

Chapter 254

(House Bill 566)

AN ACT concerning

Opportunity Zone Enhancement Program – Eligibility – Lead-Based Paint Affected Properties

FOR the purpose of altering the information required to be provided to the Department of Commerce in order to qualify for certain tax credit enhancements under the Opportunity Zone Enhancement Program to include, with respect to certain qualified opportunity zone business property that is a certain lead-based paint affected property, certain information and verifications; providing for the application of this Act; and generally relating to eligibility for tax credit enhancements under the Opportunity Zone Enhancement Program.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 6–1001
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 6–1002(a), (b), and (d)
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section 6–801(a) and (b) and 6–811(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)

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

Article – Economic Development

6–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) “Level 1 opportunity zone enhancement” means an enhanced tax credit under the Program for which a qualified opportunity zone business or qualified opportunity fund is eligible if the following information is provided to the Department:

- (1) the date of the qualified opportunity fund's investment in the qualified opportunity zone business and the amount of the investment;
- (2) the total project or business investment, including any leverage;
- (3) the address and census tract of the qualified opportunity zone business and the qualified opportunity fund;
- (4) the North American Industrial Classification System Code for the qualified opportunity zone business;
- (5) an impact report, including both qualitative and quantitative data on the investment and its progress; [and]

(6) **UNLESS AN APPLICANT PROVIDES AN AFFIDAVIT TO THE DEPARTMENT ALONG WITH THE APPLICATION THAT THE QUALIFIED OPPORTUNITY ZONE BUSINESS PROPERTY IS UNOCCUPIED, WILL BE DEMOLISHED WITHIN 1 YEAR OF THE DATE OF THE APPLICATION, AND WILL REMAIN UNOCCUPIED UNTIL THE DEMOLITION IS COMPLETE, WITH RESPECT TO QUALIFIED OPPORTUNITY ZONE BUSINESS PROPERTY THAT IS AN AFFECTED PROPERTY REQUIRED TO BE REGISTERED WITH THE DEPARTMENT OF THE ENVIRONMENT UNDER § 6-811 OF THE ENVIRONMENT ARTICLE:**

(I) **PROOF OF REGISTRATION WITH THE DEPARTMENT OF THE ENVIRONMENT;**

(II) **IF THE PROPERTY CONTAINS AT LEAST ONE RESIDENTIAL RENTAL UNIT, PROOF OF LEAD INSPECTIONS CONDUCTED IN ACCORDANCE WITH §§ 6-815 AND 6-819 OF THE ENVIRONMENT ARTICLE;**

(III) **IF THE PROPERTY IS AN OWNER-OCCUPIED RESIDENTIAL RENTAL PROPERTY:**

1. **PROOF THAT VISUAL EXTERIOR OR INTERIOR PAINTED SURFACES ARE FREE OF CHIPPING, FLAKING, OR PEELING LEAD-BASED PAINT; AND**

2. **A COPY OF PASSING TEST RESULTS FOR LEAD-CONTAMINATED DUST; AND**

(IV) **VERIFICATION THAT, FOR THE SUBSTANTIAL IMPROVEMENT OF THE PROPERTY PERFORMED IN ACCORDANCE WITH §**

1400Z-2(D)(2)(D)(II) OF THE INTERNAL REVENUE CODE, REPLACEMENT DOORS AND WINDOWS ARE FREE OF LEAD-BASED PAINT; AND

(7) any other information requested by the Department that meets the transparency goals of the Program.

(c) “Level 2 opportunity zone enhancement” means an enhanced tax credit under the Program for which a qualified opportunity zone business or qualified opportunity fund is eligible if:

(1) the requirements for a Level 1 opportunity zone enhancement are met;

(2) (i) accountability to residents of the communities in the opportunity zone is maintained through their representation on any governing board or advisory board of the qualified opportunity zone business; or

(ii) a community benefits agreement is negotiated and agreed to by community groups or strategic industry partnerships, as defined under § 11-701 of the Labor and Employment Article, in the opportunity zone and the qualified opportunity fund that specifies a range of community benefits that the fund agrees to provide as part of the development project, including workforce development or local hiring requirements; and

(3) (i) for a qualified opportunity zone business located entirely within an opportunity zone in a municipal corporation, the municipal corporation, by resolution or by letter, delivered to the Department by the municipal corporation’s authorized designee, approves the provision of the enhanced tax credits under the Program within the municipal corporation; or

(ii) for a qualified opportunity zone business in an opportunity zone that is not located entirely within a municipal corporation, the county, by resolution or by letter, delivered to the Department by the county’s authorized designee, approves the provision of the enhanced tax credits under the Program within the county.

(d) “Opportunity zone” means an area that has been designated as a qualified opportunity zone in the State under § 1400Z-1 of the Internal Revenue Code.

(e) “Program” means the Opportunity Zone Enhancement Program in the Department established under § 6-1002 of this subtitle that allows enhanced tax credits under:

(1) § 6-304 of this title (Job Creation);

(2) § 6-403 of this title (One Maryland economic development);

(3) § 10-702 of the Tax – General Article (wages paid in an enterprise zone);

(4) § 10–725 of the Tax – General Article (biotechnology investment incentive);

(5) § 10–733 of the Tax – General Article (cybersecurity investment incentive); and

(6) § 10–741 of the Tax – General Article (More Jobs for Marylanders).

(f) “Qualified opportunity fund” has the meaning stated in § 1400Z–2 of the Internal Revenue Code.

(g) “Qualified opportunity zone business” has the meaning stated in § 1400Z–2 of the Internal Revenue Code.

(h) “Qualified opportunity zone business property” has the meaning stated in § 1400Z–2 of the Internal Revenue Code.

(i) “Qualified opportunity zone property” has the meaning stated in § 1400Z–2 of the Internal Revenue Code.

6–1002.

(a) There is an Opportunity Zone Enhancement Program in the Department.

(b) The Department shall administer the tax credit enhancements offered under the Program.

(d) The Department, in consultation with the Department of Housing and Community Development, shall adopt regulations to carry out this subtitle, including criteria and procedures for determining eligibility for a Level 1 or Level 2 opportunity zone enhancement.

Article – Environment

6–801.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Affected property” means:

(i) A property constructed before 1950 that contains at least one rental dwelling unit;

(ii) On and after January 1, 2015, a property constructed before 1978 that contains at least one rental unit; or

(iii) Any residential rental property for which the owner makes an election under § 6–803(a)(2) of this subtitle.

(2) “Affected property” includes an individual rental dwelling unit within a multifamily rental dwelling.

(3) “Affected property” does not include property exempted under § 6–803(b) of this subtitle.

6–811.

(a) (1) On or before December 31, 1995, the owner of an affected property shall register the affected property with the Department.

(2) Notwithstanding paragraph (1) of this subsection, an owner of affected property for which an election is made under § 6–803(a)(2) of this subtitle shall register at the time of the election.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.