

SENATE BILL 651

C8, M3, Q3
SB 646/11 – B&T & FIN

2lr1553

By: **Senators Ramirez, Ferguson, Forehand, Garagiola, Jones–Rodwell,
Klausmeier, Manno, Montgomery, Rosapepe, and Stone**

Introduced and read first time: February 3, 2012

Assigned to: Budget and Taxation and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Green Business Incentive Zones**

3 FOR the purpose of authorizing the creation of green business incentive zones in the
4 State; establishing eligibility criteria and factors to be considered by the
5 Secretary of Business and Economic Development in approving the zones;
6 establishing procedures for applying for establishment of the zones and the
7 benefits available in the zones; limiting the number of zones that can be created
8 in a calendar year; authorizing the Secretary to adopt certain regulations to
9 carry out certain provisions of this Act; requiring the Department of Business
10 and Economic Development to consider whether a project is located in certain
11 areas when considering whether to provide financial assistance to the project;
12 requiring the Secretary and the State Comptroller to assess annually the
13 effectiveness of certain tax credits provided to certain businesses located in a
14 green business incentive zone and submit a certain report; establishing a
15 certain credit against the State income tax for certain businesses located in a
16 green business incentive zone; establishing a certain credit against certain
17 property taxes imposed on certain real property located in a green business
18 incentive zone; requiring a local governing body to certify to the Department of
19 Assessments and Taxation the real properties in a zone that qualify for a tax
20 credit and the date of qualification; requiring the Department to submit certain
21 information to a local governing body before tax bills are sent; requiring the
22 State to remit funds to a county or municipal corporation to offset a certain
23 amount of property tax revenues not collected by the county or municipal
24 corporation because of the property tax credit; defining certain terms; providing
25 for the effective date of a portion of this Act; and generally relating to green
26 business incentive zones and the benefits available in green business incentive
27 zones.

28 BY repealing and reenacting, with amendments,
29 Article – Economic Development

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 5–102 and 5–105
2 Annotated Code of Maryland
3 (2008 Volume and 2011 Supplement)

4 BY adding to
5 Article – Economic Development
6 Section 5–1401 through 5–1408 to be under the new subtitle “Subtitle 14. Green
7 Business Incentive Zones”
8 Annotated Code of Maryland
9 (2008 Volume and 2011 Supplement)

10 BY adding to
11 Article – Tax – General
12 Section 10–702.1
13 Annotated Code of Maryland
14 (2010 Volume and 2011 Supplement)

15 BY adding to
16 Article – Tax – Property
17 Section 9–103.1
18 Annotated Code of Maryland
19 (2007 Replacement Volume and 2011 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Economic Development
22 Section 5–1403(b)(16)
23 Annotated Code of Maryland
24 (2008 Volume and 2011 Supplement)
25 (As enacted by Section 1 of this Act)

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

28 **Article – Economic Development**

29 5–102.

30 The Department shall administer the State’s economic development and
31 financial assistance programs and funds including:

32 (1) the BRAC Revitalization and Incentive Zone Program, under
33 Subtitle 13 of this title;

34 (2) the Enterprise Fund, under Subtitle 6 of this title;

35 (3) the Enterprise Zones Program, under Subtitle 7 of this title;

1 (4) **THE GREEN BUSINESS INCENTIVES ZONE PROGRAM, UNDER**
2 **SUBTITLE 14 OF THIS TITLE;**

3 (5) the Maryland Economic Adjustment Fund, under Subtitle 2 of this
4 title;

5 [(5)] (6) the Maryland Economic Development Assistance Authority
6 and Fund, under Subtitle 3 of this title;

7 [(6)] (7) the Maryland Industrial Development Financing Authority,
8 under Subtitle 4 of this title;

9 [(7)] (8) the Maryland Small Business Development Financing
10 Authority, under Subtitle 5 of this title;

11 [(8)] (9) the Appalachian Regional Development Program, under
12 Title 13, Subtitle 1 of this article;

13 [(9)] (10) jointly with the Department of Housing and Community
14 Development, the Community Development Block Grant for Economic Development;
15 and

16 [(10)] (11) any other programs or funds designated by statute, the
17 Governor, or the Secretary.

18 5–105.

19 When deciding whether to provide financial assistance for a business project,
20 the Department shall consider whether the project will be located:

21 (1) in an enterprise zone or a focus area as designated under Subtitle
22 7 of this title; [or]

23 (2) in a BRAC Revitalization and Incentive Zone as designated under
24 Subtitle 13 of this title; **OR**

25 (3) **IN A GREEN BUSINESS INCENTIVE ZONE AS DESIGNATED**
26 **UNDER SUBTITLE 14 OF THIS TITLE.**

27 **SUBTITLE 14. GREEN BUSINESS INCENTIVE ZONES.**

28 **5–1401.**

29 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
30 **INDICATED.**

1 **(B) “AREA” MEANS A GEOGRAPHIC AREA IN ONE OR MORE POLITICAL**
2 **SUBDIVISIONS IN THE STATE DESCRIBED BY A CLOSED PERIMETER BOUNDARY.**

3 **(C) “GREEN BUSINESS” MEANS A BUSINESS ENTITY THAT IS PRIMARILY**
4 **ENGAGED IN RESEARCHING, MANUFACTURING, OR DEPLOYING:**

5 **(1) RENEWABLE ENERGY TECHNOLOGIES OR SERVICES;**

6 **(2) ENERGY STORAGE TECHNOLOGIES OR SERVICES;**

7 **(3) ENERGY EFFICIENCY AND CONSERVATION TECHNOLOGIES OR**
8 **SERVICES; OR**

9 **(4) OTHER TECHNOLOGIES OR SERVICES THAT CONTRIBUTE**
10 **DIRECTLY OR INDIRECTLY TO:**

11 **(I) THE PRODUCTION OF ENERGY FROM RENEWABLE OR**
12 **SUSTAINABLE SOURCES; OR**

13 **(II) THE IMPROVEMENT OF EFFICIENCY IN THE USE OF**
14 **ENERGY.**

15 **(D) “GREEN BUSINESS INCENTIVE ZONE” MEANS AN AREA THAT:**

16 **(1) MEETS THE REQUIREMENTS OF § 5-1403 OF THIS SUBTITLE;**
17 **AND**

18 **(2) IS DESIGNATED AS A GREEN BUSINESS INCENTIVE ZONE BY**
19 **THE SECRETARY UNDER § 5-1404 OF THIS SUBTITLE.**

20 **(E) “POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL**
21 **CORPORATION.**

22 **5-1402.**

23 **(A) THE FOLLOWING POLITICAL SUBDIVISIONS MAY APPLY TO THE**
24 **SECRETARY TO DESIGNATE A GREEN BUSINESS INCENTIVE ZONE:**

25 **(1) A POLITICAL SUBDIVISION FOR AN AREA WITHIN THAT**
26 **POLITICAL SUBDIVISION;**

1 **(2) WITH THE PRIOR CONSENT OF THE MUNICIPAL**
2 **CORPORATION, A COUNTY ON BEHALF OF A MUNICIPAL CORPORATION FOR AN**
3 **AREA IN THE MUNICIPAL CORPORATION; OR**

4 **(3) TWO OR MORE POLITICAL SUBDIVISIONS JOINTLY FOR AN**
5 **AREA ASTRIDE THEIR COMMON BOUNDARIES.**

6 **(B) THE APPLICATION SHALL:**

7 **(1) BE IN THE FORM AND MANNER AND CONTAIN THE**
8 **INFORMATION THAT THE SECRETARY REQUIRES BY REGULATION;**

9 **(2) CONTAIN SUFFICIENT INFORMATION TO ALLOW THE**
10 **SECRETARY TO DETERMINE IF THE PROPOSED GREEN BUSINESS INCENTIVE**
11 **ZONE MEETS THE CRITERIA IN § 5-1403 OF THIS SUBTITLE;**

12 **(3) BE SUBMITTED FOR A POLITICAL SUBDIVISION BY ITS CHIEF**
13 **ELECTED OFFICER OR, IF NONE, ITS GOVERNING BODY;**

14 **(4) STATE WHETHER THE POLITICAL SUBDIVISION WILL**
15 **ESTABLISH EXPEDITED PERMITTING PROCESSES FOR GREEN BUSINESSES**
16 **LOCATED OR TO BE LOCATED IN THE PROPOSED GREEN BUSINESS INCENTIVE**
17 **ZONE; AND**

18 **(5) STATE THE STANDARDS ESTABLISHED BY THE POLITICAL**
19 **SUBDIVISION THAT A GREEN BUSINESS SHALL MEET BEFORE RECEIVING THE**
20 **INCENTIVES AND INITIATIVES UNDER § 5-1403 OF THIS SUBTITLE, WHICH**
21 **SHALL INCLUDE A REQUIREMENT THAT A GREEN BUSINESS PROVIDE JOB**
22 **TRAINING, INTERNSHIP, OR APPRENTICESHIP PROGRAMS.**

23 **5-1403.**

24 **(A) THE SECRETARY MAY DESIGNATE AN AREA AS A GREEN BUSINESS**
25 **INCENTIVE ZONE ONLY IF THE AREA:**

26 **(1) IS LOCATED WITHIN A PRIORITY FUNDING AREA AS DEFINED**
27 **BY TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT**
28 **ARTICLE;**

29 **(2) IS SERVED BY A PUBLIC OR COMMUNITY WATER AND SEWER**
30 **SYSTEM OR PLANNED TO BE SERVED BY A PUBLIC OR COMMUNITY WATER AND**
31 **SEWER SYSTEM UNDER THE APPROVED 10-YEAR WATER AND SEWER PLAN;**

1 **(3) IS DESIGNATED FOR MIXED USE DEVELOPMENT THAT**
2 **INCLUDES RESIDENTIAL USES AS PART OF THE MIX OF LAND USES BY THE**
3 **POLITICAL SUBDIVISION; AND**

4 **(4) HAS AN AVERAGE DENSITY OF AT LEAST 3.5 UNITS PER ACRE,**
5 **CALCULATED IN ACCORDANCE WITH § 5-7B-03 OF THE STATE FINANCE AND**
6 **PROCUREMENT ARTICLE, IN THAT PART OF THE AREA DESIGNATED BY THE**
7 **POLITICAL SUBDIVISION FOR RESIDENTIAL USE OR DEVELOPMENT.**

8 **(B) THE SECRETARY SHALL CONSIDER THE FOLLOWING FACTORS IN**
9 **DETERMINING WHETHER TO DESIGNATE AN AREA AS A GREEN BUSINESS**
10 **INCENTIVE ZONE:**

11 **(1) WHETHER THE AREA'S DESIGNATION AS A GREEN BUSINESS**
12 **INCENTIVE ZONE IS CONSISTENT WITH THE POLITICAL SUBDIVISION'S**
13 **COMPREHENSIVE PLAN;**

14 **(2) WHETHER THE POLITICAL SUBDIVISION HAS TARGETED THE**
15 **AREA FOR REVITALIZATION AS PROVIDED FOR IN THE POLITICAL SUBDIVISION'S**
16 **COMPREHENSIVE PLAN OR IN ANOTHER PLAN OR LOCAL LAW;**

17 **(3) THE AVAILABILITY, COST, AND CONDITION OF BUSINESS**
18 **FACILITIES;**

19 **(4) THE NUMBER AND AGE OF ABANDONED STRUCTURES;**

20 **(5) THE NUMBER AND AGE OF SUBSTANDARD STRUCTURES;**

21 **(6) THE INCOME OF RESIDENTS RELATIVE TO THE STATE OR**
22 **REGIONAL MEDIAN INCOMES, INCLUDING THE NUMBER OF PERSONS WHO**
23 **RECEIVE PUBLIC ASSISTANCE OR ARE UNEMPLOYED;**

24 **(7) THE EXTENT OF UNEMPLOYMENT AND THE ABILITY TO**
25 **UPGRADE THE SOCIAL AND ECONOMIC CONDITIONS OF THE AREA;**

26 **(8) THE NEED FOR FINANCING FOR SMALL BUSINESSES TO**
27 **UPGRADE THE SOCIAL AND ECONOMIC CONDITIONS OF THE AREA;**

28 **(9) ANY PLANS AND FINANCIAL COMMITMENTS OF LOCAL**
29 **JURISDICTIONS TO UNDERTAKE IMPROVEMENTS IN THE PROPOSED AREA;**

1 **(10) THE PRESENCE OF A SPECIAL TAXING DISTRICT, A HISTORIC**
2 **DISTRICT LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES, OR A**
3 **LOCAL HISTORIC DISTRICT;**

4 **(11) SUPPORT FROM COMMUNITY OR BUSINESS ORGANIZATIONS;**

5 **(12) OTHER REVITALIZATION PROJECTS UNDERTAKEN IN THE**
6 **PROPOSED AREA;**

7 **(13) A POLITICAL SUBDIVISION'S PARTICIPATION IN WORKFORCE**
8 **READINESS PROGRAMS;**

9 **(14) A POLITICAL SUBDIVISION'S PARTICIPATION IN THE**
10 **CREATION OF AFFORDABLE AND WORKFORCE HOUSING OPTIONS FOR**
11 **RESIDENTS;**

12 **(15) WHETHER THE POLITICAL SUBDIVISION HAS ACTED TO**
13 **PROVIDE FOR THE ADEQUATE PROTECTION AND CONSERVATION OF VITAL**
14 **NATURAL RESOURCE AREAS AND AGRICULTURAL AREAS WITHIN THE POLITICAL**
15 **SUBDIVISION'S COMPREHENSIVE PLAN OR IN ANOTHER LOCAL GOVERNMENT**
16 **PLAN OR LOCAL LAW;**

17 **(16) THE PRESENCE OF SENSITIVE AREAS, AS DEFINED IN ARTICLE**
18 **66B, § 1.00(J) OF THE CODE; AND**

19 **(17) THE FISCAL IMPACT OF THE DESIGNATION OF THE GREEN**
20 **BUSINESS INCENTIVE ZONE ON THE STATE.**

21 **5-1404.**

22 **(A) (1) WITHIN 60 DAYS AFTER A SUBMISSION DATE OF APRIL 15 OR**
23 **OCTOBER 15, THE SECRETARY MAY DESIGNATE ONE OR MORE GREEN BUSINESS**
24 **INCENTIVE ZONES FROM AMONG THE AREAS DESCRIBED IN TIMELY SUBMITTED**
25 **APPLICATIONS.**

26 **(2) THE DESIGNATION OF AN AREA AS A GREEN BUSINESS**
27 **INCENTIVE ZONE IS EFFECTIVE FOR 10 YEARS.**

28 **(3) THE SECRETARY MAY NOT DESIGNATE MORE THAN SIX GREEN**
29 **BUSINESS INCENTIVE ZONES IN A CALENDAR YEAR.**

30 **(4) A COUNTY MAY NOT RECEIVE MORE THAN ONE GREEN**
31 **BUSINESS INCENTIVE ZONE IN A CALENDAR YEAR.**

1 **(B) BEFORE DESIGNATING A GREEN BUSINESS INCENTIVE ZONE, THE**
2 **SECRETARY SHALL CONSULT WITH THE CLEAN ENERGY CENTER.**

3 **(C) THE DESIGNATION OF THE SECRETARY IS FINAL.**

4 **(D) AT ANY TIME, A POLITICAL SUBDIVISION MAY REAPPLY TO THE**
5 **SECRETARY TO DESIGNATE AS A GREEN BUSINESS INCENTIVE ZONE AN AREA**
6 **THAT IS NOT DESIGNATED.**

7 **5-1405.**

8 **(A) A POLITICAL SUBDIVISION MAY APPLY TO THE SECRETARY TO**
9 **EXPAND AN EXISTING GREEN BUSINESS INCENTIVE ZONE IN THE SAME MANNER**
10 **AS THE POLITICAL SUBDIVISION WOULD APPLY TO DESIGNATE A NEW GREEN**
11 **BUSINESS INCENTIVE ZONE.**

12 **(B) THE SECRETARY MAY GRANT AN EXPANSION OF A GREEN BUSINESS**
13 **INCENTIVE ZONE INTO AN AREA THAT MEETS THE REQUIREMENTS OF § 5-1403**
14 **OF THIS SUBTITLE.**

15 **(C) FOR PURPOSES OF § 5-1404 OF THIS SUBTITLE, AN EXPANSION OF A**
16 **GREEN BUSINESS INCENTIVE ZONE THAT DOES NOT EXCEED 50% OF THE**
17 **EXISTING GEOGRAPHIC AREA OF THE GREEN BUSINESS INCENTIVE ZONE DOES**
18 **NOT COUNT TOWARD THE LIMIT ON THE NUMBER OF GREEN BUSINESS**
19 **INCENTIVE ZONES THAT:**

20 **(1) THE SECRETARY MAY DESIGNATE IN A CALENDAR YEAR; OR**

21 **(2) A COUNTY MAY RECEIVE IN A CALENDAR YEAR.**

22 **5-1406.**

23 **(A) TO THE EXTENT PROVIDED FOR IN THIS SECTION, A GREEN**
24 **BUSINESS IS ENTITLED TO:**

25 **(1) THE SPECIAL PROPERTY TAX CREDIT IN § 9-103.1 OF THE TAX**
26 **- PROPERTY ARTICLE;**

27 **(2) THE INCOME TAX CREDITS IN § 10-702.1 OF THE**
28 **TAX - GENERAL ARTICLE; AND**

1 **(3) CONSIDERATION FOR FINANCIAL ASSISTANCE FROM**
2 **PROGRAMS IN SUBTITLE 1 OF THIS TITLE.**

3 **(B) A GREEN BUSINESS THAT MOVES INTO OR LOCATES IN A GREEN**
4 **BUSINESS INCENTIVE ZONE ON OR AFTER THE DATE THAT THE GREEN BUSINESS**
5 **INCENTIVE ZONE IS DESIGNATED UNDER § 5-1404 OF THIS SUBTITLE MAY**
6 **BENEFIT FROM THE INCENTIVES AND INITIATIVES IN THIS SECTION IF:**

7 **(1) THE GREEN BUSINESS MEETS THE REQUIREMENTS AND**
8 **CONDITIONS OF THE CODE SECTION APPLICABLE TO EACH INCENTIVE OR**
9 **INITIATIVE;**

10 **(2) THE RESPECTIVE POLITICAL SUBDIVISION CERTIFIES THAT**
11 **THE GREEN BUSINESS HAS COMPLIED WITH THE STANDARDS THAT THE**
12 **POLITICAL SUBDIVISION SUBMITTED UNDER § 5-1402(B)(5) OF THIS SUBTITLE;**

13 **(3) THE GREEN BUSINESS CREATES NEW OR ADDITIONAL JOBS OR**
14 **MAKES A CAPITAL INVESTMENT TO QUALIFY FOR THE PROPERTY TAX CREDIT**
15 **UNDER § 9-103.1 OF THE TAX – PROPERTY ARTICLE AND THE INCOME TAX**
16 **CREDITS UNDER § 10-702.1 OF THE TAX – GENERAL ARTICLE; AND**

17 **(4) IN CONSIDERING WHETHER THE GREEN BUSINESS QUALIFIES**
18 **FOR FINANCIAL ASSISTANCE FROM THE PROGRAMS IN SUBTITLE 1 OF THIS**
19 **TITLE, THE SECRETARY DETERMINES THAT THE GREEN BUSINESS WILL CREATE**
20 **NEW OR ADDITIONAL JOBS.**

21 **(C) THE INCENTIVES AND INITIATIVES PROVIDED FOR IN THIS SECTION**
22 **ARE NOT AVAILABLE TO A GREEN BUSINESS THAT WAS IN A GREEN BUSINESS**
23 **INCENTIVE ZONE BEFORE THE DATE THAT THE GREEN BUSINESS INCENTIVE**
24 **ZONE IS DESIGNATED, EXCEPT FOR A CAPITAL INVESTMENT OR EXPANSION OF**
25 **ITS LABOR FORCE THAT OCCURS ON OR AFTER THE GREEN BUSINESS**
26 **INCENTIVE ZONE IS DESIGNATED.**

27 **(D) (1) EXCEPT AS PROVIDED IN § 10-702.1 OF THE TAX – GENERAL**
28 **ARTICLE AND § 9-103.1 OF THE TAX – PROPERTY ARTICLE, THE INCENTIVES**
29 **AND INITIATIVES UNDER THIS SECTION ARE AVAILABLE FOR 10 YEARS AFTER**
30 **THE DATE THAT AN AREA IS DESIGNATED A GREEN BUSINESS INCENTIVE ZONE.**

31 **(2) A LAW ENACTED AFTER THE ENACTMENT OF THIS SECTION**
32 **THAT ELIMINATES OR REDUCES THE BENEFITS AVAILABLE TO A GREEN**
33 **BUSINESS UNDER THIS SECTION DOES NOT APPLY TO A BUSINESS ENTITY THAT,**
34 **BEFORE THE EFFECTIVE DATE OF THE LAW:**

1 **(I) WAS LOCATED IN A GREEN BUSINESS INCENTIVE ZONE;**
2 **AND**

3 **(II) MET THE DEFINITION OF A GREEN BUSINESS UNDER §**
4 **5-1401 OF THIS SUBTITLE.**

5 **(E) (1) (I) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION,**
6 **A GREEN BUSINESS LOCATED IN A GREEN BUSINESS INCENTIVE ZONE MAY NOT**
7 **RECEIVE THE INCENTIVES AND INITIATIVES UNDER SUBSECTION (A)(1) AND (2)**
8 **OF THIS SECTION IF THE BUSINESS IS LOCATED ON LAND OR WITHIN**
9 **IMPROVEMENTS OWNED BY THE FEDERAL GOVERNMENT, THE STATE, A**
10 **COUNTY, OR A MUNICIPAL CORPORATION UNLESS THE BUSINESS HAS FIRST**
11 **UTILIZED ALL APPLICABLE PROPERTY TAX EXEMPTIONS UNDER TITLE 7 OF THE**
12 **TAX – PROPERTY ARTICLE, INCLUDING ENTERING INTO ANY AVAILABLE**
13 **PAYMENT IN LIEU OF TAX AGREEMENT.**

14 **(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT**
15 **APPLY TO A GREEN BUSINESS LEASING LAND OR IMPROVEMENTS OWNED BY**
16 **THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION.**

17 **(2) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, A**
18 **GREEN BUSINESS LOCATED IN A BRAC REVITALIZATION AND INCENTIVE ZONE**
19 **ESTABLISHED UNDER SUBTITLE 13 OF THIS TITLE MAY NOT RECEIVE THE**
20 **PROPERTY TAX CREDIT UNDER § 9-103.1 OF THE TAX – PROPERTY ARTICLE**
21 **UNLESS:**

22 **(I) THE BUSINESS QUALIFIED FOR THE PROPERTY TAX**
23 **CREDIT BEFORE THE DATE THAT THE BRAC REVITALIZATION AND INCENTIVE**
24 **ZONE IS DESIGNATED; OR**

25 **(II) THE POLITICAL SUBDIVISION WHERE THE BUSINESS IS**
26 **LOCATED EXPRESSLY GRANTS THE PROPERTY TAX CREDIT TO THE BUSINESS.**

27 **(3) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION:**

28 **(I) A GREEN BUSINESS THAT RECEIVES THE PROPERTY TAX**
29 **CREDIT UNDER § 9-103 OF THE TAX – PROPERTY ARTICLE IS NOT ENTITLED TO**
30 **THE PROPERTY TAX CREDIT UNDER § 9-103.1 OF THE TAX – PROPERTY**
31 **ARTICLE; AND**

32 **(II) A GREEN BUSINESS THAT RECEIVES THE INCOME TAX**
33 **CREDITS UNDER § 10-702 OF THE TAX – GENERAL ARTICLE IS NOT ENTITLED**

1 TO THE INCOME TAX CREDITS UNDER § 10-702.1 OF THE TAX - GENERAL
2 ARTICLE.

3 5-1407.

4 THE SECRETARY MAY ESTABLISH BY REGULATION ANY OTHER
5 REQUIREMENTS NECESSARY AND APPROPRIATE TO CARRY OUT THIS SUBTITLE.

6 5-1408.

7 (A) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL
8 ASSESS EACH YEAR THE EFFECTIVENESS OF THE TAX CREDITS PROVIDED TO
9 GREEN BUSINESSES IN GREEN BUSINESS INCENTIVE ZONES, INCLUDING:

10 (1) THE NUMBER AND AMOUNTS OF CREDITS GRANTED EACH
11 YEAR; AND

12 (2) THE SUCCESS OF THE TAX CREDITS IN ATTRACTING AND
13 RETAINING GREEN BUSINESSES IN GREEN BUSINESS INCENTIVE ZONES.

14 (B) ON OR BEFORE DECEMBER 15 OF EACH YEAR, THE DEPARTMENT
15 AND THE COMPTROLLER SHALL SUBMIT TO THE GOVERNOR AND, IN
16 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
17 GENERAL ASSEMBLY A REPORT OUTLINING THE FINDINGS OF THE
18 DEPARTMENT AND THE COMPTROLLER AND ANY OTHER INFORMATION OF
19 VALUE IN DETERMINING THE EFFECTIVENESS OF THE TAX CREDITS PROVIDED
20 UNDER § 5-1406 OF THIS SUBTITLE.

21 Article - Tax - General

22 10-702.1.

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

25 (2) "GREEN BUSINESS" HAS THE MEANING STATED IN § 5-1401
26 OF THE ECONOMIC DEVELOPMENT ARTICLE.

27 (3) "GREEN BUSINESS INCENTIVE ZONE" HAS THE MEANING
28 STATED IN § 5-1401 OF THE ECONOMIC DEVELOPMENT ARTICLE.

29 (4) "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL WHO:

1 **(I) IS A NEW EMPLOYEE OR AN EMPLOYEE REHIRED AFTER**
2 **BEING LAID OFF FOR MORE THAN 1 YEAR BY A GREEN BUSINESS;**

3 **(II) IS EMPLOYED BY A GREEN BUSINESS AT LEAST 35**
4 **HOURS EACH WEEK FOR AT LEAST 6 MONTHS BEFORE OR DURING THE TAXABLE**
5 **YEAR FOR WHICH THE ENTITY CLAIMS A CREDIT;**

6 **(III) SPENDS AT LEAST 50% OF THE HOURS UNDER ITEM (II)**
7 **OF THIS PARAGRAPH, EITHER IN THE GREEN BUSINESS INCENTIVE ZONE OR ON**
8 **ACTIVITIES OF THE GREEN BUSINESS RESULTING DIRECTLY FROM ITS**
9 **LOCATION IN THE GREEN BUSINESS INCENTIVE ZONE;**

10 **(IV) EARNS AT LEAST 150% OF THE FEDERAL MINIMUM**
11 **WAGE; AND**

12 **(V) IS HIRED BY THE GREEN BUSINESS AFTER THE LATER**
13 **OF:**

14 **1. THE DATE ON WHICH THE GREEN BUSINESS**
15 **INCENTIVE ZONE IS DESIGNATED; OR**

16 **2. THE DATE ON WHICH THE GREEN BUSINESS**
17 **LOCATES IN THE GREEN BUSINESS INCENTIVE ZONE.**

18 **(5) “ECONOMICALLY DISADVANTAGED INDIVIDUAL” MEANS AN**
19 **INDIVIDUAL WHO IS CERTIFIED UNDER CRITERIA SET BY THE SECRETARY OF**
20 **LABOR, LICENSING, AND REGULATION ADOPTS AS AN INDIVIDUAL WHO,**
21 **BEFORE BECOMING EMPLOYED BY A GREEN BUSINESS IN A GREEN BUSINESS**
22 **INCENTIVE ZONE:**

23 **(I) WAS BOTH UNEMPLOYED FOR AT LEAST 30**
24 **CONSECUTIVE DAYS AND QUALIFIED TO PARTICIPATE IN TRAINING ACTIVITIES**
25 **FOR THE ECONOMICALLY DISADVANTAGED UNDER TITLE II, PART B OF THE**
26 **FEDERAL WORKFORCE INVESTMENT ACT OR ITS SUCCESSOR; OR**

27 **(II) IN THE ABSENCE OF AN APPLICABLE FEDERAL ACT, MET**
28 **THE CRITERIA FOR AN ECONOMICALLY DISADVANTAGED INDIVIDUAL THAT THE**
29 **SECRETARY OF LABOR, LICENSING, AND REGULATION SETS.**

30 **(B) (1) ANY GREEN BUSINESS THAT IS LOCATED IN A GREEN**
31 **BUSINESS INCENTIVE ZONE AND SATISFIES THE REQUIREMENTS OF § 5-1407 OF**
32 **THE ECONOMIC DEVELOPMENT ARTICLE MAY CLAIM A CREDIT ONLY AGAINST**
33 **THE STATE INCOME TAX FOR THE WAGES SPECIFIED IN SUBSECTIONS (C) AND**

1 (D) OF THIS SECTION THAT ARE PAID IN THE TAXABLE YEAR FOR WHICH THE
2 BUSINESS CLAIMS THE CREDIT.

3 (2) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §
4 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT
5 UNDER THIS SECTION AS A CREDIT AGAINST INCOME TAX DUE ON UNRELATED
6 BUSINESS TAXABLE INCOME AS PROVIDED UNDER §§ 10-304 AND 10-812 OF
7 THIS TITLE.

8 (C) FOR THE TAXABLE YEAR IN WHICH A GREEN BUSINESS SATISFIES
9 THE REQUIREMENTS OF § 5-1406 OF THE ECONOMIC DEVELOPMENT ARTICLE,
10 A CREDIT IS ALLOWED THAT EQUALS:

11 (1) UP TO \$3,000 OF THE WAGES PAID TO EACH QUALIFIED
12 EMPLOYEE WHO:

13 (I) IS AN ECONOMICALLY DISADVANTAGED INDIVIDUAL;
14 AND

15 (II) IS NOT HIRED TO REPLACE AN INDIVIDUAL WHOM THE
16 GREEN BUSINESS EMPLOYED IN THAT OR ANY OF THE 3 PRECEDING TAXABLE
17 YEARS; AND

18 (2) UP TO \$1,000 OF THE WAGES PAID TO EACH QUALIFIED
19 EMPLOYEE WHO:

20 (I) IS NOT AN ECONOMICALLY DISADVANTAGED
21 INDIVIDUAL; AND

22 (II) IS NOT HIRED TO REPLACE AN INDIVIDUAL WHOM THE
23 GREEN BUSINESS EMPLOYED IN THAT OR ANY OF THE 3 PRECEDING TAXABLE
24 YEARS.

25 (D) (1) FOR EACH TAXABLE YEAR AFTER THE TAXABLE YEAR
26 DESCRIBED IN SUBSECTION (C) OF THIS SECTION, WHILE THE AREA IS
27 DESIGNATED A GREEN BUSINESS INCENTIVE ZONE, A CREDIT IS ALLOWED THAT
28 EQUALS:

29 (I) UP TO \$3,000 OF THE WAGES PAID TO EACH QUALIFIED
30 EMPLOYEE WHO:

31 1. IS AN ECONOMICALLY DISADVANTAGED
32 INDIVIDUAL;

1 **2. BECAME A QUALIFIED EMPLOYEE DURING THE**
2 **TAXABLE YEAR TO WHICH THE CREDIT APPLIES; AND**

3 **3. IS NOT HIRED TO REPLACE AN INDIVIDUAL WHOM**
4 **THE GREEN BUSINESS EMPLOYED IN THAT OR ANY OF THE 3 PRECEDING**
5 **TAXABLE YEARS;**

6 **(II) UP TO \$2,000 OF THE WAGES PAID TO EACH QUALIFIED**
7 **EMPLOYEE WHO IS AN ECONOMICALLY DISADVANTAGED INDIVIDUAL, IF THE**
8 **GREEN BUSINESS RECEIVED A CREDIT UNDER SUBSECTION (C)(1) OF THIS**
9 **SECTION FOR THE QUALIFIED EMPLOYEE IN THE IMMEDIATELY PRECEDING**
10 **TAXABLE YEAR; AND**

11 **(III) UP TO \$1,000 OF THE WAGES PAID TO EACH QUALIFIED**
12 **EMPLOYEE WHO IS NOT HIRED TO REPLACE AN INDIVIDUAL WHOM THE GREEN**
13 **BUSINESS EMPLOYED IN THAT OR ANY OF THE 3 PRECEDING TAXABLE YEARS IF**
14 **THE QUALIFIED EMPLOYEE:**

15 **1. IS AN ECONOMICALLY DISADVANTAGED**
16 **INDIVIDUAL FOR WHOM THE GREEN BUSINESS RECEIVED A CREDIT UNDER**
17 **SUBSECTION (C)(1) OF THIS SECTION OR ITEM (I) OF THIS PARAGRAPH AND A**
18 **CREDIT UNDER ITEM (II) OF THIS PARAGRAPH IN THE 2 IMMEDIATELY**
19 **PRECEDING TAXABLE YEARS; OR**

20 **2. IS NOT AN ECONOMICALLY DISADVANTAGED**
21 **INDIVIDUAL BUT BECAME A QUALIFIED EMPLOYEE DURING THE TAXABLE YEAR**
22 **TO WHICH THE CREDIT APPLIES.**

23 **(2) A GREEN BUSINESS THAT HIRES A QUALIFIED EMPLOYEE TO**
24 **REPLACE ANOTHER QUALIFIED EMPLOYEE FOR WHOM THE GREEN BUSINESS**
25 **RECEIVED A CREDIT UNDER SUBSECTION (C)(1) OF THIS SECTION AND**
26 **PARAGRAPH (1)(II) OF THIS SUBSECTION IN THE IMMEDIATELY PRECEDING**
27 **TAXABLE YEAR MAY TREAT THE NEW QUALIFIED EMPLOYEE AS THE**
28 **REPLACEMENT FOR THE OTHER QUALIFIED EMPLOYEE TO DETERMINE ANY**
29 **CREDIT THAT MAY BE AVAILABLE TO THE GREEN BUSINESS UNDER PARAGRAPH**
30 **(1)(II) OR (III) OF THIS SUBSECTION.**

31 **(E) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE**
32 **YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, A GREEN**
33 **BUSINESS MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME**
34 **TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF THE FOLLOWING**
35 **TO OCCUR:**

1 **(7) “QUALIFIED PROPERTY” MEANS REAL PROPERTY THAT IS:**

2 **(I) NOT USED FOR RESIDENTIAL PURPOSES;**

3 **(II) USED IN A TRADE OR BUSINESS BY A GREEN BUSINESS**
4 **THAT MEETS THE REQUIREMENTS OF § 5-1406 OF THE ECONOMIC**
5 **DEVELOPMENT ARTICLE; AND**

6 **(III) LOCATED IN A GREEN BUSINESS INCENTIVE ZONE THAT**
7 **IS DESIGNATED UNDER TITLE 5, SUBTITLE 14 OF THE ECONOMIC**
8 **DEVELOPMENT ARTICLE.**

9 **(B) THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL**
10 **CORPORATION SHALL GRANT A TAX CREDIT UNDER THIS SECTION AGAINST THE**
11 **PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESSMENT OF QUALIFIED**
12 **PROPERTY.**

13 **(C) UNLESS THE COUNTY IN WHICH A MUNICIPAL CORPORATION IS**
14 **LOCATED AGREES TO THE DESIGNATION OF A GREEN BUSINESS INCENTIVE**
15 **ZONE IN THE MUNICIPAL CORPORATION, QUALIFIED PROPERTY IN THE**
16 **MUNICIPAL CORPORATION MAY NOT RECEIVE A TAX CREDIT AGAINST COUNTY**
17 **PROPERTY TAX.**

18 **(D) (1) THE APPROPRIATE GOVERNING BODY SHALL CALCULATE THE**
19 **AMOUNT OF THE TAX CREDIT UNDER THIS SECTION EQUAL TO A PERCENTAGE**
20 **OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESSMENT OF**
21 **THE QUALIFIED PROPERTY, AS FOLLOWS:**

22 **(I) 80% IN EACH OF THE 1ST 5 TAXABLE YEARS FOLLOWING**
23 **THE CALENDAR YEAR IN WHICH THE PROPERTY INITIALLY BECOMES A**
24 **QUALIFIED PROPERTY;**

25 **(II) 70% IN THE 6TH TAXABLE YEAR;**

26 **(III) 60% IN THE 7TH TAXABLE YEAR;**

27 **(IV) 50% IN THE 8TH TAXABLE YEAR;**

28 **(V) 40% IN THE 9TH TAXABLE YEAR; AND**

29 **(VI) 30% IN THE 10TH TAXABLE YEAR.**

1 **(2) THE DEPARTMENT SHALL ALLOCATE THE ELIGIBLE**
2 **ASSESSMENT TO THE NONRESIDENTIAL PART OF THE QUALIFIED PROPERTY AT**
3 **THE SAME PERCENTAGE AS THE SQUARE FOOTAGE OF THE NONRESIDENTIAL**
4 **PART IS TO THE TOTAL SQUARE FOOTAGE OF THE BUILDING.**

5 **(3) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE**
6 **CREDIT ALLOWED UNDER THIS SECTION, THE AMOUNT OF PROPERTY TAX**
7 **IMPOSED ON THE ELIGIBLE ASSESSMENT SHALL BE CALCULATED WITHOUT**
8 **REDUCTION FOR ANY CREDITS ALLOWED UNDER THIS TITLE.**

9 **(E) (1) A TAX CREDIT UNDER THIS SECTION IS AVAILABLE TO A**
10 **QUALIFIED PROPERTY FOR NO MORE THAN 10 CONSECUTIVE YEARS BEGINNING**
11 **WITH THE TAXABLE YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE**
12 **REAL PROPERTY INITIALLY BECOMES A QUALIFIED PROPERTY.**

13 **(2) EVEN IF THE DESIGNATION OF A GREEN BUSINESS INCENTIVE**
14 **ZONE EXPIRES, THE TAX CREDIT UNDER THIS SECTION CONTINUES TO BE**
15 **AVAILABLE TO A QUALIFIED PROPERTY.**

16 **(3) NOTWITHSTANDING § 5-1406(D) OF THE ECONOMIC**
17 **DEVELOPMENT ARTICLE BUT SUBJECT TO § 5-1406(B) AND (C) OF THE**
18 **ECONOMIC DEVELOPMENT ARTICLE, A GREEN BUSINESS OPERATING IN A**
19 **GREEN BUSINESS INCENTIVE ZONE WHEN THE DESIGNATION OF THE GREEN**
20 **BUSINESS INCENTIVE ZONE EXPIRES MAY CLAIM THE CREDITS ALLOWED UNDER**
21 **THIS SECTION FOR REAL PROPERTY THAT:**

22 **(I) THE BUSINESS OWNS, OPERATES, DEVELOPS,**
23 **CONSTRUCTS, OR REHABILITATES WITHIN 5 YEARS AFTER THE DATE THE**
24 **DESIGNATION OF THE GREEN BUSINESS INCENTIVE ZONE EXPIRED; AND**

25 **(II) OTHERWISE QUALIFIES FOR THE CREDITS ALLOWED**
26 **UNDER THIS SECTION.**

27 **(4) STATE PROPERTY TAX IMPOSED ON REAL PROPERTY IS NOT**
28 **AFFECTED BY THIS SECTION.**

29 **(F) WHEN A GREEN BUSINESS INCENTIVE ZONE IS DESIGNATED BY THE**
30 **SECRETARY OF THE DEPARTMENT OF BUSINESS AND ECONOMIC**
31 **DEVELOPMENT, THE APPROPRIATE GOVERNING BODY SHALL CERTIFY TO THE**
32 **DEPARTMENT OF ASSESSMENTS AND TAXATION:**

1 5-1403.

2 (b) The Secretary shall consider the following factors in determining whether
3 to designate an area as a green business incentive zone:

4 (16) the presence of sensitive areas, as defined in [Article 66B, § 1.00(j)
5 of the Code] **§ 1-101 OF THE LAND USE ARTICLE**; and

6 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
7 take effect October 1, 2012.

8 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
9 Section 3 of this Act, that this Act shall take effect July 1, 2012, and shall be
10 applicable to all taxable years beginning after December 31, 2011.