

Chapter 38

(House Bill 45)

AN ACT concerning

Economic Development – Opportunity Zone Incentives – Alteration of the More Jobs for Marylanders and Opportunity Zone Enhancement Programs

FOR the purpose of altering certain terms relating to eligibility for benefits under the More Jobs for Marylanders and Opportunity Zone Enhancement programs; altering the taxable years for which certain enhancements under the Opportunity Zone Enhancement Program are applicable; requiring the Department of Commerce to publish certain information about the Opportunity Zone Enhancement Program and certain qualified opportunity funds on its website in a certain manner; limiting eligibility for certain Opportunity Zone Enhancement Program benefits to certain investments in certain biotechnology and cybersecurity companies that are newly established in or expand into an opportunity zone on or after a certain date; making a technical correction; providing for the application of this Act; and generally relating to opportunity zones and the More Jobs for Marylanders and Opportunity Zone Enhancement programs.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 6–801(a) and 6–1001(a)
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 6–801(c), 6–1001(b), 6–1002, 6–1006, and 6–1007
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 9–110(a)(1)
Annotated Code of Maryland
(2019 Replacement Volume)

BY repealing
Article – Tax – Property
Section 9–110(a)(5)
Annotated Code of Maryland
(2019 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Tax – Property
 Section 9–110(a)(6) through (8)
 Annotated Code of Maryland
 (2019 Replacement Volume)

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

Article – Economic Development

6–801.

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

(c) (1) “Business entity” means a person conducting or operating a trade or business that is:

(i) primarily engaged in activities that, in accordance with the North American Industrial Classification System (NAICS), United States Manual, United States Office of Management and Budget, 2012 Edition, would be included in Sector 31, 32, or 33; or

(ii) located in an opportunity zone.

(2) “Business entity” does not include:

(i) a refiner, as defined in § 10–101 of the Business Regulation Article; [or]

(ii) a person conducting or operating a trade or business that is:

1. providing adult entertainment, as determined by the Department;

2. primarily engaged in retail activities, unless the person is operating a grocery store located in an opportunity zone; or

3. primarily engaged in the sale or distribution of alcoholic beverages; **OR**

(III) THE FOLLOWING ENTITIES:

1. **A PRIVATE OR COMMERCIAL GOLF COURSE OR COUNTRY CLUB;**

2. **A TANNING SALON; OR**

~~3. A MESSAGE PARLOR; OR~~

~~4. A BAIL BONDSMAN.~~

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:

(1) the following information is provided to the Department:

[(1)] (I) the date of the qualified opportunity fund’s investment in the qualified opportunity zone business and the amount of the investment;

[(2)] (II) the total project or business investment, including any leverage;

[(3)] (III) the address and census tract of the qualified opportunity zone business and the qualified opportunity fund;

[(4)] (IV) the North American Industrial Classification System Code for the qualified opportunity zone business;

[(5)] (V) an impact report, including both qualitative and quantitative data on the investment and, **AS APPLICABLE**, its progress **TOWARD:**

1. **CREATING AND RETAINING JOBS;**

2. **PROMOTING ENTREPRENEURSHIP, INCLUDING AMONG WOMEN- AND MINORITY-OWNED BUSINESSES;**

3. **PROVIDING AFFORDABLE HOUSING;**

4. **CREATING ACCESS TO HEALTHY FOOD;**

5. **PROMOTING ENVIRONMENTAL SUSTAINABILITY; AND**

6. **BENEFITING THE COMMUNITIES IN THE OPPORTUNITY ZONE IN A MANNER NOT OTHERWISE SPECIFIED IN THIS ITEM; and**

[(6)] (VI) any other information requested by the Department that meets the transparency goals of the Program; **AND**

(2) FOR A QUALIFIED OPPORTUNITY ZONE BUSINESS LOCATED IN AN OPPORTUNITY ZONE IN A COUNTY WITH A MINIMUM WAGE THAT EXCEEDS THE STATE MINIMUM WAGE, THE QUALIFIED OPPORTUNITY ZONE BUSINESS PAYS TO EACH EMPLOYEE WAGES THAT EXCEED THE GREATER OF:

- (I) 120% OF THE STATE MINIMUM WAGE; OR**
- (II) 120% OF THE COUNTY MINIMUM WAGE.**

6–1002.

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

(b) **(1)** The Department shall administer the tax credit enhancements offered under the Program.

(2) THE ENHANCEMENTS OFFERED UNDER THE PROGRAM SHALL BE APPLICABLE TO ALL TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2018, BUT BEFORE JANUARY 1, ~~2022~~ 2027.

(c) (1) The Department shall publish on its website information about the Program and information reported by a qualified opportunity fund receiving enhanced tax credits under the Program.

(2) The information published on the website:

(I) SHALL BE ITEMIZED BY QUALIFIED OPPORTUNITY ~~FUND~~ ZONE;

(II) SHALL BE SUMMARIZED IN THE AGGREGATE; AND

(III) may not include any proprietary or confidential information.

(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.

6–1006.

(a) In this section, “investment”, “qualified investor”, and “qualified Maryland biotechnology company” have the meanings stated in § 10–725 of the Tax – General Article.

(b) For a qualified opportunity fund that is a qualified investor in a qualified Maryland biotechnology company under § 10–725 of the Tax – General Article, if the qualified Maryland biotechnology company **[is located in], ON OR AFTER MARCH 1, 2018, IS NEWLY ESTABLISHED IN OR EXPANDS INTO** an opportunity zone:

(1) the Level 1 opportunity zone enhancement is 65% of the investment in a qualified Maryland biotechnology company in any county, not to exceed \$575,000; and

(2) the Level 2 opportunity zone enhancement is 75% of the investment in the qualified Maryland biotechnology company in any county, not to exceed \$750,000.

(c) The enhanced tax credit percentages and maximums authorized under subsection (b) of this section are in substitution for and not in addition to the percentages and maximums under § 10–725(d) of the Tax – General Article.

6–1007.

(a) In this section, “investment”, “qualified investor”, and “qualified Maryland cybersecurity company” have the meanings stated in § 10–733 of the Tax – General Article.

(b) For a qualified opportunity fund that is a qualified investor in a qualified Maryland cybersecurity company under § 10–733 of the Tax – General Article, if the qualified Maryland cybersecurity company **[is located in], ON OR AFTER MARCH 1, 2018, IS NEWLY ESTABLISHED IN OR EXPANDS INTO** an opportunity zone in a county other than Allegany County, Dorchester County, Garrett County, or Somerset County:

(1) the Level 1 opportunity zone enhancement is 33% of the investment in a qualified Maryland cybersecurity company, not to exceed \$300,000; and

(2) the Level 2 opportunity zone enhancement is 50% of the investment in the qualified Maryland cybersecurity company, not to exceed \$500,000.

(c) The enhanced tax credit percentages and maximums authorized under subsection (b) of this section are in substitution for and not in addition to the percentages and maximums under § 10–733(d) of the Tax – General Article.

Article – Tax – Property

9–110.

(a) (1) In this section the following words have the meanings indicated.

[(5) “Opportunity zone” has the meaning stated in § 6–801 of the Economic Development Article.]

[(6)] (5) “Qualified business entity” means a new business entity operating an eligible project in a Tier I area, as defined under § 6–801 of the Economic Development Article.

[(7)] (6) “Qualified position” has the meaning stated in § 6–801 of the Economic Development Article.

[(8)] (7) “Qualified property” means real property where an eligible project is located.

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.