
By: **Chairman, Ways and Means Committee (By Request - Departmental -
Business and Economic Development)**

Introduced and read first time: February 12, 2004

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Business and Economic Development - Job Creation Tax Credit and One**
3 **Maryland Economic Development Tax Credit - Disaster Relief**

4 FOR the purpose of authorizing the Secretary of Business and Economic Development
5 to extend the 24-month period during which a qualified business entity must
6 hire a minimum number of qualified employees in certain federal disaster areas
7 to qualify for tax benefits under the Job Creation Tax Credit program and the
8 One Maryland Economic Development Tax Credit program; providing for the
9 application of this Act; making this Act an emergency measure; and generally
10 related to the Job Creation Tax Credit program and the One Maryland Economic
11 Development Tax Credit program.

12 BY repealing and reenacting, with amendments,
13 Article 83A - Department of Business and Economic Development
14 Section 5-1101(f), 5-1102(b), and 5-1501(a)(7)
15 Annotated Code of Maryland
16 (2003 Replacement Volume)

17 BY adding to
18 Article 83A - Department of Business and Economic Development
19 Section 5-1501(e)(5)
20 Annotated Code of Maryland
21 (2003 Replacement Volume)

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

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

25 5-1101.

26 (f) (1) "Qualified business entity" means a person conducting or operating a
27 trade or business in Maryland who:

1 (i) Is engaged in an activity specified in § 5-1102(b)(2)(ii) of this
2 subtitle;

3 (ii) [During] EXCEPT AS PROVIDED IN § 5-1102(B)(1)(III) OF THIS
4 SUBTITLE, DURING any 24-month period creates:

5 1. At least 60 qualified positions;

6 2. At least 30 qualified positions if the aggregate payroll for
7 the qualified positions is greater than a threshold amount equal to the product of
8 multiplying 60 times the State's average annual salary, as determined by the
9 Department; or

10 3. At least 25 qualified positions if the business facility
11 established or expanded by the business entity is located in a State priority funding
12 area; and

13 (iii) Is certified by the Secretary under § 5-1102(b) of this subtitle as
14 qualifying for the tax credit under this subtitle.

15 (2) For a person engaged in a business activity described in §
16 5-1102(b)(2)(ii)12 of this subtitle, "qualified business entity":

17 (i) Includes the persons owning or operating the multiuse facility
18 in which the entertainment, recreation, cultural, or tourism-related activities are
19 operated; and

20 (ii) Does not include any separate entity that leases retail space at
21 the facility.

22 5-1102.

23 (b) (1) (i) The Secretary shall certify a person as a qualified business
24 entity eligible for the tax credit under this subtitle if the person satisfies the criteria
25 set forth in this section.

26 (ii) A business entity may not be certified as qualifying for the tax
27 credit under this subtitle unless the business entity notifies the Department of its
28 intent to seek certification before hiring any qualified employees to fill the qualified
29 positions necessary to satisfy the requirements of paragraph (2)(i) of this subsection
30 for establishing or expanding the business facility on which the credit is based.

31 (III) THE SECRETARY MAY EXTEND THE 24-MONTH PERIOD FOR A
32 QUALIFIED BUSINESS ENTITY TO HIRE EMPLOYEES FOR UP TO 12 ADDITIONAL
33 MONTHS IF:

34 1. THE QUALIFIED BUSINESS ENTITY IS LOCATED IN AN
35 AREA DETERMINED TO BE A FEDERAL DISASTER AREA;

1 2. THE QUALIFIED BUSINESS ENTITY SUBMITS A WRITTEN
2 REQUEST TO THE SECRETARY FOR AN EXTENSION OF THE 24-MONTH PERIOD,
3 GIVING A DETAILED EXPLANATION OF THE NEED FOR THE EXTENSION; AND

4 3. THE SECRETARY DETERMINES THAT THE QUALIFIED
5 BUSINESS ENTITY WAS UNABLE TO CREATE THE REQUIRED MINIMUM NUMBER OF
6 QUALIFIED POSITIONS DURING THE 24-MONTH PERIOD DUE TO THE DISASTER.

7 (2) To qualify for the tax credit provided under this subtitle, a business
8 entity must establish or expand a business facility in the State that:

9 (i) Results in the creation of:

10 1. At least 60 qualified positions;

11 2. At least 30 qualified positions if the aggregate payroll for
12 the qualified positions is greater than a threshold amount equal to the product of
13 multiplying 60 times the State's average annual salary, as determined by the
14 Department; or

15 3. At least 25 qualified positions if the business facility
16 established or expanded by the business entity is located in a State priority funding
17 area; and

18 (ii) Is primarily engaged in one or more of the following:

19 1. Manufacturing or mining;

20 2. Transportation or communications;

21 3. Agriculture, forestry, or fishing;

22 4. Research, development, or testing;

23 5. Biotechnology;

24 6. Computer programming, data processing, or other
25 computer related services;

26 7. Central financial, real estate, or insurance services;

27 8. The operation of central administrative offices or a
28 company headquarters;

29 9. A public utility;

30 10. Warehousing;

31 11. Business services, if the business facility established or
32 expanded by the business entity is located in a State priority funding area; or

1 12. Operation of entertainment, recreation, cultural, or
2 tourism-related activities in a multiuse facility located within a revitalization area if
3 the facility generates a minimum of 1,000 new full-time equivalent filled positions in
4 a 24-month period OR UP TO A 36-MONTH PERIOD AS PROVIDED IN PARAGRAPH
5 (1)(III) OF THIS SUBSECTION, and is not primarily used by a professional sports
6 franchise or for gaming.

7 (3) In determining whether a business facility is engaged in a qualifying
8 activity described in paragraph (2)(ii) of this subsection, the Department shall
9 consider the definitions set forth in the Standard Industrial Classification Manual.

10 5-1501.

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

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

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

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

17 2. Is located within a priority funding area under § 5-7B-02
18 of the State Finance and Procurement Article or is eligible for funding outside of a
19 priority funding area under § 5-7B-05 or § 5-7B-06 of the State Finance and
20 Procurement Article;

21 (iii) [During] EXCEPT AS PROVIDED IN SUBSECTION (E)(5) OF THIS
22 SECTION, DURING any 24-month period creates at least 25 qualified positions at the
23 new or expanded business facility;

24 (iv) Is primarily engaged at the new or expanded business facility in
25 the qualified distressed county in one or more of the following:

26 1. Manufacturing or mining;

27 2. Transportation or communications;

28 3. Filmmaking, resort, and recreational business;

29 4. Agriculture, forestry, or fishing;

30 5. Research, development, or testing;

31 6. Biotechnology;

32 7. Computer programming, data processing, or other
33 computer related services;

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

- 1
2 company headquarters;
- 3
4
5
9. The operation of central administrative offices or a
10. A public utility;
11. Warehousing; or
12. Business services; and

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

8 (e) (5) THE SECRETARY MAY EXTEND THE 24-MONTH PERIOD FOR A
9 QUALIFIED BUSINESS ENTITY TO HIRE EMPLOYEES UP TO 12 ADDITIONAL MONTHS
10 IF:

11 (I) THE QUALIFIED BUSINESS ENTITY IS LOCATED IN AN AREA
12 DETERMINED TO BE A FEDERAL DISASTER AREA;

13 (II) THE QUALIFIED BUSINESS ENTITY SUBMITS A WRITTEN
14 REQUEST TO THE SECRETARY FOR AN EXTENSION OF THE 24-MONTH PERIOD,
15 GIVING A DETAILED EXPLANATION OF THE NEED FOR THE EXTENSION; AND

16 (III) THE SECRETARY DETERMINES THAT THE QUALIFIED BUSINESS
17 ENTITY WAS UNABLE TO CREATE THE REQUIRED MINIMUM NUMBER OF QUALIFIED
18 POSITIONS DURING THE 24-MONTH PERIOD DUE TO THE DISASTER.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
20 construed to apply retroactively to September 1, 2003.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
22 measure, is necessary for the immediate preservation of the public health or safety,
23 has been passed by a ye and nay vote supported by three-fifths of all the members
24 elected to each of the two Houses of the General Assembly, and shall take effect from
25 the date it is enacted.