

SENATE BILL 796

C8

7lr3189

By: **Senators Edwards, Conway, Eckardt, Ferguson, Hershey, Mathias, and McFadden**

Introduced and read first time: February 3, 2017

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – County Economic Development Tax Incentives**
3 **Program and One Maryland Tax Credit**

4 FOR the purpose of establishing the County Economic Development Tax Incentives
5 Program to encourage businesses to locate and expand in certain counties of the
6 State; establishing an application process for the Department of Commerce to certify
7 businesses that meet certain criteria as eligible for certain tax incentives; prohibiting
8 the Department from designating a business as a qualified business after a certain
9 date; requiring the Department to adopt certain regulations; altering the definition
10 of a qualified distressed county for purposes of the One Maryland Tax Credit
11 program to provide that certain counties are not included as a qualified distressed
12 county for purposes of the program; allowing a subtraction modification under the
13 State income tax for certain income of certain qualified businesses; exempting from
14 the sales and use tax the sale of certain capital equipment used by certain qualified
15 businesses; exempting from State property tax certain property owned by certain
16 qualified businesses; authorizing a county or municipal corporation to exempt
17 certain property from the county or municipal corporation property tax; providing
18 for the interpretation of a certain provision of this Act; defining certain terms; and
19 generally relating to establishing the County Economic Development Tax Incentives
20 Program and economic development in the State.

21 BY repealing and reenacting, without amendments,
22 Article – Economic Development
23 Section 1–101(e)
24 Annotated Code of Maryland
25 (2008 Volume and 2016 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article – Economic Development
28 Section 6–401

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2008 Volume and 2016 Supplement)

BY adding to

Article – Economic Development

Section 6–801 and 6–802 to be under the new subtitle “Subtitle 8. County Economic
Development Tax Incentives Program”

Annotated Code of Maryland
(2008 Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 10–207(a)

Annotated Code of Maryland
(2016 Replacement Volume)

BY adding to

Article – Tax – General

Section 10–207(ee) and 11–233

Annotated Code of Maryland
(2016 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–307(g)

Annotated Code of Maryland
(2016 Replacement Volume)

BY adding to

Article – Tax – Property

Section 7–308 and 7–520

Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Economic Development

1–101.

(e) (1) “Qualified distressed county” means a county with:

(i) an average rate of unemployment for the most recent 24-month
period for which data are available that exceeds 150% of the average rate of unemployment
for the State during that period; or

(ii) an average per capita personal income for the most recent 24-month period for which data are available that is equal to or less than 67% of the average per capita personal income for the State during that period.

(2) “Qualified distressed county” includes a county that:

(i) no longer meets either criterion stated in paragraph (1) of this subsection; but

(ii) has met at least one of the criteria at some time during the preceding 24-month period.

6–401.

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

(b) “Eligible economic development project” means an economic development project that:

(1) establishes or expands a business facility within a qualified distressed county; and

(2) is approved for a project tax credit or a start-up tax credit in accordance with this subtitle.

(c) (1) “Eligible project cost” means the cost and expense a qualified business entity incurs to acquire, construct, rehabilitate, install, or equip an eligible economic development project.

(2) “Eligible project cost” includes:

(i) the cost of:

1. obligations for labor and payments made to contractors, subcontractors, builders, and suppliers;

2. acquiring land, rights in land, and costs incidental to acquiring land or rights in land;

3. contract bonds and insurance needed during the acquisition, construction, or installation of the project;

4. test borings, surveys, estimates, plans, specifications, preliminary investigations, environmental mitigation, supervision of construction, and other architectural and engineering services;

5. performing duties required by or consequent to the acquisition, construction, and installation of the project;

6. installing water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar utilities; and

7. bond insurance, letters of credit, or other forms of credit enhancement or liquidity facilities;

(ii) the interest cost before and during the acquisition, construction, installation, and equipping of the project, and for up to 2 years after project completion; and

(iii) legal, accounting, financial, printing, recording, filing, and other fees and expenses incurred to finance the project.

(d) (1) “Eligible start-up cost” means a qualified business entity’s cost to furnish and equip a new location for ordinary business functions.

(2) “Eligible start-up cost” includes:

(i) the cost of computers, nonrecurring costs of fixed telecommunications equipment, furnishings, and office equipment; and

(ii) expenditures for moving costs, separation costs, and other costs directly related to moving from outside of the State to a location in a qualified distressed county.

(e) “Project tax credit” means a tax credit for eligible project costs allowed under § 6–403 of this subtitle.

(f) “Qualified business entity” means a person that:

(1) (i) conducts or operates a trade or business in the State; or

(ii) operates in the State and is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code; and

(2) is certified in accordance with § 6–402 of this subtitle as qualifying for a project tax credit or a start-up tax credit under this subtitle.

(g) **“QUALIFIED DISTRESSED COUNTY” DOES NOT INCLUDE A COUNTY THAT:**

(1) MET, DURING A PRIOR YEAR, THE DEFINITION OF A QUALIFIED DISTRESSED COUNTY UNDER § 1–101(E) OF THIS ARTICLE;

(2) HAD A QUALIFIED BUSINESS ENTITY QUALIFY FOR A PROJECT TAX CREDIT OR START-UP TAX CREDIT WITHIN THE COUNTY; AND

(3) DURING A SUBSEQUENT YEAR DID NOT MEET THE DEFINITION OF A QUALIFIED DISTRESSED COUNTY UNDER § 1-101(E) OF THIS ARTICLE.

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

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

(ii) pays at least 150% of the federal minimum wage;

(iii) is in a qualified distressed county;

(iv) is newly created because a business facility begins or expands in one location in a qualified distressed county; 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 business facility of a business entity in the State to another business 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 in the State to another business entity if the position is not a net new job in the State; or

(v) filled for a period of less than 12 months.

[(h)] (I) “Start-up tax credit” means a tax credit for eligible start-up costs allowed under § 6-404 of this subtitle.

SUBTITLE 8. COUNTY ECONOMIC DEVELOPMENT TAX INCENTIVES PROGRAM.

6-801.

(A) THERE IS A COUNTY ECONOMIC DEVELOPMENT TAX INCENTIVES PROGRAM.

(B) THE PURPOSE OF THE COUNTY ECONOMIC DEVELOPMENT TAX INCENTIVES PROGRAM IS TO ENCOURAGE BUSINESSES TO LOCATE AND EXPAND IN SPECIFIED COUNTIES OF THE STATE.

6-802.

(A) THIS SECTION APPLIES TO THE FOLLOWING COUNTIES:

(1) ALLEGANY COUNTY;

(2) BALTIMORE CITY;

(3) CAROLINE COUNTY;

(4) DORCHESTER COUNTY;

(5) GARRETT COUNTY;

(6) KENT COUNTY;

(7) SOMERSET COUNTY;

(8) WASHINGTON COUNTY;

(9) WICOMICO COUNTY; AND

(10) WORCESTER COUNTY.

(B) (1) THE DEPARTMENT MAY CERTIFY A BUSINESS AS A QUALIFIED BUSINESS IN A COUNTY LISTED UNDER SUBSECTION (A) OF THIS SECTION IF THE BUSINESS MEETS THE REQUIREMENTS UNDER THIS SECTION.

(2) TO BE ELIGIBLE FOR DESIGNATION AS A QUALIFIED BUSINESS, AN APPLICANT SHALL:

(I) APPLY TO THE DEPARTMENT;

(II) PROVIDE EVIDENCE OF AN INTENTION:

1. TO LOCATE OR EXPAND A BUSINESS IN A COUNTY LISTED UNDER SUBSECTION (A) OF THIS SECTION; AND

10-207.

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(EE) (1) IN THIS SUBSECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER § 6–802 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF INCOME A QUALIFIED BUSINESS RECEIVES THAT IS ATTRIBUTABLE TO ACTIVITIES IN A COUNTY IN WHICH THE QUALIFIED BUSINESS LOCATED OR EXPANDED AS PART OF ITS APPLICATION UNDER § 6–802(B) OF THE ECONOMIC DEVELOPMENT ARTICLE.

(3) THE SUBTRACTION UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY BE CLAIMED ONLY FOR THE 10 TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE BUSINESS IS DESIGNATED AS A QUALIFIED BUSINESS UNDER § 6–802 OF THE ECONOMIC DEVELOPMENT ARTICLE.

10–307.

(g) The subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for an individual under:

(1) § 10–207(i) of this title (Profits on sale or exchange of State or local bonds);

(2) § 10–207(k) of this title (Relocation and assistance payments);

(3) § 10–207(m) of this title (State or local income tax refunds); [or]

(4) § 10–207(c–1) of this title (State tax–exempt interest from mutual funds); **OR**

(5) § 10–207(EE) OF THIS TITLE (INCOME FROM A QUALIFIED BUSINESS).

11–233.

(A) IN THIS SECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER § 6–802 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(B) THE SALES AND USE TAX DOES NOT APPLY TO A SALE OF CAPITAL EQUIPMENT USED AS PART OF THE ACTIVITIES OF A QUALIFIED BUSINESS IN A

COUNTY IN WHICH THE QUALIFIED BUSINESS LOCATED OR EXPANDED AS PART OF ITS APPLICATION UNDER § 6-802(B) OF THE ECONOMIC DEVELOPMENT ARTICLE.

Article – Tax – Property

7-308.

(A) IN THIS SECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER § 6-802 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(B) PROPERTY IS NOT SUBJECT TO STATE PROPERTY TAX IF THE PROPERTY IS OWNED BY A QUALIFIED BUSINESS.

(C) A QUALIFIED BUSINESS IS ENTITLED TO THE EXEMPTION UNDER THIS SECTION ONLY FOR THE 10 TAXABLE YEARS FOLLOWING THE YEAR THE BUSINESS IS DESIGNATED AS A QUALIFIED BUSINESS UNDER § 6-802 OF THE ECONOMIC DEVELOPMENT ARTICLE.

7-520.

(A) IN THIS SECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER § 6-802 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR A MUNICIPAL CORPORATION MAY EXEMPT PROPERTY OWNED BY A QUALIFIED BUSINESS FROM THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX.

(C) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR A MUNICIPAL CORPORATION MAY ESTABLISH, BY LAW, THE LENGTH OF TIME A QUALIFIED BUSINESS IS ENTITLED TO THE EXEMPTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the change in the definition of “qualified distressed county” under § 6-401(g) of the Economic Development Article, as enacted by Section 1 of this Act, may not be construed to prohibit Baltimore City or Allegany County, Caroline County, Dorchester County, Somerset County, Washington County, or Worcester County from participating in the One Maryland Tax Credit program until the jurisdiction fails to meet the definition of a qualified distressed county under § 1-101(e) of the Economic Development Article.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2017.