

SENATE BILL 843

Q3, Q1, Q7

6lr1553
CF HB 1255

By: **The President (By Request – Maryland Economic Development and Business
Climate Commission)**

Introduced and read first time: February 5, 2016

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2016

CHAPTER _____

1 AN ACT concerning

2 **Tax Credits – Evaluations and Sunset Provisions**

3 FOR the purpose of ~~expanding~~ altering the State tax credits subject to legislative review
4 and evaluation under the Tax Credit Evaluation Act; repealing a certain
5 requirement that certain tax credits with termination dates be evaluated on or before
6 a certain date; providing that certain departments that administer certain tax
7 credits must promptly provide certain requested information; altering certain dates
8 for certain tax credit evaluations, evaluation reports, and public hearings; altering
9 the time period for the continuation and reevaluation of certain tax credits
10 designated for evaluation; terminating the biotechnology investment tax credit, new
11 job creating businesses tax credit, and certain tax credits available under the
12 Enterprise Zone Program, the Regional Institution Strategic Enterprise Zone
13 Program, and the One Maryland Program; making conforming changes; requiring
14 the Comptroller to adopt certain procedures and protocols and make, under certain
15 circumstances, a certain request; providing for the delayed effective date of certain
16 provisions of this Act; providing for the application of certain provisions of this Act;
17 and generally relating to the Tax Credit Evaluation Act and the termination of
18 certain tax credits.

19 BY repealing and reenacting, with amendments,
20 Article – Tax – General
21 Section 1–303, 1–306 through 1–308, 1–310, 10–205(b), and 10–804(j)
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2015 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.



- 1 BY repealing and reenacting, with amendments,
2 Article – Economic Development
3 Section 5–702, 5–707, and 5–1406
4 Annotated Code of Maryland
5 (2008 Volume and 2015 Supplement)
- 6 BY repealing and reenacting, without amendments,
7 Article – Tax – General
8 Section 10–205(a)
9 Annotated Code of Maryland
10 (2010 Replacement Volume and 2015 Supplement)
- 11 BY repealing and reenacting, with amendments,
12 Article – Tax – Property
13 Section 9–317(f)
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2015 Supplement)
- 16 BY repealing
17 Article – Economic Development
18 Section 5–709 and 5–1407; and 6–401 through 6–407 and the subtitle “Subtitle 4.
19 One Maryland Economic Development Tax Credit”
20 Annotated Code of Maryland
21 (2008 Volume and 2015 Supplement)
- 22 BY repealing
23 Article – Insurance
24 Section 6–116 and 6–119
25 Annotated Code of Maryland
26 (2011 Replacement Volume and 2015 Supplement)
- 27 BY repealing
28 Article – Tax – General
29 Section 8–220, 10–702, 10–704.8, 10–714, and 10–725
30 Annotated Code of Maryland
31 (2010 Replacement Volume and 2015 Supplement)
- 32 BY repealing
33 Article – Tax – Property
34 Section 9–103, 9–103.1, and 9–230
35 Annotated Code of Maryland
36 (2012 Replacement Volume and 2015 Supplement)
- 37 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
38 That the Laws of Maryland read as follows:

1 **Article – Tax – General**

2 1–303.

3 (a) ~~(1) If a tax credit has a termination date provided for by law, an evaluation~~
 4 ~~shall be made of that credit on or before July 1 of the year preceding the calendar year of~~
 5 ~~the termination date.~~

6 ~~(2) Except as provided in paragraph (1) of this subsection, an~~ **AN**
 7 evaluation shall be made of the tax credits on or before the dates specified in subsections
 8 (b) through (e) of this section.

9 (b) On or before July 1, 2014, an evaluation shall be made of the tax credits under:

10 (1) § 10–702 of this article (wages paid in an enterprise zone) and § 9–103
 11 of the Tax – Property Article (qualified property in an enterprise zone); and

12 (2) Title 6, Subtitle 4 of the Economic Development Article, § 6–119 of the
 13 Insurance Article, and § 10–714 of this article (One Maryland economic development).

14 (c) On or before July 1, 2015, an evaluation shall be made of the tax credits under:

15 (1) § 10–704 of this article (earned income); and

16 (2) § 10–730 of this article (film production activity).

17 (d) On or before July 1, 2016, an evaluation shall be made of the tax ~~credits~~
 18 **CREDIT** under:

19 ~~(1) § 5A–303 of the State Finance and Procurement Article, § 6–105.2 of~~
 20 ~~the Insurance Article, and § 10–704.5 of this article (sustainable communities); and~~

21 ~~(2) § 10–721 of this article (qualified research and development expenses).~~

22 (e) On or before July 1, 2017, an evaluation shall be made of the tax credits under:

23 (1) § 9–230 of the Tax – Property Article, § 6–116 of the Insurance Article,
 24 and § 10–704.8 of this article (new job creating businesses); **AND**

25 (2) ~~§ 10–725~~ **§ 10–704.4** of this article ~~(biotechnology investment~~
 26 ~~incentive) (JOB CREATION); and~~

27 ~~(3) § 10–735 of this article (wineries and vineyards).~~

28 **(F) ON OR BEFORE JULY 1, 2018, AN EVALUATION SHALL BE MADE OF THE**
 29 **TAX ~~CREDIT~~ CREDITS UNDER;**

1 (1) § 10-721 OF THIS ARTICLE (QUALIFIED RESEARCH AND
2 DEVELOPMENT EXPENSES); AND

3 (2) § ~~10-733~~ § 10-725 OF THIS ARTICLE (~~CYBERSECURITY~~
4 (BIOTECHNOLOGY INVESTMENT INCENTIVE).

5 (G) ON OR BEFORE JULY 1, 2019, AN EVALUATION SHALL BE MADE OF THE
6 TAX CREDITS UNDER:

7 (1) § 10-702 OF THIS ARTICLE (WAGES PAID IN A REGIONAL
8 INSTITUTION STRATEGIC ENTERPRISE ZONE) AND § 9-103.1 OF THE TAX -
9 PROPERTY ARTICLE (QUALIFIED PROPERTY IN A REGIONAL INSTITUTION
10 STRATEGIC ENTERPRISE ZONE); AND

11 (2) § ~~10-704.4~~ § 10-733 OF THIS ARTICLE (~~JOB CREATION~~)
12 (CYBERSECURITY INVESTMENT INCENTIVE).

13 1-306.

14 During an evaluation, the Comptroller [and], the Department of Budget and
15 Management, AND THE DEPARTMENT THAT ADMINISTERS THE TAX CREDIT shall:

16 (1) provide promptly any information that the Department of Legislative
17 Services or an evaluation committee requests; and

18 (2) otherwise cooperate with the Department of Legislative Services and
19 the evaluation committee.

20 1-307.

21 (a) (1) Subject to § 2-1246 of the State Government Article, on or before
22 [October 31] NOVEMBER 15 of the year before the evaluation date of a tax credit, the
23 Department of Legislative Services shall submit to the General Assembly an evaluation
24 report on the tax credit.

25 (2) The Department of Legislative Services shall make copies of the report
26 available to the public.

27 (b) The report required under subsection (a) of this section shall discuss:

28 (1) the purpose for which the tax credit was established;

29 (2) whether the original intent of the tax credit is still appropriate;

30 (3) whether the tax credit is meeting its objectives;

1 (4) whether the purposes of the tax credit could be more efficiently and
2 effectively carried out through alternative methods; and

3 (5) the costs of providing the tax credit, including the administrative cost
4 to the State and lost revenues to the State and local governments.

5 1–308.

6 On or before December [14] 31 of the year before the evaluation date of a tax credit,
7 the evaluation committee shall hold a public hearing to receive, from the Comptroller and
8 the public, testimony regarding the evaluation report.

9 1–310.

10 The continuation of a tax credit designated for evaluation under this subtitle is for a
11 ~~[5–year]~~ **7–YEAR** period and is subject to reevaluation ~~[5]~~ **7** years after the previous
12 evaluation, unless another period is set by law.

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

15 **Article – Economic Development**

16 5–702.

17 [Subject to § 9–103 of the Tax – Property Article, a] **A** business entity that owns,
18 operates, develops, constructs, or rehabilitates property intended for use primarily as single
19 or multifamily residential property located in an enterprise zone may not benefit from an
20 incentive or initiative under this subtitle.

21 5–707.

22 (a) To the extent provided for in this section, a business entity is entitled to[:

23 (1) the special property tax credit in § 9–103 of the Tax – Property Article;

24 (2) the income tax credits in § 10–702 of the Tax – General Article; and

25 (3)] consideration for financial assistance from programs in Subtitle 1 of
26 this title.

27 (b) A business entity that moves into or locates in an enterprise zone on or after
28 the date that the enterprise zone is designated under § 5–704 of this subtitle may benefit
29 from the incentives and initiatives in this section if:

1 (1) the business entity meets the requirements and conditions of the Code
2 section applicable to each incentive or initiative;

3 (2) the respective political subdivision certifies that the business entity has
4 complied with the standards that the subdivision submitted under § 5–703(b)(5) of this
5 subtitle; **AND**

6 (3) [the business entity creates new or additional jobs or makes a capital
7 investment to qualify for the property tax credit under § 9–103 of the Tax – Property Article
8 and the income tax credits under § 10–702 of the Tax – General Article; and

9 (4)] in considering whether the business entity qualifies for financial
10 assistance from the programs in Subtitle 1 of this title, the Secretary determines that the
11 business entity will create new or additional jobs.

12 (c) The incentives and initiatives provided for in this section are not available to
13 a business entity that:

14 (1) was in an enterprise zone before the date that the enterprise zone is
15 designated, except for a capital investment or expansion of its labor force that occurs on or
16 after the enterprise zone is designated; or

17 (2) is located in an enterprise zone that was designated under federal law
18 unless the Secretary and the Board of Public Works consent to the designation.

19 (d) (1) [Except as provided in § 10–702 of the Tax – General Article and §
20 9–103 of the Tax – Property Article, the] **THE** incentives and initiatives set forth in this
21 section are available for 10 years after the date that an area is designated an enterprise
22 zone.

23 (2) A law enacted after the enactment of this section that eliminates or
24 reduces the benefits available to a business entity under this section does not apply to a
25 business entity that was in an enterprise zone before the effective date of the law.

26 [(e) (1) (i) Notwithstanding subsection (d) of this section, except for a
27 business entity certified to receive a property tax credit under § 9–103 of the Tax – Property
28 Article for a tax year beginning before July 1, 2008, a business entity located in an
29 enterprise zone may not receive the incentives and initiatives set forth in subsection (a)(1)
30 and (2) of this section if the entity is located on land or within improvements owned by the
31 federal government, the State, a county, or a municipal corporation unless the business
32 entity has first utilized all applicable property tax exemptions under Title 7 of the Tax –
33 Property Article, including entering into any available payment in lieu of tax agreement.

34 (ii) Subparagraph (i) of this paragraph does not apply to a business
35 entity leasing land or improvements owned by the Maryland Economic Development
36 Corporation.

1 (2) Notwithstanding subsection (d) of this section, a business entity located
2 in a BRAC Revitalization and Incentive Zone established under Subtitle 13 of this title may
3 not receive the property tax credit under § 9–103 of the Tax – Property Article unless:

4 (i) the business entity qualified for the property tax credit before the
5 date that the BRAC Revitalization and Incentive Zone is designated; or

6 (ii) the political subdivision where the business entity is located
7 expressly grants the property tax credit to the business entity.]

8 5–1406.

9 (a) [(1)] To the extent provided for in this section, a business entity that locates
10 in a RISE zone is entitled to[:

11 (i) the property tax credit under § 9–103.1 of the Tax – Property
12 Article;

13 (ii) the income tax credit under § 10–702 of the Tax – General
14 Article; and

15 (iii)] priority consideration for financial assistance from programs in
16 Subtitle 1 of this title.

17 [(2) For purposes of the income tax credit authorized under paragraph (1)(ii)
18 of this subsection, the business entity is treated as being located in an enterprise zone.]

19 (b) A business entity that moves into or locates in a RISE zone on or after the
20 date that the zone is designated under this subtitle may qualify for the incentives under
21 this section.

22 (c) A business entity may not qualify for the incentives under subsection (a) of
23 this section unless the Department, in consultation with the county or municipal
24 corporation in which a RISE zone is located, certifies the business entity and its location as
25 consistent with the target strategy of the RISE zone.

26 (d) (1) Unless a business entity makes a significant capital investment or
27 expansion of its labor force after a RISE zone is designated, the incentives under this
28 section are not available to a business entity that was in a RISE zone before the date that
29 the zone is designated.

30 (2) The Department shall adopt regulations establishing factors to
31 determine if a business entity makes a significant capital investment or expansion of its
32 labor force under paragraph (1) of this subsection.

1 **Article – Tax – General**

2 10–205.

3 (a) In addition to the modification under § 10–204 of this subtitle, the amounts
4 under this section are added to the federal adjusted gross income of a resident to determine
5 Maryland adjusted gross income.

6 (b) The addition under subsection (a) of this section includes the amount of a
7 credit claimed under:

8 (1) [§ 10–702 of this title for wages paid to an employee in an enterprise
9 zone;

10 (2) § 10–704.3 of this title or § 8–213 of this article for wages paid and
11 qualified child care or transportation expenses incurred with respect to qualified
12 employment opportunity employees; and

13 [(3) (2) § 10–704.7 of this title or § 8–216 of this article for wages paid
14 and qualified child care or transportation expenses incurred with respect to a qualified
15 employee with a disability.

16 10–804.

17 (j) (1) A taxpayer claiming any of the following tax credits shall submit a
18 claim for the credit by electronic means as required by the Comptroller by regulation:

19 (i) the Job Creation Tax Credit, as provided under Title 6, Subtitle
20 2 of the Economic Development Article[;

21 (ii) the One Maryland Tax Credit, as provided under Title 6, Subtitle
22 4 of the Economic Development Article;

23 (iii) the Biotechnology Investment Incentive Tax Credit, as provided
24 under § 10–725 of this title;

25 (iv) the Enterprise Zone Income Tax Credit, as provided under §
26 10–702 of this title]; and

27 [(v) (II) any other tax credit specified by the Comptroller through
28 regulation.

29 (2) Before adding any tax credit [not listed in paragraph (1)(i) through (iv)
30 of this subsection] to the requirement of this subsection, the Comptroller shall determine
31 whether the addition of the tax credit will have a material adverse impact or undue
32 administrative burden on the Comptroller.

Article – Tax – Property

9–317.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Eligible business entity” means a person who operates or conducts a trade or business on qualified enterprise zone property but does not own the qualified enterprise zone property.

(iii) “Qualified enterprise zone property” means real property that:

1. A. is not used for residential purposes;

B. is used in a trade or business by an eligible business entity; **AND**

C. is located in an enterprise zone that is designated under Title 5, Subtitle 7 of the Economic Development Article; [and

D. is eligible for the property tax credit under § 9–103 of this title;]

2. A. is located within the area encompassed by the Burtonsville Crossroads Neighborhood Plan developed by the Montgomery County Planning Department;

B. is zoned for commercial or commercial/residential mixed use development; and

C. has had improvements made on it on or before January 1, 2020; or

3. A. is located within the area encompassed by the Glenmont Shopping Center area, the Metro Station/Layhill Triangle Block, the Winexburg Manor Apartments area, the Glenmont Forest Apartments area, and the Privacy World area of the Glenmont Sector Plan developed by the Montgomery County Planning Department;

B. is zoned for commercial or commercial/residential mixed use development; and

C. has had improvements made on it on or before January 1, 2025.

1 (2) Subject to [paragraphs (4) and (5)] **PARAGRAPH (4)** of this subsection,
2 the governing body of Montgomery County or of a municipal corporation in Montgomery
3 County may grant, by law, a property tax credit against the county or municipal corporation
4 property tax imposed on:

5 (i) improvements made by an eligible business entity to qualified
6 enterprise zone property; and

7 (ii) personal property owned by an eligible business entity located on
8 qualified enterprise zone property.

9 (3) (i) The governing body of Montgomery County or of a municipal
10 corporation in Montgomery County may provide, by law, for:

- 11 1. the amount and duration of a credit under this subsection;
12 2. additional eligibility criteria for a credit under this
13 subsection; and
14 3. any other provision necessary to carry out a credit under
15 this subsection.

16 (ii) The governing body of Montgomery County or of a municipal
17 corporation in Montgomery County shall define, by law, the improvements eligible for a
18 credit under this subsection.

19 (4) The lessor of real property granted a credit under paragraph (2)(i) of
20 this subsection shall reduce the amount of taxes for which an eligible business entity is
21 contractually liable under the lease agreement by the amount of any credit granted under
22 paragraph (2)(i) of this subsection for improvements made by the eligible business entity.

23 **[(5) The lessor of real property that receives a credit under § 9–103 of this**
24 **title may not be granted a credit under this subsection.]**

25 **SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 5–709 and 5–1407;**
26 **and 6–401 through 6–407 and the subtitle “Subtitle 4. One Maryland Economic**
27 **Development Tax Credit” of Article – Economic Development of the Annotated Code of**
28 **Maryland be repealed.**

29 **SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 6–116 and 6–119**
30 **of Article – Insurance of the Annotated Code of Maryland be repealed.**

31 **SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 8–220, 10–702,**
32 **10–704.8, 10–714, and 10–725 of Article – Tax – General of the Annotated Code of Maryland**
33 **be repealed.**

1 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 9–103, 9–103.1,
2 and 9–230 of Article – Tax – Property of the Annotated Code of Maryland be repealed.

3 SECTION 7. AND BE IT FURTHER ENACTED, That:

4 (a) The Comptroller shall adopt procedures and protocols related to the
5 administration of Maryland’s tax system to:

6 (1) improve the accuracy and collection of tax data necessary to allow for
7 more effective evaluations of State tax incentive programs;

8 (2) notwithstanding any federal or State confidentiality requirements,
9 share with the Department of Legislative Services and other appropriate State agencies
10 data related to State tax incentive programs to better assess the effectiveness of those
11 programs; and

12 (3) implement a private letter ruling process to provide additional tax
13 guidance to taxpayers.

14 (b) If the Comptroller determines that the increased responsibilities under
15 subsection (a) of this section will have more than an incidental impact on the Comptroller’s
16 annual budget, the Comptroller shall request additional resources in the Comptroller’s
17 fiscal year 2018 budget request to the Governor.

18 SECTION 8. AND BE IT FURTHER ENACTED, That Sections 2 through 6 of this
19 Act shall take effect June 1, 2021, and shall be applicable to all taxable years beginning
20 after December 31, 2020.

21 SECTION 9. AND BE IT FURTHER ENACTED, That, except as provided in Section
22 8 of this Act, this Act shall take effect June 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.