

## **Chapter 715**

**(House Bill 1289)**

AN ACT concerning

### **Economic Development – Qualified Distressed Counties – One Maryland Economic Development Tax Credit**

FOR the purpose of altering the definition of “qualified distressed county” for certain purposes, including the Maryland Economic Development Assistance Authority and Fund, the Linked Deposit Program, the One Maryland Economic Development Tax Credit, and the College Readiness Outreach Program; authorizing certain qualified businesses to claim a certain credit under the One Maryland Economic Development Tax Credit on a prorated basis if the number of qualifying positions filled by the qualified business falls below a certain number, but does not fall below another certain number; providing for the application of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the One Maryland Economic Development Tax Credit and the definition of “qualified distressed county” for certain economic development purposes in the State.

BY repealing and reenacting, without amendments,  
Article – Economic Development  
Section 1–101(a) and (b)  
Annotated Code of Maryland  
(2008 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,  
Article – Economic Development  
Section 1–101(e), 6–403(e) and (f), and 6–404(c) and (d)  
Annotated Code of Maryland  
(2008 Volume and 2011 Supplement)

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

#### **Article – Economic Development**

1–101.

- (a) In this division the following words have the meanings indicated.
- (b) “County” means a county of the State or Baltimore City.

(e) (1) “Qualified distressed county” means a county with:

(i) an average rate of unemployment for the most recent 24-month period for which data are available that exceeds:

1. 150% of the average rate of unemployment for the State during that period; or

2. **THE AVERAGE RATE OF UNEMPLOYMENT FOR THE STATE DURING THAT PERIOD BY AT LEAST 2 PERCENTAGE POINTS; OR**

(ii) an average per capita personal income for the most recent 24-month period for which data are available that is equal to or less than 67% of the average per capita personal income for the State during that period.

(2) “Qualified distressed county” includes a county that:

(i) no longer meets either criterion stated in paragraph (1) of this subsection; but

(ii) has met at least one of the criteria at some time during the preceding 24-month period.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

### **Article – Economic Development**

6-403.

(e) (1) **[If SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF** the eligible project cost for the eligible economic development project exceeds the State tax on the qualified business entity’s income generated by or arising out of the project for the taxable year in which the project is placed in service, the qualified business entity may apply any excess as a project tax credit for succeeding taxable years against the State tax on the qualified business entity’s income generated by or arising out of the project until the earlier of:

**[(1)] (I)** the full amount of the excess is used; or

**[(2)] (II)** the expiration of the 14th taxable year following the taxable year in which the project is placed in service.

**(2) (I) A QUALIFIED BUSINESS ENTITY MAY CLAIM A PRORATED SHARE OF THE CREDIT UNDER THIS SUBSECTION IF:**

**1. DURING ANY TAXABLE YEAR AFTER THE QUALIFIED BUSINESS ENTITY IS CERTIFIED FOR THE TAX CREDIT, THE NUMBER OF QUALIFIED POSITIONS FILLED BY THE QUALIFIED BUSINESS ENTITY FALLS BELOW 25, BUT DOES NOT FALL BELOW 10; AND**

**2. THE QUALIFIED BUSINESS ENTITY HAS MAINTAINED AT LEAST 25 QUALIFIED POSITIONS FOR AT LEAST 5 YEARS.**

**(II) THE PRORATED SHARE OF THE CREDIT IS CALCULATED BASED ON THE NUMBER OF QUALIFIED POSITIONS FILLED FOR THE TAXABLE YEAR DIVIDED BY 25.**

(f) (1) Subject to the limitation in paragraph (4) of this subsection and subject to § 6–405 of this subtitle, this subsection applies to any taxable year after the 4th but before the 15th taxable year following the taxable year in which the project is placed in service.

(2) A qualified business entity other than a person subject to taxation under Title 6 of the Insurance Article may:

(i) apply any excess of eligible project costs for the eligible economic development project over the cumulative amount used as a project tax credit for the taxable year and all prior taxable years as a tax credit against the State tax for the taxable year on the qualified business entity's income other than income generated by or arising out of the project; and

(ii) claim a refund in the amount, if any, by which the unused excess exceeds the State tax for the taxable year on the qualified business entity's income other than income generated by or arising out of the project.

(3) A qualified business entity that is subject to taxation under Title 6 of the Insurance Article may:

(i) apply any excess of eligible project costs for the eligible economic development project over the cumulative amount used as a project tax credit for the taxable year and all prior taxable years as a tax credit against the premium tax imposed for the taxable year; and

(ii) claim a refund in the amount, if any, by which the unused excess exceeds the premium tax for the taxable year.

(4) For any taxable year, the total amount used as a project tax credit and claimed as a refund under this subsection may not exceed the amount of tax that

the qualified business entity is required to withhold for the taxable year from the wages of qualified employees under § 10–908 of the Tax – General Article.

**(5) (I) A QUALIFIED BUSINESS ENTITY MAY CLAIM A PRORATED SHARE OF THE CREDIT UNDER THIS SUBSECTION IF:**

**1. DURING ANY TAXABLE YEAR AFTER THE QUALIFIED BUSINESS ENTITY IS CERTIFIED FOR THE TAX CREDIT, THE NUMBER OF QUALIFIED POSITIONS FILLED BY THE QUALIFIED BUSINESS ENTITY FALLS BELOW 25, BUT DOES NOT FALL BELOW 10; AND**

**2. THE QUALIFIED BUSINESS ENTITY HAS MAINTAINED AT LEAST 25 QUALIFIED POSITIONS FOR AT LEAST 5 YEARS.**

**(II) THE PRORATED SHARE OF THE CREDIT IS CALCULATED BASED ON THE NUMBER OF QUALIFIED POSITIONS FILLED FOR THE TAXABLE YEAR DIVIDED BY 25.**

6–404.

(c) (1) **[If SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF** the start–up tax credit allowed under subsection (b) of this section for the taxable year in which a qualified business entity locates in a qualified distressed county exceeds the total tax otherwise due from the qualified business entity for that taxable year, the qualified business entity may apply the excess as a credit for succeeding taxable years until the earlier of:

**[(1)] (I)** the full amount of the excess is used; or

**[(2)] (II)** the expiration of the 14th taxable year following the taxable year in which the qualified business entity locates in a qualified distressed county.

**(2) (I) A QUALIFIED BUSINESS ENTITY MAY CLAIM A PRORATED SHARE OF THE CREDIT UNDER THIS SUBSECTION IF:**

**1. DURING ANY TAXABLE YEAR AFTER THE QUALIFIED BUSINESS ENTITY IS CERTIFIED FOR THE TAX CREDIT, THE NUMBER OF QUALIFIED POSITIONS FILLED BY THE QUALIFIED BUSINESS ENTITY FALLS BELOW 25, BUT DOES NOT FALL BELOW 10; AND**

**2. THE QUALIFIED BUSINESS ENTITY HAS MAINTAINED AT LEAST 25 QUALIFIED POSITIONS FOR AT LEAST 5 YEARS.**

**(II) THE PRORATED SHARE OF THE CREDIT IS CALCULATED BASED ON THE NUMBER OF QUALIFIED POSITIONS FILLED FOR THE TAXABLE YEAR DIVIDED BY 25.**

(d) (1) Subject to the limitation in paragraph (3) of this subsection and subject to § 6–405 of this subtitle, this subsection applies to any taxable year after the 4th but before the 15th taxable year following the taxable year in which the qualified business entity locates in a qualified distressed county.

(2) A qualified business entity may claim a refund in the amount, if any, by which the qualified business entity's eligible start-up cost exceeds the cumulative amount used as a start-up tax credit for the taxable year and all prior taxable years.

(3) For any taxable year, the total amount claimed as a refund under this subsection may not exceed the amount of tax that the qualified business entity is required to withhold for the taxable year from the wages of qualified employees under § 10–908 of the Tax – General Article.

**(4) (I) A QUALIFIED BUSINESS ENTITY MAY CLAIM A PRORATED SHARE OF THE CREDIT UNDER THIS SUBSECTION IF:**

**1. DURING ANY TAXABLE YEAR AFTER THE QUALIFIED BUSINESS ENTITY IS CERTIFIED FOR THE TAX CREDIT, THE NUMBER OF QUALIFIED POSITIONS FILLED BY THE QUALIFIED BUSINESS ENTITY FALLS BELOW 25, BUT DOES NOT FALL BELOW 10; AND**

**2. THE QUALIFIED BUSINESS ENTITY HAS MAINTAINED AT LEAST 25 QUALIFIED POSITIONS FOR AT LEAST 5 YEARS.**

**(II) THE PRORATED SHARE OF THE CREDIT IS CALCULATED BASED ON THE NUMBER OF QUALIFIED POSITIONS FILLED FOR THE TAXABLE YEAR DIVIDED BY 25.**

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect July 1, 2012. It shall remain effective for a period of 4 years and, at the end of June 30, 2016, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2010.

**Approved by the Governor, May 22, 2012.**