

SENATE BILL 122

C8, Q3, Q1

(PRE-FILED)

0lr1305
CF HB 45

By: **Senator McCray**

Requested: November 10, 2019

Introduced and read first time: January 8, 2020

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

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

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

16 BY repealing and reenacting, without amendments,
17 Article – Economic Development
18 Section 6–801(a) and 6–1001(a)
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2019 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Economic Development
23 Section 6–801(c), 6–1001(b), 6–1002, 6–1006, and 6–1007
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2019 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – Tax – Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9–110(a)(1)
2 Annotated Code of Maryland
3 (2019 Replacement Volume)

4 BY repealing
5 Article – Tax – Property
6 Section 9–110(a)(5)
7 Annotated Code of Maryland
8 (2019 Replacement Volume)

9 BY repealing and reenacting, with amendments,
10 Article – Tax – Property
11 Section 9–110(a)(6) through (8)
12 Annotated Code of Maryland
13 (2019 Replacement Volume)

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

16 **Article – Economic Development**

17 6–801.

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

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

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

25 (ii) located in an opportunity zone.

26 (2) “Business entity” does not include:

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

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

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

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

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

3 (III) THE FOLLOWING ENTITIES:

4 1. A PRIVATE OR COMMERCIAL GOLF COURSE OR
 5 COUNTRY CLUB;

6 2. A TANNING SALON;

7 3. A MESSAGE PARLOR; OR

8 4. A BAIL BONDSMAN.

9 6–1001.

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

11 (b) “Level 1 opportunity zone enhancement” means an enhanced tax credit under
 12 the Program for which a qualified opportunity zone business or qualified opportunity fund
 13 is eligible if:

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

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

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

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

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

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

24 1. CREATING AND RETAINING JOBS;

25 2. PROMOTING ENTREPRENEURSHIP, INCLUDING
 26 AMONG WOMEN– AND MINORITY–OWNED BUSINESSES;

27 3. PROVIDING AFFORDABLE HOUSING;

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

2 5. **PROMOTING ENVIRONMENTAL SUSTAINABILITY; AND**

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

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

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

11 (I) **120% OF THE STATE MINIMUM WAGE; OR**

12 (II) **120% OF THE COUNTY MINIMUM WAGE.**

13 6–1002.

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

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

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

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

23 (2) The information published on the website:

24 (I) **SHALL BE ITEMIZED BY QUALIFIED OPPORTUNITY FUND;**

25 (II) **SHALL BE SUMMARIZED IN THE AGGREGATE; AND**

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

27 (d) The Department, in consultation with the Department of Housing and
28 Community Development, shall adopt regulations to carry out this subtitle, including

1 criteria and procedures for determining eligibility for a Level 1 or Level 2 opportunity zone
2 enhancement.

3 6–1006.

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

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

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

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

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

17 6–1007.

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

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

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

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

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

32 **Article – Tax – Property**

33 9–110.

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

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

4 [(6) (5) “Qualified business entity” means a new business entity
5 operating an eligible project in a Tier I area, as defined under § 6–801 of the Economic
6 Development Article.

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

9 [(8) (7) “Qualified property” means real property where an eligible
10 project is located.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
12 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.