
By: **Delegate Taylor**

Introduced and read first time: February 6, 2002

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **One Maryland Economic Development Tax Credits - Refunds - Businesses**
3 **Creating Higher Wage Jobs**

4 FOR the purpose of altering provisions of certain economic development tax credits to
5 alter the circumstances under which a qualified business entity may claim
6 certain refunds and apply the credits in a certain manner, if the average pay for
7 certain qualified positions created is at least a certain percentage of the federal
8 minimum wage; providing for the application of this Act; and generally relating
9 to certain tax credits allowed for certain costs of certain economic development
10 projects and certain start-up costs.

11 BY repealing and reenacting, without amendments,
12 Article 83A - Department of Business and Economic Development
13 Section 5-1501(a)(7) and (10)
14 Annotated Code of Maryland
15 (1998 Replacement Volume and 2001 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article 83A - Department of Business and Economic Development
18 Section 5-1501(b)(5) and (c)(4)
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2001 Supplement)

21 BY adding to
22 Article 83A - Department of Business and Economic Development
23 Section 5-1501(h)
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2001 Supplement)

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

Article 83A - Department of Business and Economic Development

2 5-1501.

3 (a) (7) "Qualified business entity" means a person that:

4 (i) Conducts or operates a trade or business in Maryland or is an
5 organization operating in Maryland that is exempt from taxation under § 501(c)(3) or
6 (4) of the Internal Revenue Code;

7 (ii) Establishes or expands a business facility that:

8 1. Is located in a qualified distressed county in the State; and

9 2. Is located within a priority funding area under § 5-7B-02
10 of the State Finance and Procurement Article or is eligible for funding outside of a
11 priority funding area under § 5-7B-05 or § 5-7B-06 of the State Finance and
12 Procurement Article;13 (iii) During any 24-month period creates at least 25 qualified
14 positions at the new or expanded business facility;15 (iv) Is primarily engaged at the new or expanded business facility in
16 the qualified distressed county in one or more of the following:

17 1. Manufacturing or mining;

18 2. Transportation or communications;

19 3. Filmmaking, resort, and recreational business;

20 4. Agriculture, forestry, or fishing;

21 5. Research, development, or testing;

22 6. Biotechnology;

23 7. Computer programming, data processing, or other
24 computer related services;

25 8. Central financial, real estate, or insurance services;

26 9. The operation of central administrative offices or a
27 company headquarters;

28 10. A public utility;

29 11. Warehousing; or

30 12. Business services; and

1 (v) Is certified by the Secretary under subsection (e) of this section
2 as qualifying for the tax credits under this section.

3 (10) (i) "Qualified position" means a position that:

- 4 1. Is a full-time position and is of indefinite duration;
- 5 2. Pays at least 150% of the federal minimum wage;
- 6 3. Is located in a qualified distressed county in Maryland;
- 7 4. Is newly created, as a result of the establishment or
8 expansion of a business facility in a single location in the qualified distressed county;
9 and
- 10 5. Is filled.

11 (ii) "Qualified position" does not include a position that is:

- 12 1. Created when an employment function is shifted from an
13 existing business facility of the business entity located in Maryland to another
14 business facility of the same business entity if the position does not represent a net
15 new job in the State;
- 16 2. Created through a change in ownership of a trade or
17 business;
- 18 3. Created through a consolidation, merger, or restructuring
19 of a business entity if the position does not represent a net new job in the State;
- 20 4. Created when an employment function is contractually
21 shifted from an existing business entity located in the State to another business
22 entity if the position does not represent a net new job in the State; or
- 23 5. Filled for a period of less than 12 months.

24 (b) (5) (i) Subject to the limitation under subparagraph (ii) of this
25 paragraph AND SUBJECT TO SUBSECTION (H) OF THIS SECTION, for any taxable year
26 after the 4th taxable year following the taxable year in which the project is placed in
27 service but before the 15th taxable year following the taxable year in which the
28 project is placed in service:

29 1. A qualified business entity other than a person subject to
30 taxation under Title 6 of the Insurance Article:

31 A. May apply any excess of eligible project costs for the
32 eligible economic development project over the cumulative amount used as a tax
33 credit under this subsection for the taxable year and all prior taxable years as a tax
34 credit against the State tax for the taxable year on the qualified business entity's
35 income other than income generated by or arising out of the project; and

1 B. May claim a refund in the amount, if any, by which the
2 unused excess exceeds the State tax for the taxable year on the qualified business
3 entity's income other than income generated by or arising out of the project; and

4 2. A qualified business entity that is subject to taxation
5 under Title 6 of the Insurance Article:

6 A. May apply any excess of eligible project costs for the
7 eligible economic development project over the cumulative amount used as a tax
8 credit under this subsection for the taxable year and all prior taxable years as a tax
9 credit against the premium tax imposed for the taxable year; and

10 B. May claim a refund in the amount, if any, by which the
11 unused excess exceeds the premium tax for the taxable year.

12 (ii) For any taxable year, the total of the amounts used as a tax
13 credit and claimed as a refund as provided in this paragraph may not exceed the
14 amount of taxes that the qualified business entity is required to withhold for the
15 taxable year from the wages of qualified employees under § 10-908 of the Tax -
16 General Article.

17 (c) (4) (i) Subject to the limitation under subparagraph (ii) of this
18 paragraph AND SUBJECT TO SUBSECTION (H) OF THIS SECTION, for any taxable year
19 after the 4th taxable year following the taxable year in which the qualified business
20 entity locates in a qualified distressed county but before the 15th taxable year
21 following the taxable year in which the qualified business entity locates in a qualified
22 distressed county, the qualified business entity may claim a refund in the amount, if
23 any, by which the qualified business entity's eligible start-up costs exceed the
24 cumulative amount used as a tax credit under this subsection for the taxable year and
25 all prior taxable years.

26 (ii) For any taxable year, the total amount claimed as a refund as
27 provided in this paragraph may not exceed the amount of taxes that the qualified
28 business entity is required to withhold for the taxable year from the wages of
29 qualified employees under § 10-908 of the Tax - General Article.

30 (H) IF THE AVERAGE PAY FOR THE QUALIFIED POSITIONS CREATED AS A
31 RESULT OF THE ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IS AT
32 LEAST 250% OF THE FEDERAL MINIMUM WAGE, THE PROVISIONS OF SUBSECTIONS
33 (B)(5) AND (C)(4) OF THIS SECTION SHALL APPLY BEGINNING WITH THE TAXABLE
34 YEAR AFTER THE 2ND TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH
35 THE QUALIFIED BUSINESS ENTITY LOCATES IN A QUALIFIED DISTRESSED COUNTY.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 July 1, 2002 and shall be applicable to any business entity that first notifies the
38 Department of Business and Economic Development of its intent to seek certification
39 for the tax credit under Article 83A, § 5-1501 of the Code on or after July 1, 2002.