

SENATE BILL 843

Q3, Q1, Q7

6lr1553
CF 6lr3468

By: **The President (By Request – Maryland Economic Development and Business
Climate Commission)**

Introduced and read first time: February 5, 2016

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Credits – Evaluations and Sunset Provisions**

3 FOR the purpose of expanding the State tax credits subject to legislative review and
4 evaluation under the Tax Credit Evaluation Act; altering the time period for the
5 continuation and reevaluation of certain tax credits designated for evaluation;
6 terminating the biotechnology investment tax credit, new job creating businesses tax
7 credit, and certain tax credits available under the Enterprise Zone Program, the
8 Regional Institution Strategic Enterprise Zone Program, and the One Maryland
9 Program; making conforming changes; requiring the Comptroller to adopt certain
10 procedures and protocols and make, under certain circumstances, a certain request;
11 providing for the delayed effective date of certain provisions of this Act; providing for
12 the application of certain provisions of this Act; and generally relating to the Tax
13 Credit Evaluation Act and the termination of certain tax credits.

14 BY repealing and reenacting, with amendments,
15 Article – Tax – General
16 Section 1–303, 1–310, 10–205(b), and 10–804(j)
17 Annotated Code of Maryland
18 (2010 Replacement Volume and 2015 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Economic Development
21 Section 5–702, 5–707, and 5–1406
22 Annotated Code of Maryland
23 (2008 Volume and 2015 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article – Tax – General
26 Section 10–205(a)
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2010 Replacement Volume and 2015 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Tax – Property
4 Section 9–317(f)
5 Annotated Code of Maryland
6 (2012 Replacement Volume and 2015 Supplement)

7 BY repealing
8 Article – Economic Development
9 Section 5–709 and 5–1407; and 6–401 through 6–407 and the subtitle “Subtitle 4.
10 One Maryland Economic Development Tax Credit”
11 Annotated Code of Maryland
12 (2008 Volume and 2015 Supplement)

13 BY repealing
14 Article – Insurance
15 Section 6–116 and 6–119
16 Annotated Code of Maryland
17 (2011 Replacement Volume and 2015 Supplement)

18 BY repealing
19 Article – Tax – General
20 Section 8–220, 10–702, 10–704.8, 10–714, and 10–725
21 Annotated Code of Maryland
22 (2010 Replacement Volume and 2015 Supplement)

23 BY repealing
24 Article – Tax – Property
25 Section 9–103, 9–103.1, and 9–230
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2015 Supplement)

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

30 **Article – Tax – General**

31 1–303.

32 (a) (1) If a tax credit has a termination date provided for by law, an evaluation
33 shall be made of that credit on or before July 1 of the year preceding the calendar year of
34 the termination date.

35 (2) Except as provided in paragraph (1) of this subsection, an evaluation
36 shall be made of the tax credits on or before the dates specified in subsections (b) through
37 (e) of this section.

1 (b) On or before July 1, 2014, an evaluation shall be made of the tax credits under:

2 (1) § 10-702 of this article (wages paid in an enterprise zone) and § 9-103
3 of the Tax – Property Article (qualified property in an enterprise zone); and

4 (2) Title 6, Subtitle 4 of the Economic Development Article, § 6-119 of the
5 Insurance Article, and § 10-714 of this article (One Maryland economic development).

6 (c) On or before July 1, 2015, an evaluation shall be made of the tax credits under:

7 (1) § 10-704 of this article (earned income); and

8 (2) § 10-730 of this article (film production activity).

9 (d) On or before July 1, 2016, an evaluation shall be made of the tax credits under:

10 (1) § 5A-303 of the State Finance and Procurement Article, § 6-105.2 of
11 the Insurance Article, and § 10-704.5 of this article (sustainable communities); and

12 (2) § 10-721 of this article (qualified research and development expenses).

13 (e) On or before July 1, 2017, an evaluation shall be made of the tax credits under:

14 (1) § 9-230 of the Tax – Property Article, § 6-116 of the Insurance Article,
15 and § 10-704.8 of this article (new job creating businesses);

16 (2) § 10-725 of this article (biotechnology investment incentive); and

17 (3) § 10-735 of this article (wineries and vineyards).

18 **(F) ON OR BEFORE JULY 1, 2018, AN EVALUATION SHALL BE MADE OF THE**
19 **TAX CREDIT UNDER § 10-733 OF THIS ARTICLE (CYBERSECURITY INVESTMENT**
20 **INCENTIVE).**

21 **(G) ON OR BEFORE JULY 1, 2019, AN EVALUATION SHALL BE MADE OF THE**
22 **TAX CREDITS UNDER:**

23 **(1) § 10-702 OF THIS ARTICLE (WAGES PAID IN A REGIONAL**
24 **INSTITUTION STRATEGIC ENTERPRISE ZONE) AND § 9-103.1 OF THE TAX –**
25 **PROPERTY ARTICLE (QUALIFIED PROPERTY IN A REGIONAL INSTITUTION**
26 **STRATEGIC ENTERPRISE ZONE); AND**

27 **(2) § 10-704.4 OF THIS ARTICLE (JOB CREATION).**

28 1-310.

1 The continuation of a tax credit designated for evaluation under this subtitle is for a
2 ~~[5-year]~~ **7-YEAR** period and is subject to reevaluation ~~[5]~~ **7** years after the previous
3 evaluation, unless another period is set by law.

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

6 **Article – Economic Development**

7 5–702.

8 ~~[Subject to § 9–103 of the Tax – Property Article, a]~~ **A** business entity that owns,
9 operates, develops, constructs, or rehabilitates property intended for use primarily as single
10 or multifamily residential property located in an enterprise zone may not benefit from an
11 incentive or initiative under this subtitle.

12 5–707.

13 (a) To the extent provided for in this section, a business entity is entitled to~~l~~:

14 (1) the special property tax credit in § 9–103 of the Tax – Property Article;

15 (2) the income tax credits in § 10–702 of the Tax – General Article; and

16 (3) consideration for financial assistance from programs in Subtitle 1 of
17 this title.

18 (b) A business entity that moves into or locates in an enterprise zone on or after
19 the date that the enterprise zone is designated under § 5–704 of this subtitle may benefit
20 from the incentives and initiatives in this section if:

21 (1) the business entity meets the requirements and conditions of the Code
22 section applicable to each incentive or initiative;

23 (2) the respective political subdivision certifies that the business entity has
24 complied with the standards that the subdivision submitted under § 5–703(b)(5) of this
25 subtitle; **AND**

26 (3) ~~[the business entity creates new or additional jobs or makes a capital~~
27 investment to qualify for the property tax credit under § 9–103 of the Tax – Property Article
28 and the income tax credits under § 10–702 of the Tax – General Article; and

29 (4) ~~in considering whether the business entity qualifies for financial~~
30 assistance from the programs in Subtitle 1 of this title, the Secretary determines that the
31 business entity will create new or additional jobs.

1 (c) The incentives and initiatives provided for in this section are not available to
2 a business entity that:

3 (1) was in an enterprise zone before the date that the enterprise zone is
4 designated, except for a capital investment or expansion of its labor force that occurs on or
5 after the enterprise zone is designated; or

6 (2) is located in an enterprise zone that was designated under federal law
7 unless the Secretary and the Board of Public Works consent to the designation.

8 (d) (1) [Except as provided in § 10–702 of the Tax – General Article and §
9 9–103 of the Tax – Property Article, the] **THE** incentives and initiatives set forth in this
10 section are available for 10 years after the date that an area is designated an enterprise
11 zone.

12 (2) A law enacted after the enactment of this section that eliminates or
13 reduces the benefits available to a business entity under this section does not apply to a
14 business entity that was in an enterprise zone before the effective date of the law.

15 [(e) (1) (i) Notwithstanding subsection (d) of this section, except for a
16 business entity certified to receive a property tax credit under § 9–103 of the Tax – Property
17 Article for a tax year beginning before July 1, 2008, a business entity located in an
18 enterprise zone may not receive the incentives and initiatives set forth in subsection (a)(1)
19 and (2) of this section if the entity is located on land or within improvements owned by the
20 federal government, the State, a county, or a municipal corporation unless the business
21 entity has first utilized all applicable property tax exemptions under Title 7 of the Tax –
22 Property Article, including entering into any available payment in lieu of tax agreement.

23 (ii) Subparagraph (i) of this paragraph does not apply to a business
24 entity leasing land or improvements owned by the Maryland Economic Development
25 Corporation.

26 (2) Notwithstanding subsection (d) of this section, a business entity located
27 in a BRAC Revitalization and Incentive Zone established under Subtitle 13 of this title may
28 not receive the property tax credit under § 9–103 of the Tax – Property Article unless:

29 (i) the business entity qualified for the property tax credit before the
30 date that the BRAC Revitalization and Incentive Zone is designated; or

31 (ii) the political subdivision where the business entity is located
32 expressly grants the property tax credit to the business entity.]

33 5–1406.

1 (a) [(1)] To the extent provided for in this section, a business entity that locates
2 in a RISE zone is entitled to[:

3 (i) the property tax credit under § 9–103.1 of the Tax – Property
4 Article;

5 (ii) the income tax credit under § 10–702 of the Tax – General
6 Article; and

7 (iii)] priority consideration for financial assistance from programs in
8 Subtitle 1 of this title.

9 [(2) For purposes of the income tax credit authorized under paragraph (1)(ii)
10 of this subsection, the business entity is treated as being located in an enterprise zone.]

11 (b) A business entity that moves into or locates in a RISE zone on or after the
12 date that the zone is designated under this subtitle may qualify for the incentives under
13 this section.

14 (c) A business entity may not qualify for the incentives under subsection (a) of
15 this section unless the Department, in consultation with the county or municipal
16 corporation in which a RISE zone is located, certifies the business entity and its location as
17 consistent with the target strategy of the RISE zone.

18 (d) (1) Unless a business entity makes a significant capital investment or
19 expansion of its labor force after a RISE zone is designated, the incentives under this
20 section are not available to a business entity that was in a RISE zone before the date that
21 the zone is designated.

22 (2) The Department shall adopt regulations establishing factors to
23 determine if a business entity makes a significant capital investment or expansion of its
24 labor force under paragraph (1) of this subsection.

25 Article – Tax – General

26 10–205.

27 (a) In addition to the modification under § 10–204 of this subtitle, the amounts
28 under this section are added to the federal adjusted gross income of a resident to determine
29 Maryland adjusted gross income.

30 (b) The addition under subsection (a) of this section includes the amount of a
31 credit claimed under:

32 (1) [§ 10–702 of this title for wages paid to an employee in an enterprise
33 zone;

1 (2)] § 10–704.3 of this title or § 8–213 of this article for wages paid and
2 qualified child care or transportation expenses incurred with respect to qualified
3 employment opportunity employees; and

4 [(3)] (2) § 10–704.7 of this title or § 8–216 of this article for wages paid
5 and qualified child care or transportation expenses incurred with respect to a qualified
6 employee with a disability.

7 10–804.

8 (j) (1) A taxpayer claiming any of the following tax credits shall submit a
9 claim for the credit by electronic means as required by the Comptroller by regulation:

10 (i) the Job Creation Tax Credit, as provided under Title 6, Subtitle
11 2 of the Economic Development Article[;

12 (ii) the One Maryland Tax Credit, as provided under Title 6, Subtitle
13 4 of the Economic Development Article;

14 (iii) the Biotechnology Investment Incentive Tax Credit, as provided
15 under § 10–725 of this title;

16 (iv) the Enterprise Zone Income Tax Credit, as provided under §
17 10–702 of this title]; and

18 [(v)] (II) any other tax credit specified by the Comptroller through
19 regulation.

20 (2) Before adding any tax credit [not listed in paragraph (1)(i) through (iv)
21 of this subsection] to the requirement of this subsection, the Comptroller shall determine
22 whether the addition of the tax credit will have a material adverse impact or undue
23 administrative burden on the Comptroller.

24 Article – Tax – Property

25 9–317.

26 (f) (1) (i) In this subsection the following words have the meanings
27 indicated.

28 (ii) “Eligible business entity” means a person who operates or
29 conducts a trade or business on qualified enterprise zone property but does not own the
30 qualified enterprise zone property.

31 (iii) “Qualified enterprise zone property” means real property that:

1 1. A. is not used for residential purposes;

2 B. is used in a trade or business by an eligible business
3 entity; **AND**

4 C. is located in an enterprise zone that is designated under
5 Title 5, Subtitle 7 of the Economic Development Article; [and

6 D. is eligible for the property tax credit under § 9–103 of this
7 title;]

8 2. A. is located within the area encompassed by the
9 Burtonsville Crossroads Neighborhood Plan developed by the Montgomery County
10 Planning Department;

11 B. is zoned for commercial or commercial/residential mixed
12 use development; and

13 C. has had improvements made on it on or before January 1,
14 2020; or

15 3. A. is located within the area encompassed by the
16 Glenmont Shopping Center area, the Metro Station/Layhill Triangle Block, the Winexburg
17 Manor Apartments area, the Glenmont Forest Apartments area, and the Privacy World
18 area of the Glenmont Sector Plan developed by the Montgomery County Planning
19 Department;

20 B. is zoned for commercial or commercial/residential mixed
21 use development; and

22 C. has had improvements made on it on or before January 1,
23 2025.

24 (2) Subject to [paragraphs (4) and (5)] **PARAGRAPH (4)** of this subsection,
25 the governing body of Montgomery County or of a municipal corporation in Montgomery
26 County may grant, by law, a property tax credit against the county or municipal corporation
27 property tax imposed on:

28 (i) improvements made by an eligible business entity to qualified
29 enterprise zone property; and

30 (ii) personal property owned by an eligible business entity located on
31 qualified enterprise zone property.

32 (3) (i) The governing body of Montgomery County or of a municipal
33 corporation in Montgomery County may provide, by law, for:

- 1 1. the amount and duration of a credit under this subsection;
- 2 2. additional eligibility criteria for a credit under this
- 3 subsection; and
- 4 3. any other provision necessary to carry out a credit under
- 5 this subsection.

6 (ii) The governing body of Montgomery County or of a municipal

7 corporation in Montgomery County shall define, by law, the improvements eligible for a

8 credit under this subsection.

9 (4) The lessor of real property granted a credit under paragraph (2)(i) of

10 this subsection shall reduce the amount of taxes for which an eligible business entity is

11 contractually liable under the lease agreement by the amount of any credit granted under

12 paragraph (2)(i) of this subsection for improvements made by the eligible business entity.

13 [(5) The lessor of real property that receives a credit under § 9–103 of this

14 title may not be granted a credit under this subsection.]

15 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 5–709 and 5–1407;

16 and 6–401 through 6–407 and the subtitle “Subtitle 4. One Maryland Economic

17 Development Tax Credit” of Article – Economic Development of the Annotated Code of

18 Maryland be repealed.

19 SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 6–116 and 6–119

20 of Article – Insurance of the Annotated Code of Maryland be repealed.

21 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 8–220, 10–702,

22 10–704.8, 10–714, and 10–725 of Article – Tax – General of the Annotated Code of Maryland

23 be repealed.

24 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 9–103, 9–103.1,

25 and 9–230 of Article – Tax – Property of the Annotated Code of Maryland be repealed.

26 SECTION 7. AND BE IT FURTHER ENACTED, That:

27 (a) The Comptroller shall adopt procedures and protocols related to the

28 administration of Maryland’s tax system to:

29 (1) improve the accuracy and collection of tax data necessary to allow for

30 more effective evaluations of State tax incentive programs;

31 (2) notwithstanding any federal or State confidentiality requirements,

32 share with the Department of Legislative Services and other appropriate State agencies

1 data related to State tax incentive programs to better assess the effectiveness of those
2 programs; and

3 (3) implement a private letter ruling process to provide additional tax
4 guidance to taxpayers.

5 (b) If the Comptroller determines that the increased responsibilities under
6 subsection (a) of this section will have more than an incidental impact on the Comptroller's
7 annual budget, the Comptroller shall request additional resources in the Comptroller's
8 fiscal year 2018 budget request to the Governor.

9 SECTION 8. AND BE IT FURTHER ENACTED, That Sections 2 through 6 of this
10 Act shall take effect June 1, 2021, and shall be applicable to all taxable years beginning
11 after December 31, 2020.

12 SECTION 9. AND BE IT FURTHER ENACTED, That, except as provided in Section
13 8 of this Act, this Act shall take effect June 1, 2016.