BUT IF A COUNTY SEEKS TO DESIGNATE AN AREA
12 WITHIN A MUNICIPAL CORPORATION AS AN ARTS AND ENTERTAINMENT DISTRICT,
13 THEN THE GOVERNING BODY OF THE MUNICIPAL CORPORATION MUST FIRST
14 CONSENT.

15 (B) ANY COUNTY MAY APPLY TO THE SECRETARY ON BEHALF OF A
16 MUNICIPAL CORPORATION, WITH THE CONSENT OF THE MUNICIPAL CORPORATION,
17 FOR DESIGNATION OF ANY AREA WITHIN THAT MUNICIPAL CORPORATION AS AN
18 ARTS AND ENTERTAINMENT DISTRICT.

19 (C) TWO OR MORE POLITICAL SUBDIVISIONS MAY APPLY JOINTLY TO THE
20 SECRETARY FOR DESIGNATION OF AN AREA AS AN ARTS AND ENTERTAINMENT
21 DISTRICT WHICH MAY BE LOCATED ASTRIDE THEIR COMMON BOUNDARIES.

22 (D) THE APPLICATION SHALL BE IN THE FORM AND MANNER AND CONTAIN
23 SUCH INFORMATION AS THE SECRETARY MAY, BY REGULATION, DETERMINE,
24 PROVIDED THAT THE APPLICATION SHALL:

25 (1) CONTAIN INFORMATION SUFFICIENT FOR THE SECRETARY TO
26 DETERMINE IF THE CRITERIA ESTABLISHED IN §§ 4-701(A)(3) AND (C) OF THIS
27 SUBTITLE HAVE BEEN MET; AND

28 (2) BE SUBMITTED ON BEHALF OF THE POLITICAL SUBDIVISION BY ITS
29 CHIEF ELECTED OFFICER, OR, IF NONE, BY THE GOVERNING BODY OF THE POLITICAL
30 SUBDIVISION.

31 (E) (1) WITHIN 60 DAYS FOLLOWING ANY SUBMISSION DATE, THE
32 SECRETARY MAY DESIGNATE ONE OR MORE ARTS AND ENTERTAINMENT DISTRICTS
33 FROM AMONG THE APPLICATIONS SUBMITTED TO THE SECRETARY ON OR BEFORE
34 THAT SUBMISSION DATE.

35 (2) THE SECRETARY MAY NOT DESIGNATE MORE THAN 6 ARTS AND
36 ENTERTAINMENT DISTRICTS IN ANY 12-MONTH PERIOD.

37 (3) NO COUNTY MAY RECEIVE MORE THAN 1 AREA DESIGNATED AS AN
38 ARTS AND ENTERTAINMENT DISTRICT IN ANY CALENDAR YEAR.

1 (4) THE DETERMINATION OF THE SECRETARY AS TO THE AREAS
2 DESIGNATED AS ARTS AND ENTERTAINMENT DISTRICTS SHALL BE FINAL, EXCEPT
3 THAT, FOR ANY AREA NOT DESIGNATED AN ARTS AND ENTERTAINMENT DISTRICT, A
4 POLITICAL SUBDIVISION MAY REAPPLY AT ANY TIME TO THE SECRETARY FOR
5 DESIGNATION OF THAT AREA AS AN ARTS AND ENTERTAINMENT DISTRICT.

6 (F) A POLITICAL SUBDIVISION MAY APPLY TO THE SECRETARY FOR THE
7 EXPANSION OF AN EXISTING ARTS AND ENTERTAINMENT DISTRICT IN THE SAME
8 MANNER AS THE POLITICAL SUBDIVISION WOULD APPLY FOR THE DESIGNATION OF
9 A NEW ARTS AND ENTERTAINMENT DISTRICT.

10 4-703.

11 (A) THERE IS AN ARTS AND ENTERTAINMENT DISTRICTS FUND IN THE
12 DEPARTMENT ESTABLISHED AS A NONLAPSING, REVOLVING SPECIAL FUND
13 MANAGED AND SUPERVISED BY THE SECRETARY.

14 (B) THE FUND MAY CONSIST OF ANY OF THE FOLLOWING:

15 (1) MONEYS APPROPRIATED IN THE STATE BUDGET;

16 (2) MONEYS MADE AVAILABLE TO THE FUND THROUGH APPROPRIATE
17 FEDERAL PROGRAMS OR PRIVATE CONTRIBUTIONS;

18 (3) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES
19 FROM MONEYS IN THE FUND;

20 (4) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE
21 FROM THE FUND;

22 (5) PROCEEDS FROM THE SALE, DISPOSITION, LEASE OR RENTAL BY THE
23 DEPARTMENT OF COLLATERAL RELATED TO ANY FINANCING PROVIDED BY THE
24 DEPARTMENT UNDER THIS SUBTITLE;

25 (6) PREMIUMS, FEES, ROYALTIES, AND REPAYMENTS OF PRINCIPAL,
26 INTEREST AND INVESTMENT PAID TO THE DEPARTMENT BY OR ON BEHALF OF AN
27 ARTS AND ENTERTAINMENT ENTERPRISE IN WHICH THE DEPARTMENT HAS MADE
28 AN EQUITY INVESTMENT, OR BY OR ON BEHALF OF AN INVESTOR PROVIDING AN
29 INVESTMENT GUARANTEED BY THE DEPARTMENT UNDER THIS SUBTITLE;

30 (7) RECOVERY OF ANY EQUITY INVESTMENT MADE BY THE
31 DEPARTMENT IN AN ARTS AND ENTERTAINMENT ENTERPRISE, INCLUDING ANY
32 ARRANGEMENT UNDER WHICH THE DEPARTMENT'S INVESTMENT IN THE ARTS AND
33 ENTERTAINMENT ENTERPRISE IS RECOVERED THROUGH:

34 (I) A REQUIREMENT THAT THE DEPARTMENT RECEIVE A
35 PROPORTION OF CASH FLOW, COMMISSIONS, ROYALTIES, OR PAYMENTS ON A
36 PATENT; OR

1 (II) THE REPURCHASE FROM THE DEPARTMENT OF ANY EVIDENCE
2 OF EQUITY PARTICIPATION, SUCH AS NOTES, STOCKS, BONDS OR DEBENTURES;

3 (8) REPAYMENTS RECEIVED FROM CONDITIONAL GRANTS EXTENDED
4 BY THE DEPARTMENT; AND

5 (9) ANY OTHER MONEYS MADE AVAILABLE TO THE DEPARTMENT.

6 (C) (1) THE DEPARTMENT MAY USE THE FUND FOR THE FOLLOWING
7 PURPOSES:

8 (I) TO MAKE GRANTS OR LOANS, AT A RATE OF INTEREST TO BE
9 DETERMINED BY THE DEPARTMENT;

10 (II) TO PROVIDE EQUITY INVESTMENT FINANCING FOR AN ARTS
11 AND ENTERTAINMENT ENTERPRISE;

12 (III) TO PROVIDE GUARANTEES OF LOANS, EQUITY, INVESTMENT, OR
13 OTHER PRIVATE FINANCING TO EXPAND THE CAPITAL RESOURCES OF AN ARTS AND
14 ENTERTAINMENT ENTERPRISE;

15 (IV) TO PURCHASE ADVISORY SERVICES AND TECHNICAL
16 ASSISTANCE TO ENABLE THE DEPARTMENT TO BETTER SUPPORT THE
17 DEVELOPMENT OF ARTS AND ENTERTAINMENT ENTERPRISES; AND

18 (V) TO PAY EXPENSES FOR ADMINISTRATIVE, LEGAL AND
19 ACTUARIAL SERVICES FOR THE DEPARTMENT.

20 (2) UNLESS OTHERWISE DETERMINED BY THE SECRETARY, MONEYS IN
21 THE FUND THAT HAVE BEEN GENERATED BY A PARTICULAR DIVISION WITHIN THE
22 DEPARTMENT SHALL BE ALLOCATED FOR THE USE OF THAT DIVISION.

23 (D) (1) THE STATE TREASURER SHALL HOLD AND THE STATE
24 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

25 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO
26 THE FUND.

27 (E) (1) SECTION 10-305 OF THE STATE FINANCE AND PROCUREMENT
28 ARTICLE DOES NOT APPLY TO ANY SALE, LEASE, TRANSFER, EXCHANGE, OR OTHER
29 DISPOSITION OF ANY REAL OR PERSONAL PROPERTY ACQUIRED BY THE
30 DEPARTMENT IN ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE,
31 INCLUDING SHARES OF STOCK IN AN ARTS AND ENTERTAINMENT ENTERPRISE.

32 (2) THE DEPARTMENT SHALL CONSULT WITH THE OFFICE OF THE
33 TREASURER IN CONNECTION WITH ANY PROPOSED DISPOSITION OF PROPERTY
34 ACQUIRED BY THE DEPARTMENT UNDER THIS SUBTITLE.

35 (F) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES
36 NOT APPLY TO THE DEPARTMENT FOR SERVICES RELATED TO THE INVESTMENT,

1 MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF ASSETS OF THE DEPARTMENT IN
2 ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE.

3

Article - Tax - General

4 4-104.

5 (E) (1) IN THIS SUBSECTION, "ARTS AND ENTERTAINMENT DISTRICT", "ARTS
6 AND ENTERTAINMENT ENTERPRISE" AND "QUALIFYING RESIDING ARTIST" HAVE THE
7 MEANINGS STATED IN ARTICLE 83A, § 4-701 OF THE CODE.

8 (2) A COUNTY OR A MUNICIPAL CORPORATION MAY EXEMPT FROM THE
9 ADMISSIONS AND AMUSEMENT TAX GROSS RECEIPTS FROM ANY ADMISSIONS OR
10 AMUSEMENTS CHARGE LEVIED BY AN ARTS AND ENTERTAINMENT ENTERPRISE OR
11 QUALIFYING RESIDING ARTIST IN AN ARTS AND ENTERTAINMENT DISTRICT.

12 10-207.

13 (V) (1) IN THIS SUBSECTION, "ARTISTIC WORK", "ARTS AND
14 ENTERTAINMENT DISTRICT", AND "QUALIFYING RESIDING ARTIST" HAVE THE
15 MEANINGS STATED IN ARTICLE 83A, § 4-701 OF THE CODE.

16 (2) THE SUBTRACTION MODIFICATION UNDER SUBSECTION (A) OF THIS
17 SECTION INCLUDES THE AMOUNT OF INCOME DERIVED WITHIN AN ARTS AND
18 ENTERTAINMENT DISTRICT BY A QUALIFYING RESIDING ARTIST FROM THE
19 PUBLICATION, PRODUCTION, OR SALE OF AN ARTISTIC WORK THAT THE ARTIST
20 WROTE, COMPOSED, OR EXECUTED.

21 (3) FOR PURPOSES OF DETERMINING WHETHER INCOME IS DERIVED
22 WITHIN AN ARTS AND ENTERTAINMENT DISTRICT FOR PURPOSES OF THIS
23 SUBSECTION, A QUALIFYING RESIDING ARTIST SHALL ALLOCATE RECEIPTS AND
24 EXPENSES AS THE COMPTROLLER MAY REQUIRE.

25 11-229.

26 (A) IN THIS SECTION, "ARTISTIC WORK", "ARTS AND ENTERTAINMENT
27 DISTRICT", AND "QUALIFYING RESIDING ARTIST" HAVE THE MEANINGS STATED IN
28 ARTICLE 83A, § 4-701 OF THE CODE.

29 (B) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF AN ARTISTIC
30 WORK WITHIN AN ARTS AND ENTERTAINMENT DISTRICT IF THE SALE IS IN THE ARTS
31 AND ENTERTAINMENT.

32

Article - Tax - Property

33 9-239.

34 (A) IN THIS SECTION, "ARTS AND ENTERTAINMENT DISTRICT" AND
35 "QUALIFYING RESIDING ARTIST" HAVE THE MEANINGS STATED IN ARTICLE 83A, §
36 4-701 OF THE CODE.

1 (B) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY
2 GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL
3 CORPORATION PROPERTY TAX IMPOSED ON A MANUFACTURING, COMMERCIAL, OR
4 INDUSTRIAL BUILDING THAT:

5 (1) IS LOCATED IN AN ARTS AND ENTERTAINMENT DISTRICT; AND

6 (2) IS WHOLLY OR PARTIALLY RENOVATED FOR USE BY QUALIFYING
7 RESIDING ARTISTS OR AN ARTS AND ENTERTAINMENT ENTERPRISE.

8 (C) A TAX CREDIT GRANTED UNDER THIS SECTION MAY NOT BE GRANTED FOR
9 MORE THAN 10 YEARS.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 2001.