

HOUSE BILL 223

Q3, C8, Q1

01r0551

By: **Delegates Palakovich Carr, Acevero, Barron, Boyce, Carr, Charkoudian, Cullison, Hettleman, Ivey, Korman, Lehman, R. Lewis, Moon, Mosby, Pena-Melnyk, Shetty, Smith, Solomon, Stewart, Wilkins, and K. Young**

Introduced and read first time: January 16, 2020

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **End Ineffective Business Subsidies Act of 2020**

3 FOR the purpose of prohibiting the Secretary of Commerce from designating or expanding
4 certain enterprise zones and focus areas on or after a certain date; providing that the
5 automatic designation of certain areas as enterprise zones applies only to areas
6 designated on or before a certain date; providing for the termination of the One
7 Maryland Economic Development Tax Credit Program on or after a certain date;
8 providing for the application of certain enhancements offered under the Opportunity
9 Zone Enhancement Program to certain taxable years and certain provisions relating
10 to the enterprise zone program; prohibiting the Department of Commerce from
11 issuing tax credit certificates to certain investors in certain biotechnology companies
12 on or after a certain date; repealing a provision authorizing certain business entities
13 to claim, under certain circumstances, enterprise zone property tax credits within a
14 certain number of years after the enterprise zone expires; making a technical
15 correction; and generally relating to economic development and job creation tax
16 credit programs in the State.

17 BY repealing and reenacting, with amendments,
18 Article – Economic Development
19 Section 5–702, 5–708, and 6–1002
20 Annotated Code of Maryland
21 (2018 Replacement Volume and 2019 Supplement)

22 BY adding to
23 Article – Economic Development
24 Section 6–407
25 Annotated Code of Maryland
26 (2018 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Tax – General
3 Section 10–725(c)
4 Annotated Code of Maryland
5 (2016 Replacement Volume and 2019 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Tax – Property
8 Section 9–103(e)
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2019 Supplement)

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

13 **Article – Economic Development**

14 5–702.

15 **(A) (1) THIS SUBTITLE APPLIES ONLY TO THE DESIGNATION OR**
16 **EXPANSION OF AN ENTERPRISE ZONE OR A FOCUS AREA ON OR BEFORE MAY 31,**
17 **2020.**

18 **(2) THE SECRETARY MAY NOT DESIGNATE OR EXPAND AN**
19 **ENTERPRISE ZONE OR A FOCUS AREA UNDER THIS SUBTITLE ON OR AFTER JUNE 1,**
20 **2020.**

21 **(B)** Subject to § 9–103 of the Tax – Property Article, a business entity that owns,
22 operates, develops, constructs, or rehabilitates property intended for use primarily as single
23 or multifamily residential property located in an enterprise zone may not benefit from an
24 incentive or initiative under this subtitle.

25 5–708.

26 (a) An area that is designated an [enterprize] **ENTERPRISE** zone, empowerment
27 zone, or enterprise community under federal law **ON OR BEFORE MAY 31, 2020**, shall
28 automatically be designated as an enterprise zone notwithstanding the limit on the number
29 of enterprise zones that the Secretary may designate under § 5–704(b) of this subtitle.

30 (b) An application by a political subdivision and the designation by the Secretary
31 of an area as an enterprise zone constitutes the State approval that may be required to
32 designate an area as an enterprise zone under federal law.

33 **6–407.**

34 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE AND**

1 THE PROJECT TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE SHALL TERMINATE
2 ON JANUARY 1, 2022.

3 (B) AFTER TERMINATION OF THIS SUBTITLE:

4 (1) A PERSON MAY BE CONSIDERED FOR ELIGIBILITY FOR THE
5 PROJECT TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE BASED ON POSITIONS
6 FILLED BEFORE TERMINATION OF THIS SUBTITLE, PROVIDED THAT THE OTHER
7 REQUIREMENTS OF THE SUBTITLE ARE SATISFIED; AND

8 (2) PROJECT TAX CREDITS EARNED MAY BE CARRIED FORWARD OR
9 CLAIMED AS A REFUND IN ACCORDANCE WITH § 6-403 OF THIS SUBTITLE.

10 6-1002.

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

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

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

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

20 (2) The information published on the website may not include any
21 proprietary or confidential information.

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

26 **Article – Tax – General**

27 10-725.

28 (c) (1) At least 30 days prior to making an investment in a qualified Maryland
29 biotechnology company for which a qualified investor would be eligible for an initial tax
30 credit certificate under subsection (b) of this section, the qualified investor shall submit an
31 application to the Department.

32 (2) The application shall evidence that the qualified Maryland

1 biotechnology company is:

2 (i) in good standing;

3 (ii) current in the payment of all tax obligations to the State or any
4 unit or subdivision of the State; and

5 (iii) not in default under the terms of any contract with, indebtedness
6 to, or grant from the State or any unit or subdivision of the State.

7 (3) (I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS
8 PARAGRAPH, THE Department shall:

9 [(i)] 1. approve all applications that qualify for credits under this
10 section on a first-come, first-served basis; and

11 [(ii)] 2. within 30 days of receipt of an application, certify the
12 amount of any approved tax credits to a qualified investor.

13 (II) THE DEPARTMENT MAY NOT ISSUE ANY TAX CREDIT
14 CERTIFICATES UNDER THIS SECTION ON OR AFTER JANUARY 1, 2022.

15 (4) (i) After the date on which the Department issues an initial tax
16 credit certificate under this section, a qualified investor shall have 30 calendar days to
17 make an investment in a qualified Maryland biotechnology company under this section.

18 (ii) Within 10 calendar days after the date on which a qualified
19 investor makes the investment, the qualified investor shall provide to the Department
20 notice and proof of the making of the investment, including:

21 1. the date of the investment;

22 2. the amount invested;

23 3. proof of the receipt of the invested funds by the qualified
24 Maryland biotechnology company;

25 4. a complete description of the nature of the ownership
26 interest in the equity of the qualified Maryland biotechnology company acquired in
27 consideration of the investment; and

28 5. any reasonable supporting documentation the
29 Department may require.

30 (iii) If a qualified investor does not provide the notice and proof of the
31 making of the investment required in subparagraph (ii) of this paragraph within 40

1 calendar days after the date on which the Department issues an initial tax credit certificate
2 under this section:

3 1. the Department shall rescind the initial tax credit
4 certificate; and

5 2. the credit amount allocated to the rescinded certificate
6 shall revert to the Maryland Biotechnology Investment Tax Credit Reserve Fund and shall
7 be available in the applicable fiscal year for allocation by the Department to other initial
8 tax credit certificates in accordance with the provisions of this section.

9 **Article – Tax – Property**

10 9–103.

11 (e) (1) A tax credit under this section is available to a qualified property for no
12 more than 10 consecutive years beginning with:

13 (i) the taxable year following the calendar year in which the real
14 property initially becomes a qualified property; or

15 (ii) the taxable year in which the real property initially becomes a
16 qualified property, subject to the approval of the appropriate local governing body and the
17 Secretary of Commerce.

18 (2) Even if the designation of an enterprise zone expires, the tax credit
19 under this section continues to be available to a qualified property.

20 (3) [Notwithstanding § 5–707(d) of the Economic Development Article but
21 subject to § 5–707(b) and (c) of the Economic Development Article, a business entity
22 operating in an enterprise zone when the designation of the enterprise zone expires may
23 claim the credits allowed under this section for real property that:

24 (i) the business owns, operates, develops, constructs, or
25 rehabilitates within 5 years after the date the designation of the enterprise zone expired;
26 and

27 (ii) otherwise qualifies for the credits allowed under this section.

28 (4) State property tax imposed on real property is not affected by this
29 section.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
31 1, 2020.