

Chapter 136

(Senate Bill 391)

AN ACT concerning

Economic Development – More Jobs for Marylanders Program – Extension and Alterations

FOR the purpose of *establishing the purpose of the More Jobs for Marylanders Program; altering the circumstances under which and the period of time for which the Department of Commerce may provide a certain qualified business entity a certificate certifying that a certain eligible project is enrolled in the ~~More Jobs for Marylanders~~ Program; altering eligibility for enrollment in the Program and for certain benefits under the Program; prohibiting the Department from awarding initial tax credit certificates exceeding a certain amount for qualified business entities provided a certain certificate on or after a certain date; altering the manner in which certain excess tax credit amounts may be utilized;* requiring the Comptroller to transfer, from the More Jobs for Marylanders Tax Credit Reserve Fund to the General Fund of the State, an amount equal to the credit amount stated in the final tax credit certificate issued to a qualified business entity, rather than the amount stated in the initial tax credit certificate; and generally relating to the More Jobs for Marylanders Program.

BY repealing and reenacting, without amendments,

Article – Economic Development

Section ~~6–801(a) through (e), (g), and (i) through (m), 6–803(a), (b)(1), (i), (j), (l), and (m), and 6–803(b)(1)~~ and (c)(2), ~~and 6–804~~

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section ~~6–801(k), 6–802, 6–803(a), 6–804, and~~ 6–805

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,Article – Corporations and AssociationsSection 1–203.1(b)Annotated Code of Maryland(2014 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General

Section ~~10–741(a) through (e) and (c) and 11–411(b)~~

Annotated Code of Maryland

(2016 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section ~~10-741(d)~~ 10-741(b) and (d) and 11-411(a)

Annotated Code of Maryland

(2016 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 9-110(a)

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – Property

Section 9-110(b)(1)

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

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.

(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
 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(c) of this subtitle.

(g) “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.

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

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

- (k) (1) “Qualified position” means a position that:
- (i) is full–time and of indefinite duration;
 - (ii)
 1. except as provided in item 2 of this item, for a position in a facility that is located in an opportunity zone, pays an average annual salary that exceeds \$50,000; or
 2. A. for a position in a facility of a business entity described under subsection (c)(1)(i) of this section ***THAT IS PROVIDED A CERTIFICATE***

UNDER § 6–805 OF THIS SUBTITLE BEFORE JUNE 1, 2022, pays at least 120% of the State minimum wage; OR

B. FOR A POSITION IN A FACILITY OF A BUSINESS ENTITY DESCRIBED UNDER SUBSECTION (C)(1)(I) OF THIS SECTION THAT IS PROVIDED A CERTIFICATE UNDER § 6–805 OF THIS SUBTITLE ON OR AFTER JUNE 1, 2022, PAYS AT LEAST 150% 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.

(l) “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

(3) an opportunity zone.

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

6–802.

(A) *There is a More Jobs for Marylanders Program in the Department.*

(B) *THE PURPOSE OF THE PROGRAM IS TO:*

(1) *INCENTIVIZE THE CREATION OF NEW MANUFACTURING JOBS IN THE STATE; AND*

(2) *ATTRACT NEW BUSINESSES TO AND ENCOURAGE THE EXPANSION OF EXISTING BUSINESSES WITHIN OPPORTUNITY ZONES.*

6-803.

(a) A business entity may apply to the Department to enroll an eligible project in the Program if the eligible project:

(1) is in a Tier I area and the business entity intends:

(I) *WITH RESPECT TO NOTICE PROVIDED UNDER THIS SECTION TO THE DEPARTMENT BEFORE JUNE 1, 2022,* to create at least five qualified positions at the project location; or

(II) *WITH RESPECT TO NOTICE PROVIDED UNDER THIS SECTION TO THE DEPARTMENT ON OR AFTER JUNE 1, 2022, TO CREATE AT LEAST 10 QUALIFIED POSITIONS AT THE PROJECT LOCATION; OR*

(2) is in a Tier II area and the business entity intends:

(I) *WITH RESPECT TO NOTICE PROVIDED UNDER THIS SECTION TO THE DEPARTMENT BEFORE JUNE 1, 2022,* to create at least 10 qualified positions at the project location; **OR**

(II) *WITH RESPECT TO NOTICE PROVIDED UNDER THIS SECTION TO THE DEPARTMENT ON OR AFTER JUNE 1, 2022, TO CREATE AT LEAST 20 QUALIFIED POSITIONS AT THE PROJECT LOCATION.*

(b) (1) A new business entity may not be certified as a qualified business entity unless the new business entity:

(i) notifies the Department of its intent to seek designation of an eligible project before establishing its facility in the State; and

(ii) offers an ongoing job skills enhancement training program or postsecondary education program that is approved by the Department.

(c) (2) An existing business entity may not be certified as a qualified business entity unless the business entity:

(i) notifies the Department of its intent to seek designation of an eligible project prior to hiring any employees to fill the qualified positions necessary to meet the requirements of this subtitle; and

(ii) offers an ongoing job skills enhancement training program or postsecondary education program that is approved by the Department.

6–804.

(a) ~~(1) The~~ **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** Program benefits authorized under this section may be claimed by a qualified business entity for up to 10 consecutive benefit years.

(2) IN THE CASE OF A QUALIFIED BUSINESS ENTITY THAT IS LOCATED IN A TIER II AREA AND IS PROVIDED A CERTIFICATE UNDER § 6–805 OF THIS SUBTITLE ON OR AFTER JUNE 1, 2022, THE PROGRAM BENEFITS AUTHORIZED UNDER THIS SECTION MAY BE CLAIMED BY THE QUALIFIED BUSINESS ENTITY FOR UP TO 5 CONSECUTIVE BENEFIT YEARS.

(b) On enrollment in the Program:

(1) a new business entity in a Tier I area **THAT IS PROVIDED A CERTIFICATE UNDER § 6–805 OF THIS SUBTITLE BEFORE JUNE 1, 2022,** 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 (c) of this section, **A NEW BUSINESS ENTITY NOT DESCRIBED UNDER ITEM (1) OF THIS SUBSECTION OR** 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.

(c) 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) **(1) [The] FOR A QUALIFIED BUSINESS ENTITY THAT HAS SUBMITTED THE NOTICE REQUIRED UNDER § 6-803(B)(1)(I) OR (C)(2)(I) OF THIS SUBTITLE BEFORE JUNE 1, 2022, THE** Department may not provide [a] **THE** qualified business entity a certificate on or after June 1, 2022.

(2) FOR A QUALIFIED BUSINESS ENTITY THAT HAS SUBMITTED THE NOTICE REQUIRED UNDER § 6-803(B)(1)(I) OR (C)(2)(I) OF THIS SUBTITLE ON OR AFTER JUNE 1, 2022, THE DEPARTMENT MAY NOT PROVIDE THE QUALIFIED BUSINESS ENTITY A CERTIFICATE ON OR AFTER JUNE 1, ~~2027~~ 2024.

Article – Corporations and Associations

1-203.1.

(b) A qualified business entity that is a new business entity in a Tier I area, as defined under the More Jobs for Marylanders Program established under Title 6, Subtitle 8 of the Economic Development Article, is not subject to the fees enumerated in § 1-203 of this subtitle IF THE QUALIFIED BUSINESS ENTITY RECEIVED A CERTIFICATE UNDER § 6-805 OF THE ECONOMIC DEVELOPMENT ARTICLE BEFORE JUNE 1, 2022.

Article – Tax – General

11-411.

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

(2) “Business entity” has the meaning stated in § 6–801 of the Economic Development Article.

(3) “Department” means the Department of Commerce.

(4) “Eligible project” has the meaning stated in § 6–801 of the Economic Development Article.

(5) “New business entity” has the meaning stated in § 6–801 of the Economic Development Article.

(6) “Program” means the More Jobs for Marylanders Program established under Title 6, Subtitle 8 of the Economic Development Article.

(7) “Qualified business entity” means a new business entity operating an eligible project under Title 6, Subtitle 8 of the Economic Development Article **IF THE BUSINESS ENTITY RECEIVED A CERTIFICATE UNDER § 6–805 OF THE ECONOMIC DEVELOPMENT ARTICLE BEFORE JUNE 1, 2022.**

(8) “Qualified personal property or services” means personal property or services purchased for use at an eligible project by a qualified business entity that is enrolled in the Program.

(9) “Reserve Fund” means the More Jobs for Marylanders Sales and Use Tax Refund Reserve Fund established under this section.

(b) Except as provided in § 6–805(b) of the Economic Development Article and subject to subsection (c) of this section, a qualified business entity is entitled to a refund for the amount of sales and use tax paid by the qualified business entity during the immediately preceding calendar year for a sale of qualified personal property or services made on or after January 1, 2018, if the qualified personal property or services are purchased by the qualified business entity solely for use at an eligible project while the project is enrolled in the Program.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10–741.

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

(2) “Business entity” has the meaning stated in § 6–801 of the Economic Development Article.

(3) “Department” means the Department of Commerce.

(4) “Eligible project” has the meaning stated in § 6–801 of the Economic Development Article.

(5) “Existing business entity” has the meaning stated in § 6–801 of the Economic Development Article.

(6) “New business entity” has the meaning stated in § 6–801 of the Economic Development Article.

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

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

(9) “Tier I area” has the meaning stated in § 6–801 of the Economic Development Article.

(10) “Tier II area” has the meaning stated in § 6–801 of the Economic Development Article.

(b) (1) Subject to the limitations of this section, an individual or corporation that is a new business entity that operates an eligible project in a Tier I area or an existing business entity that operates an eligible project may claim a credit against the State income tax equal to the amount stated in the final tax credit certificate approved by the Department for an eligible project.

(2) The amount of the credit authorized under paragraph (1) of this subsection is equal to the product of:

(i) ~~the State employer withholding amount, which is equal to the highest tax rate listed in § 10–105(a) of this title~~

1. IF THE QUALIFIED BUSINESS ENTITY RECEIVED A CERTIFICATE UNDER § 6–805 OF THE ECONOMIC DEVELOPMENT ARTICLE BEFORE JUNE 1, 2022, 5.75%; OR

2. IF THE QUALIFIED BUSINESS ENTITY RECEIVED A CERTIFICATE UNDER § 6–805 OF THE ECONOMIC DEVELOPMENT ARTICLE ON OR AFTER JUNE 1, 2022, 4.75%; and

(ii) the total amount of wages paid for each qualified position at an eligible project.

(3) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the qualified business entity for that taxable year, the qualified business entity may claim a refund in the amount of the excess.

(c) (1) On enrollment in the More Jobs for Marylanders Program established under Title 6, Subtitle 8 of the Economic Development Article, a qualified business entity shall apply to the Department for a tax credit certificate.

(2) The application shall be in the form and shall contain the information the Department requires.

(3) (i) Subject to subsections (d) and (e) of this section, the Department may issue a tax credit certificate to a qualified business entity in an amount not to exceed the amount determined under subsection (b)(2) of this section.

(ii) In determining the allocation of the aggregate tax credit amounts available in a fiscal year as provided under subsection (d) of this section, the Department shall give priority to applications for eligible projects in a Tier I area, as defined under § 6–801 of the Economic Development Article.

(d) (1) In this subsection, “Reserve Fund” means the More Jobs for Marylanders Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(2) (i) There is a More Jobs for Marylanders Tax Credit Reserve Fund that is a special continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) The money in the Reserve Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall be credited to the General Fund.

(3) (i) Subject to the limitations of this subsection, the Department shall issue an initial tax credit certificate in an amount equal to a percentage of total wages paid for each qualified position at an eligible project as calculated under subsection (b)(2) of this section.

(ii) An initial tax credit certificate issued under this subsection shall state the maximum amount of tax credit for which the qualified business entity is eligible.

(iii) 1. Except as otherwise provided in this subparagraph, for any fiscal year, the Department may not issue initial tax credit certificates for credit amounts in the aggregate totaling more than:

A. WITH RESPECT TO QUALIFIED BUSINESS ENTITIES PROVIDED A CERTIFICATE UNDER § 6–805 OF THE ECONOMIC DEVELOPMENT ARTICLE BEFORE JUNE 1, 2022, \$9,000,000 in a fiscal year; AND

B. WITH RESPECT TO QUALIFIED BUSINESS ENTITIES PROVIDED A CERTIFICATE UNDER § 6-805 OF THE ECONOMIC DEVELOPMENT ARTICLE ON OR AFTER JUNE 1, 2022, \$5,000,000 IN A FISCAL YEAR.

2. If the aggregate credit amounts under initial tax credit certificates issued in a fiscal year total less than the maximum provided under subparagraph 1 of this subparagraph, any excess amount shall remain in the Reserve Fund ~~and may be issued under initial tax credit certificates for the next fiscal year.~~

3. For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than under paragraph (4) of this subsection, the maximum credit amounts in the aggregate for which the Department may issue initial tax credit certificates shall be reduced by the amount transferred.

(iv) For fiscal year 2019 and each fiscal year thereafter, the Governor shall include in the annual budget bill an appropriation to the Reserve Fund in an amount that is no less than the amount the Department reports is necessary under subsection (e) of this section to:

1. maintain the current level of manufacturing activity in the State;
2. attract new manufacturing activity to the State; and
3. attract new businesses to and encourage the expansion of existing businesses within opportunity zones in the State.

(v) Notwithstanding the provisions of § 7-213 of the State Finance and Procurement Article, the Governor may not reduce an appropriation to the Reserve Fund in the State budget as approved by the General Assembly.

(vi) Based on an amount equal to a percentage of the total actual wages paid for each qualified position at an eligible project as calculated under subsection (b)(2) of this section, the Department shall issue a final tax credit certificate to the qualified business entity.

(4) (i) Except as provided in this paragraph, money appropriated to the Reserve Fund shall remain in the Fund.

(ii) 1. Within 15 days after the end of each calendar quarter, the Department shall notify the Comptroller as to each final credit certificate issued during the quarter:

A. the maximum credit amount stated in the initial tax credit certificate for the qualified business entity; and

B. the final certified credit amount for the qualified business entity.

2. On notification that a final credit amount has been certified, the Comptroller shall transfer an amount equal to the credit amount stated in the [initial] FINAL tax credit certificate for the qualified business entity from the Reserve Fund to the General Fund.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – Property

9–110.

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

(2) “Business entity” has the meaning stated in § 6–801 of the Economic Development Article.

(3) “Eligible project” has the meaning stated in § 6–801 of the Economic Development Article.

(4) “New business entity” has the meaning stated in § 6–801 of the Economic Development Article.

(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, **IF THE BUSINESS ENTITY RECEIVED A CERTIFICATE UNDER § 6–805 OF THE ECONOMIC DEVELOPMENT ARTICLE BEFORE JUNE 1, 2022.**

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

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

(b) (1) There is a credit against the State property tax under this section imposed on real property owned by a qualified business entity enrolled in the More Jobs for Marylanders Program established under Title 6, Subtitle 8 of the Economic Development Article.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2021.

(b) Section 3 of this Act shall be applicable to all taxable years beginning after June 30, 2022.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2022.

SECTION ~~2~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 5 of this Act, this Act shall take effect ~~July~~ June 1, 2022.

Approved by the Governor, April 21, 2022.