SENATE BILL 516

By: Senator Augustine
Introduced and read first time: January 28, 2022
Assigned to: Budget and Taxation
Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 10, 2022

CHAPTER ______

1 AN ACT concerning

2 Equitable and Inclusive Transit–Oriented Development Enhancement Act

3 FOR the purpose of altering the More Jobs for Marylanders Program to allow certain
4 business entities located in certain transit–oriented developments to qualify for
5 certain Program benefits; extending the deadline after which the Department of
6 Commerce may not certify certain business entities to participate in the Program;
7 establishing the Transit–Oriented Development Capital Grant and Revolving Loan
8 Fund as a special, nonlapsing fund; requiring interest earnings of the Fund to be
9 credited to the Fund; authorizing the Department of Transportation, in collaboration
10 with the Department of Housing and Community Development, to use the Fund to
11 provide financial assistance to local jurisdictions to be used for certain purposes
12 within a transit–oriented development; and generally relating to transit–oriented
development in the State.

14 BY repealing and reenacting, with amendments,
Article Economic Development
Section 6–801 and 6–805
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, without amendments,
Article Economic Development
Section 6–804
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
Strike out indicates matter stricken from the bill by amendment or deleted from the law by
amendment.
SENATE BILL 516

BY repealing and reenacting, without amendments,
  Article – Transportation
  Section 7–101(a), (l), (m), and (o)
  Annotated Code of Maryland
  (2020 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
  Article – Transportation
  Section 7–102(a)
  Annotated Code of Maryland
  (2020 Replacement Volume and 2021 Supplement)

BY adding to
  Article – Transportation
  Section 7–103; and 7–1201 through 7–1205 to be under the new subtitle “Subtitle 12.
  Transit–Oriented Development Capital Grant and Revolving Loan Fund”
  Annotated Code of Maryland
  (2020 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,
  Article – State Finance and Procurement
  Section 6–226(a)(2)(i) and 10–306(a)
  Annotated Code of Maryland
  (2021 Replacement Volume)

BY repealing and reenacting, with amendments,
  Article – State Finance and Procurement
  Section 6–226(a)(2)(ii)144. and 145. and 10–306(c)
  Annotated Code of Maryland
  (2021 Replacement Volume)

BY adding to
  Article – State Finance and Procurement
  Section 6–226(a)(2)(ii)146.
  Annotated Code of Maryland
  (2021 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.
(b) “Benefit year” means a taxable year in which a qualified business entity claims a program benefit established under § 6–805 of this subtitle.

(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; OR

(iii) LOCATED IN A TRANSIT–ORIENTED DEVELOPMENT.

(2) “Business entity” does not include:

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

(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 A TRANSIT–ORIENTED DEVELOPMENT; 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 bail bondsman.

(d) “Eligible project” means a facility operated by a business entity in a Tier I area or Tier II area.

(e) “Existing business entity” means a business entity that is located in the State at the time it notifies the Department under § 6–803(e) of this subtitle.
“Grocery store” has the meaning stated in § 9–254 of the Tax–Property Article.

“New business entity” means a business entity that is not located in the State at the time it notifies the Department under § 6–803(b) of this subtitle.

“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.

“Program” means the More Jobs for Marylanders Program established under this subtitle.

“Qualified business entity” means a new business entity or an existing business entity operating an eligible project under this subtitle.

(1) “Qualified position” means a position that:

(i) is full-time and of indefinite duration;

(ii) except as provided in item 2 of this item, for a position in a facility that is located in an opportunity zone or a transit-oriented development, pays an average annual salary that exceeds $50,000; or

2. for a position in a facility of a business entity described under subsection (c)(1)(i) of this section, pays at least 120% of the State minimum wage;

(iii) is located in a facility;

(iv) is newly created at a single facility in the State; and

(v) is filled.

(2) “Qualified position” does not include a position that is:

(i) created when an employment function is shifted from an existing facility of a business entity in the State to another facility of the same business entity if the position is not a net new job in the State;

(ii) created through a change in ownership of a trade or business;

(iii) created through a consolidation, merger, or restructuring of a business entity if the position is not a net new job in the State;

(iv) created when an employment function is contractually shifted from an existing business entity to another business entity in the State if the position is not a net new job in the State; or
(v) filled for a period of less than 12 months.

(4) "Tier I area" means:

(1) a Tier I county, as defined in § 1–101 of this article;

(2) a county designated by the Department that is not a county described in item (1) of this subsection, not to exceed three counties; OR

(2) an opportunity zone; OR

(4) A TRANSIT–ORIENTED DEVELOPMENT.

(m) "Tier II area" means an area that is not an area described in subsection (l) of this section.

(N) "TRANSIT–ORIENTED DEVELOPMENT" HAS THE MEANING STATED IN § 7–101 OF THE TRANSPORTATION ARTICLE.

6–804.

(a) The Program benefits authorized under this section may be claimed by a qualified business entity for up to 10 consecutive benefit years.

(b) On enrollment in the Program:

(1) a new business entity in a Tier I area is eligible for:

(i) a credit against the State income tax, established under § 10–741(b) of the Tax–General Article;

(ii) a credit against the State property tax, established under § 9–110 of the Tax–Property Article;

(iii) a refund of sales and use tax paid during the immediately preceding taxable year, as provided under § 11–411 of the Tax–General Article; and

(iv) a waiver of fees charged by the State Department of Assessments and Taxation, established under § 1–203.1 of the Corporations and Associations Article; and

(2) except as provided in subsection (e) of this section, an existing business entity that operates an eligible project is eligible for a credit against the State income tax, established under § 10–741(b) of the Tax–General Article.
(e) The income tax credit established under § 10-741(b) of the Tax-General Article is not available to an existing business entity if the entity moves its facility to another county in the State on or after June 1, 2017.

(d) If the number of qualified positions at the eligible project decreases to a number less than the number established in the first benefit year, the project shall be removed from the Program and all program benefits terminate.

6–805.

(a) The Department shall provide to a qualified business entity a certificate that:

(1) certifies the eligible project that is enrolled in the Program;

(2) provides the duration of the certification; and

(3) provides any additional information necessary for the Comptroller and Department to administer the Program.

(b) The Department may not provide a qualified business entity a certificate on or after June 1, 2022.

Article – Transportation

7–101.

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

(l) “Transit facility” includes any one or more or combination of tracks, rights-of-way, bridges, tunnels, subways, rolling stock, stations, terminals, ports, parking areas, equipment, fixtures, buildings, structures, other real or personal property, and services incidental to or useful or designed for use in connection with the rendering of transit service by any means, including rail, bus, motor vehicle, or other mode of transportation, but does not include any railroad facility.

(m) “Transit–oriented development” means a mix of private or public parking facilities, commercial and residential structures, and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that:

(1) Is part of a deliberate development plan or strategy involving:

(i) Property that is adjacent to the passenger boarding and alighting location of a planned or existing transit station; or

(ii) Property, any part of which is located within one–half mile of the passenger boarding and alighting location of a planned or existing transit station;
(2) Is planned to maximize the use of transit, walking, and bicycling by residents and employees; and

(3) Is designated as a transit–oriented development by:

   (i) The Secretary, after considering a recommendation of the Smart Growth Subcabinet established under § 9–1406 of the State Government Article; and

   (ii) The local government or multicounty agency with land use and planning responsibility for the relevant area.

(o) (1) “Transit station” means any facility, the primary function of which relates to the boarding and alighting of passengers from transit vehicles.

(2) “Transit station” includes platforms, shelters, passenger waiting facilities, parking areas, access roadways, and other real property used to facilitate passenger access to transit service or railroad service.

7–102.

(a) (1) (I) The development of improved and expanded railroad facilities, railroad services, transit facilities, and transit services operating as a unified and coordinated regional transportation system, and the realization of transit–oriented development throughout the State, represent transportation purposes that are essential for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality, and the development of the metropolitan area of Baltimore and other political subdivisions of the State.

   (II) IN ORDER TO REALIZE TRANSIT–ORIENTED DEVELOPMENT AS A TRANSPORTATION PURPOSE, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT, IN COLLABORATION WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, MAKE ALL REASONABLE ATTEMPTS TO INCLUDE TRANSIT–ORIENTED DEVELOPMENT AS PART OF THE PREFERRED PLAN FOR DEVELOPMENT IN AREAS SERVED BY TRANSIT SERVICES BY PROVIDING PREFERENCE TO PROPOSALS THAT FURTHER THIS PURPOSE WHEN:

   1. DISTRIBUTING FUNDS FROM:

      A. STATE PROGRAMS OFFERING GRANTS AND LOANS FOR DEVELOPMENT AND INFRASTRUCTURE INVESTMENT;

      B. FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANTS; AND

      C. THE PROCEEDS OF GENERAL OBLIGATION BOND AND GRANT ANTICIPATION REVENUE VEHICLE ISSUANCES; AND
2. **AWARDING STATE TAX CREDITS.**

(2) The establishment of the realization of transit–oriented development as a transportation purpose under paragraph (1) of this subsection may not be construed to:

(i) Limit the authority of local governments to govern land use as established under any other law; or

(ii) Grant the State or a department of the State additional authority to supersede local land use and planning authority.

7–103.

(A) **ON OR BEFORE NOVEMBER 30, 2023 2025, AND ON OR BEFORE NOVEMBER 30 EACH YEAR THEREAFTER, THE SECRETARY SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE ON EFFORTS TO INCREASE TRANSIT–ORIENTED DEVELOPMENT THROUGHOUT THE STATE.**

(B) **THE REPORT SHALL INCLUDE AN ANALYSIS OF THE FOLLOWING ISSUES FOR EACH TRANSIT–ORIENTED DEVELOPMENT IN THE STATE:**

(1) **THE DEMOGRAPHIC AND SOCIOECONOMIC INDICATORS PRESENT IN THE TRANSIT–ORIENTED DEVELOPMENT AND THE SURROUNDING AREAS;**

(2) **DEVELOPMENT ACTIVITY OCCURRING IN THE TRANSIT–ORIENTED DEVELOPMENT DURING THE PERIOD THAT THE REPORT COVERS FROM JULY 1, 2018, THROUGH JULY 1, 2025; AND**

(3) **TRANSIT STATION UTILIZATION RATES FOR THE TRANSIT–ORIENTED DEVELOPMENT.**

(C) **THE DEPARTMENT, IN COLLABORATION WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, SHALL CONSIDER THE FINDINGS OF THE REPORT REQUIRED UNDER THIS SECTION FOR PURPOSES OF UPDATING THE SCORING STANDARDS FOR APPLICATIONS FOR FINANCIAL ASSISTANCE FROM THE TRANSIT–ORIENTED DEVELOPMENT CAPITAL GRANT AND REVOLVING LOAN FUND ESTABLISHED UNDER SUBTITLE 12 OF THIS TITLE.**

**SUBTITLE 12. TRANSIT–ORIENTED DEVELOPMENT CAPITAL GRANT AND REVOLVING LOAN FUND.**

7–1201.
(A) In this subtitle the following words have the meanings indicated.

(B) “Financial assistance” means a grant or loan from the Fund.

(C) “Fund” means the Transit–Oriented Development Capital Grant and Revolving Loan Fund.

(D) “Gap funding” means funding provided to compensate for a shortfall between the expected development costs of a project and the available funds for the project.

(E) “Local jurisdiction” means a county or a municipal corporation.

(F) “Municipal corporation” means a municipality as defined in § 1–101 of the Local Government Article.

7–1202.

(A) There is a Transit–Oriented Development Capital Grant and Revolving Loan Fund.

(B) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

7–1203.

(A) The purpose of the Fund is to promote the equitable and inclusive development of transit–oriented developments throughout the State.

(B) The Department, in collaboration with the Department of Housing and Community Development, shall administer the Fund.

(C) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(D) (1) The Fund consists of:

   (i) Money appropriated in the State budget to the Fund;
(II) Money made available for qualifying uses by the Fund from other governmental sources, including community development block grants and the Transportation Trust Fund;

(III) Ground rents or land sale proceeds in accordance with § 10–306(c)(2) of the State Finance and Procurement Article;

(IV) Payments of principal of and interest on loans made under this title;

(V) Investment earnings of the Fund; and

(VI) Any other money from any other source, public or private, accepted for the benefit of the Fund.

(2) Contributions to the Fund under paragraph (1)(iii) of this subsection shall:

(I) Be separately accounted for in the Fund; and

(II) Be used only for the benefit of transit–oriented developments in the same county where the real property subject to the ground rent or land sale is located.

(E) For each fiscal year 2024, the Governor shall include in the annual budget bill a general fund appropriation sufficient to ensure a fund balance of at least $10,000,000 at the start of the fiscal year to the Fund.

(A) (1) The Fund may be used by the Department, in collaboration with the Department of Housing and Community Development, to provide financial assistance to local jurisdictions for:

(I) Design plans for a transit–oriented development, provided that the transit–oriented development will be designed to meet equity goals established by the Department;

(II) Public infrastructure improvements within a transit–oriented development; or
(III) Gap funding for public or private development within a transit–oriented development.

(2) A private entity, including a nonprofit entity, participating in the development of a transit–oriented development may partner with a local jurisdiction to submit an application for financial assistance under paragraph (1)(III) of this subsection.

(B) (1) The Department, in collaboration with the Department of Housing and Community Development, shall:

(I) Establish eligibility requirements and scoring standards for the review of applications for financial assistance; and

(II) Publish the eligibility requirements and scoring standards on the Department’s website; and

(III) Prioritize geographic equity in its allocations of grants and loans.

(2) The Department, in collaboration with the Department of Housing and Community Development, may not allocate more than 50% of the funds available in a fiscal year to a single applicant.

(3) The Department, in collaboration with the Department of Housing and Community Development, may establish:

(I) Different eligibility requirements and scoring standards for different types of financial assistance; and

(II) Scoring preferences for applications that demonstrate that the proposed project will:

1. Enhance access to transit for low–income and minority residents of the local jurisdiction;

2. Enhance access to transit in areas with affordable housing and a diversity of job and educational opportunities; or

3. Encourage development around underdeveloped and underutilized transit stations in transit–oriented developments.
(C) AN APPLICATION FOR FINANCIAL ASSISTANCE SHALL INCLUDE:

(1) COMMITMENTS FROM THE LOCAL JURISDICTION TO:

(i) ESTABLISH TRANSIT–SUPPORTIVE LAND USE DESIGNATIONS FOR REAL PROPERTY WITHIN A TRANSIT–ORIENTED DEVELOPMENT; AND

(ii) IMPLEMENT, WHERE PRACTICABLE, IMPROVEMENTS TO THE TRANSIT–ORIENTED DEVELOPMENT THAT PROMOTE THE COMPLETE STREETS POLICY ADOPTED IN ACCORDANCE WITH § 2–112 OF THIS ARTICLE;

(2) IF A PRIVATE ENTITY PARTNERS WITH A LOCAL JURISDICTION TO SUBMIT AN APPLICATION FOR FINANCIAL ASSISTANCE, COMMITMENTS FROM KEY STAKEHOLDERS TO DEVELOP THE TRANSIT–ORIENTED DEVELOPMENT; AND

(3) IF THE APPLICATION IS FOR A GRANT TO SUPPORT THE DESIGN OR CONSTRUCTION OF A PROPOSED ENHANCEMENT TO A TRANSIT–ORIENTED DEVELOPMENT, CREDIBLE FUNDING STRATEGIES THAT DEMONSTRATE FULL FUNDING OF THE DESIGN OR CONSTRUCTION COSTS FOR THE PROPOSED ENHANCEMENT ON AWARD OF THE GRANT.

7–1205.

(A) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(B) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:
144. the Health Equity Resource Community Reserve Fund; [and] 145. the Access to Counsel in Evictions Special Fund; AND

146. the Transit–Oriented Development Capital Grant and Revolving Loan Fund.

10–306.

(a) In this section, “capital asset” means an asset of a substantial permanent nature.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, if cash is received as consideration for the disposition of a capital asset of the State or any unit of the State government, the cash shall be applied to the State Annuity Bond Fund Account for the payment of the principal of and interest on the bonded indebtedness of the State.

(2) If the capital asset is real property that is being leased or sold to a private party for the purpose of realizing a transit–oriented development as defined under § 7–101 of the Transportation Article, at the discretion of the State agency that is disposing of the property, all or a portion of the cash proceeds resulting from the transaction shall be deposited in:

(I) the Baltimore City Community Enhancement Transit–Oriented Development Fund established under Title 15 of the Economic Development Article for the purposes of that Fund; OR

(II) the Transit–Oriented Development Capital Grant and Revolving Loan Fund established under Title 7 of the Transportation Article for the purposes of that Fund.

(3) (i) If cash is received as consideration for the disposition of a capital asset, and if the capital asset was originally purchased with special funds, the cash shall be applied to the special fund.

(ii) Notwithstanding subparagraph (i) of this paragraph, cash received as consideration for the disposition of helicopters, auxiliary helicopter equipment, ground support equipment, or other capital equipment related to helicopters shall be applied to the State Annuity Bond Fund Account for the payment of the principal of and interest on the bonded indebtedness of the State.

(4) If cash is received as consideration for the disposition of any real or personal property of the State or any unit of the State government, other than a capital asset, the cash shall be accounted for and paid into the State Treasury.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.

Approved:

________________________________    Governor.

________________________________    President of the Senate.

________________________________    Speaker of the House of Delegates.