

CHAPTER 370

(Senate Bill 1033)

AN ACT concerning

Tax Credits for Individuals Facing Employment Barriers – Sunset Extension

FOR the purpose of altering certain termination provisions and dates of applicability for certain tax credits allowed to employers that hire certain qualified employment opportunity employees or certain qualifying individuals with disabilities; repealing certain obsolete provisions of law; recodifying certain provisions relating to certain tax credits allowed to employers that hire certain qualified employment opportunity employees; providing for the termination of certain provisions of this Act; and generally relating to certain tax credits allowed to employers that hire certain qualified employees facing certain employment barriers.

BY repealing

Article 88A – Department of Human Resources
Section 54
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY repealing

Article – Tax – General
Section 8–213
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General
Section 8–410 and 10–704.3
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 6–105.1
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Chapter 492 of the Acts of the General Assembly of 1995, as amended by Chapter 10 of the Acts of the General Assembly of 1996, Chapters 598 and 599 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, and Chapter 394 of the Acts of the General Assembly of 2006

Section 3

BY repealing and reenacting, with amendments,

Chapter 112 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, and Chapter 394 of the Acts of the General Assembly of 2006

Section 4 and 6

BY repealing and reenacting, with amendments,

Chapter 113 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, and Chapter 394 of the Acts of the General Assembly of 2006

Section 4 and 6

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 54 of Article 88A – Department of Human Resources of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8–213 of Article – Tax – General of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10–704.3.

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

(2) "BUSINESS ENTITY" MEANS:

(I) A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS IN MARYLAND; OR

(II) AN ORGANIZATION OPERATING IN MARYLAND THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE.

(3) "QUALIFIED CHILD CARE EXPENSES" MEANS STATE REGULATED CHILD CARE EXPENSES THAT ARE INCURRED BY A BUSINESS ENTITY TO ENABLE A QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE OF THE BUSINESS TO BE GAINFULLY EMPLOYED.

(4) (I) "QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE" MEANS AN INDIVIDUAL WHO IS A RESIDENT OF MARYLAND AND WHO FOR ANY 3 MONTHS DURING THE 18-MONTH PERIOD BEFORE THE INDIVIDUAL'S EMPLOYMENT WITH A BUSINESS ENTITY WAS A RECIPIENT OF TEMPORARY CASH ASSISTANCE FROM THE STATE UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM OR THE FAMILY INVESTMENT PROGRAM AND WHO FOR 6 MONTHS BEFORE THE INDIVIDUAL'S EMPLOYMENT WITH A BUSINESS ENTITY WAS A MARYLAND RESIDENT.

(II) "QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL WHO IS THE SPOUSE OF, OR HAS ANY OF THE RELATIONSHIPS SPECIFIED IN § 152(A)(1) THROUGH (8) OF THE INTERNAL REVENUE CODE TO, A PERSON WHO CONTROLS, DIRECTLY OR INDIRECTLY, MORE THAN 50% OF THE OWNERSHIP OF THE BUSINESS ENTITY.

(5) "TRANSPORTATION EXPENSES" MEANS EXPENSES THAT ARE INCURRED BY A BUSINESS ENTITY TO ENABLE A QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE TO TRAVEL TO AND FROM WORK.

(6) "WAGES" MEANS WAGES, WITHIN THE MEANING OF § 51(C)(1), (2), AND (3) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO § 51(C)(4) OF THE INTERNAL REVENUE CODE, THAT ARE PAID BY A BUSINESS ENTITY TO AN EMPLOYEE FOR SERVICES PERFORMED IN A TRADE OR BUSINESS OF THE BUSINESS ENTITY.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN THE AMOUNTS DETERMINED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION FOR THE WAGES AND QUALIFIED CHILD CARE OR TRANSPORTATION EXPENSES WITH RESPECT TO A QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE THAT ARE PAID IN THE TAXABLE YEAR FOR WHICH THE BUSINESS ENTITY CLAIMS THE CREDIT.

(2) THE SAME TAX CREDIT CANNOT BE APPLIED MORE THAN ONCE AGAINST DIFFERENT TAXES BY THE SAME TAXPAYER.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, FOR EACH TAXABLE YEAR, FOR THE WAGES PAID TO EACH QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE, A CREDIT IS ALLOWED IN AN AMOUNT EQUAL TO:

(I) 30% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT; AND

(II) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE DURING THE SECOND YEAR OF EMPLOYMENT.

(2) IF THE QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE HAS BEEN A RECIPIENT OF TEMPORARY CASH ASSISTANCE FROM THE STATE UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM OR THE FAMILY INVESTMENT PROGRAM FOR AT LEAST 18 OF THE LAST 48 MONTHS, WHETHER CONSECUTIVE OR NOT CONSECUTIVE, AND HAS BEEN EMPLOYED FOR A FULL YEAR BY A BUSINESS ENTITY CLAIMING THE CREDIT, THE CREDIT ALLOWED UNDER THIS SECTION IS AN AMOUNT EQUAL TO 40% OF UP TO THE FIRST \$10,000 IN WAGES PAID TO THE QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT.

(D) FOR EACH TAXABLE YEAR, FOR CHILD CARE PROVIDED OR PAID FOR BY A BUSINESS ENTITY FOR THE CHILDREN OF A QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE OF THE BUSINESS ENTITY OR FOR TRANSPORTATION EXPENSES, A CREDIT IS ALLOWED IN AN AMOUNT EQUAL TO:

(1) UP TO \$600 OF THE QUALIFIED CHILD CARE OR TRANSPORTATION EXPENSES INCURRED FOR EACH QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT; AND

(2) UP TO \$500 OF THE QUALIFIED CHILD CARE OR TRANSPORTATION EXPENSES INCURRED FOR EACH QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE DURING THE SECOND YEAR OF EMPLOYMENT.

(E) (1) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS SECTION FOR AN EMPLOYEE:

(I) WHO IS HIRED TO REPLACE A LAID-OFF EMPLOYEE OR TO REPLACE AN EMPLOYEE WHO IS ON STRIKE; OR

(II) FOR WHOM THE BUSINESS ENTITY SIMULTANEOUSLY RECEIVES FEDERAL OR STATE EMPLOYMENT TRAINING BENEFITS.

(2) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS SECTION UNTIL IT HAS NOTIFIED THE APPROPRIATE GOVERNMENT AGENCY THAT THE QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE HAS BEEN HIRED.

(3) A BUSINESS ENTITY MAY CLAIM A CREDIT IN THE AMOUNT PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION FOR AN EMPLOYEE WHOSE EMPLOYMENT LASTS LESS THAN 1 YEAR IF THE EMPLOYEE:

(I) VOLUNTARILY TERMINATES EMPLOYMENT WITH THE EMPLOYER;

(II) IS UNABLE TO CONTINUE EMPLOYMENT DUE TO DEATH OR A DISABILITY; OR

(III) IS TERMINATED FOR CAUSE.

(4) (I) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT UNDER SUBSECTION (C)(1) OF THIS SECTION FOR AN EMPLOYEE WHO IS EMPLOYED FOR LESS THAN 1 YEAR BECAUSE THE EMPLOYEE VOLUNTARILY TERMINATES EMPLOYMENT WITH THE EMPLOYER TO TAKE ANOTHER JOB, THE BUSINESS ENTITY MAY CLAIM A TAX CREDIT OF 30% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE EMPLOYEE DURING THE COURSE OF EMPLOYMENT.

(II) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT UNDER SUBSECTION (C)(1) OF THIS SECTION FOR AN EMPLOYEE WHO IS EMPLOYED FOR LESS THAN 1 YEAR FOR A REASON OTHER THAN THAT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE AMOUNT OF THE CREDIT SHALL BE REDUCED BY THE PROPORTION OF A YEAR THAT THE EMPLOYEE DID NOT WORK.

(F) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY FOR THAT TAXABLE YEAR, A BUSINESS ENTITY MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

(1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

(2) THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE WAGES OR QUALIFIED CHILD CARE OR TRANSPORTATION EXPENSES FOR WHICH THE CREDIT IS CLAIMED ARE PAID.

(G) IF A CREDIT IS CLAIMED UNDER THIS SECTION, THE CLAIMANT MUST MAKE THE ADDITION REQUIRED IN § 10-205 OR § 10-306 OF THIS ARTICLE.

(H) THE COMPTROLLER IN COOPERATION WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AND THE DEPARTMENT OF HUMAN RESOURCES SHALL ADMINISTER THE CREDIT UNDER THIS SECTION.

(I) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, THE DEPARTMENT OF HUMAN RESOURCES, AND THE COMPTROLLER SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY BEFORE JANUARY 15 OF EACH YEAR ON:

(1) MARKETING ACTIVITIES;

(2) THE COORDINATION OF INTERAGENCY ACTIVITIES;

(3) THE NUMBER OF BUSINESS ENTITIES WHO HIRED EMPLOYMENT OPPORTUNITY EMPLOYEES DURING THE PRECEDING YEAR, INCLUDING A SEPARATE ACCOUNT OF THE NUMBER OF ORGANIZATIONS THAT

ARE EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE;

(4) THE NUMBER OF EMPLOYMENT OPPORTUNITY EMPLOYEES:

(I) HIRED IN EACH BUSINESS SECTOR FOR THE PRECEDING YEAR; AND

(II) HIRED DURING THE PRECEDING YEAR AND EMPLOYED FOR LESS THAN 1 YEAR;

(5) A SUMMARY OF THE WAGES PAID TO EMPLOYMENT OPPORTUNITY EMPLOYEES FOR THE PRECEDING YEAR;

(6) THE TOTAL NUMBER AND AMOUNT OF JOB CERTIFICATIONS ISSUED AND CREDITS CLAIMED DURING THE PRECEDING YEAR AS WELL AS THE NUMBER AND AMOUNT OF JOB CERTIFICATIONS ISSUED AND CREDITS CLAIMED DURING THE PRECEDING YEAR FOR EMPLOYMENT OPPORTUNITY EMPLOYEES ELIGIBLE FOR THE CREDIT GRANTED UNDER SUBSECTION (C)(2) OF THIS SECTION;

(7) THE NUMBER AND AMOUNT OF CREDITS CLAIMED FOR CHILD CARE OR TRANSPORTATION EXPENSES INCURRED, INCLUDING A SUMMARY OF THE TYPES OF TRANSPORTATION EXPENSES INCURRED BY BUSINESS ENTITIES; AND

(8) THE NUMBER OF EMPLOYMENT OPPORTUNITY EMPLOYEES EMPLOYED FOR:

(I) MORE THAN 1 YEAR BUT LESS THAN 2 YEARS;

(II) MORE THAN 2 YEARS BUT LESS THAN 3 YEARS; AND

(III) 3 YEARS OR MORE.

[(a)] (J) An individual or a corporation may claim a credit against the income tax for wages paid to qualified employment opportunity employees and for child care provided or paid for by a business entity for the children of a qualified employment opportunity employee or transportation expenses as provided under [Article 88A, § 54 of the Code] SUBSECTIONS (A) THROUGH (H) OF THIS SECTION.

[(b)] (K) (1) An organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code may apply the credit under this section:

(i) as a credit against income tax due on unrelated business taxable income as provided under §§ 10–304 and 10–812 of this title; or

(ii) as a credit for the payment to the Comptroller of taxes that the organization:

1. is required to withhold from the wages of employees under § 10–908 of this title; and

2. is required to pay to the Comptroller under § 10–906(a) of this title.

(2) If the credit allowed under this subsection in any taxable year exceeds the sum of the State income tax otherwise payable by the organization for that taxable year and the taxes that the organization has withheld from the wages of employees and is required to pay to the Comptroller under § 10–906(a) of this title for the taxable year, the organization may apply the excess as a credit under paragraph (1)(i) or (ii) of this subsection in succeeding taxable years for the carryforward period provided in [Article 88A, § 54 of the Code] **SUBSECTION (F) OF THIS SECTION.**

(3) The Comptroller shall adopt regulations to provide procedures for claiming and applying credits authorized under paragraph (1)(ii) of this subsection.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

6–105.1.

An insurer may claim a credit against the premium tax payable under this subtitle for wages paid to a qualified employment opportunity employee and for child care provided or paid by the insurer for the children of a qualified employment opportunity employee or transportation expenses as provided under [Article 88A, § 54 of the Code] **§ 10–704.3 OF THE TAX – GENERAL ARTICLE.**

Article – Tax – General

8-410.

A public service company may claim a credit against the public service company franchise tax for wages paid to qualified employment opportunity employees and for child care provided or paid for by a business entity for the children of a qualified employment opportunity employee or transportation expenses as provided under [Article 88A, § 54 of the Code] § **10-704.3 OF THE THIS ARTICLE**.

Chapter 492 of the Acts of 1995, as amended by Chapter 10 of the Acts of 1996, Chapters 598 and 599 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, and Chapter 394 of the Acts of 2006

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1995, and shall be applicable to all taxable years beginning after December 31, 1994 but before January 1, [2010] **2011**; provided, however, that the tax credit under [Article 88A, § 54 of the Code] § **10-704.3 OF THE TAX - GENERAL ARTICLE**, as enacted under Section 1 of this Act, shall be allowed only for employees hired on or after June 1, 1995 but before July 1, [2007] **2008**; and provided further that any excess credits under [Article 88A, § 54 of the Code] § **10-704.3 OF THE TAX - GENERAL ARTICLE** may be carried forward and, subject to the limitations under [Article 88A, § 54 of the Code] § **10-704.3 OF THE TAX - GENERAL ARTICLE**, may be applied as a credit for taxable years beginning on or after January 1, [2010] **2011**. Except as otherwise provided in this Section, this Act shall remain in effect for a period of [12] **13** years and at the end of June 30, [2007] **2008**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 112 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, and Chapter 394 of the Acts of 2006

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 but before January 1, [2010] **2011**; provided, however, that the tax credit under § 21-309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for employees hired on or after October 1, 1997 but before July 1, [2007] **2008**; and provided further that any excess credits under § 21-309 of the Education Article may be carried forward and, subject to the limitations under § 21-309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, [2010] **2011**.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. It shall remain in effect for a period of [9] **10** years and 9 months and at the end of June 30, [2007] **2008**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 113 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, and Chapter 394 of the Acts of 2006

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 but before January 1, [2010] **2011**; provided, however, that the tax credit under § 21-309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for employees hired on or after October 1, 1997 but before July 1, [2007] **2008**; and provided further that any excess credits under § 21-309 of the Education Article may be carried forward and, subject to the limitations under § 21-309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, [2010] **2011**.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. It shall remain in effect for a period of [9] **10** years and 9 months and at the end of June 30, [2007] **2008**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. Section 3 of this Act shall remain effective until the taking effect of the termination provision in Section 3 of Chapter 492 of the Acts of the General Assembly of 1995. If that termination provision takes effect, Section 3 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 8, 2007.