

SENATE BILL 1021

C8, Q3, Q2

7lr1569
CF HB 1051

By: **Senators Zucker, Ferguson, Benson, Conway, Currie, DeGrange, Feldman, Guzzone, Kagan, Kasemeyer, King, Klausmeier, Lee, Manno, McFadden, Middleton, Miller, Nathan–Pulliam, Peters, Pinsky, Ramirez, Robinson, Smith, Young, and Zirkin**

Introduced and read first time: February 8, 2017

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Enterprise Zone and Regional Institution Strategic Enterprise Zone Programs –**
3 **Small Business Entities**

4 FOR the purpose of allowing a credit against the State income tax for certain small business
5 entities located in an enterprise zone or a Regional Institution Strategic Enterprise
6 (RISE) zone; allowing a small business entity to claim the credit notwithstanding
7 certain limitations and if the small business hired or retained a certain number of
8 new employees under certain circumstances; allowing a small business entity to
9 claim the credit as a credit for the payment to the Comptroller of certain taxes;
10 providing for the calculation of the credit; providing that the credit may not be claimed
11 for more than a certain number of years; providing that the amount of the credit may
12 not exceed the State income tax for that taxable year; authorizing a small business
13 entity to apply any excess amount of the credit against the State income tax for
14 succeeding taxable years; altering the definition of “qualified property” for purposes
15 of a certain property tax credit on a certain assessment of certain property located
16 in a RISE zone so as to include certain personal property; defining certain terms;
17 providing for the effective dates of this Act; providing for the application of this Act;
18 and generally relating to the Enterprise Zone Program and the Regional Institution
19 Strategic Enterprise Zone Program.

20 BY repealing and reenacting, with amendments,
21 Article – Economic Development
22 Section 5–707(a), (c), and (d)(1) and 5–1406(a) and (d)
23 Annotated Code of Maryland
24 (2008 Volume and 2016 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Economic Development

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 5–1406(c)
 2 Annotated Code of Maryland
 3 (2008 Volume and 2016 Supplement)

4 BY adding to
 5 Article – Tax – General
 6 Section 10–741
 7 Annotated Code of Maryland
 8 (2016 Replacement Volume)

9 BY repealing and reenacting, without amendments,
 10 Article – Tax – Property
 11 Section 9–103.1(a)(1) and (b)
 12 Annotated Code of Maryland
 13 (2012 Replacement Volume and 2016 Supplement)

14 BY repealing and reenacting, with amendments,
 15 Article – Tax – Property
 16 Section 9–103.1(a)(6)
 17 Annotated Code of Maryland
 18 (2012 Replacement Volume and 2016 Supplement)

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

21 **Article – Economic Development**

22 5–707.

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

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

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

26 (3) **THE INCOME TAX CREDITS IN § 10–741 OF THE TAX – GENERAL**
 27 **ARTICLE; AND**

28 (4) consideration for financial assistance from programs in Subtitle 1 of
 29 this title.

30 (c) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 31 **SUBSECTION, THE** incentives and initiatives provided for in this section are not available
 32 to a business entity that:

1 **[(1)] (I)** was in an enterprise zone before the date that the enterprise zone
2 is designated, except for a capital investment or expansion of its labor force that occurs on
3 or after the enterprise zone is designated; or

4 **[(2)] (II)** is located in an enterprise zone that was designated under
5 federal law unless the Secretary and the Board of Public Works consent to the designation.

6 **(2) A BUSINESS ENTITY MAY QUALIFY FOR THE INCOME TAX CREDIT**
7 **UNDER § 10-741 OF THE TAX – GENERAL ARTICLE:**

8 **(I) REGARDLESS OF WHETHER THE BUSINESS ENTITY WAS IN**
9 **THE ENTERPRISE ZONE BEFORE THE DATE THAT THE ZONE WAS DESIGNATED; AND**

10 **(II) IF, AFTER THE ENTERPRISE ZONE WAS DESIGNATED, THE**
11 **BUSINESS ENTITY HIRED AND RETAINED AT LEAST ONE NEW EMPLOYEE FOR AT**
12 **LEAST 6 MONTHS BEFORE OR DURING THE TAXABLE YEAR FOR WHICH THE ENTITY**
13 **CLAIMS THE CREDIT.**

14 (d) (1) Except as provided in **[§ 10-702] §§ 10-702 AND 10-741** of the Tax –
15 General Article and § 9-103 of the Tax – Property Article, the incentives and initiatives set
16 forth in this section are available for 10 years after the date that an area is designated an
17 enterprise zone.

18 5-1406.

19 (a) (1) To the extent provided for in this section, a business entity that locates
20 in a RISE zone is entitled to:

21 (i) the property tax credit under § 9-103.1 of the Tax – Property
22 Article;

23 (ii) the income tax credit under § 10-702 of the Tax – General
24 Article; [and]

25 (iii) **THE INCOME TAX CREDIT UNDER § 10-741 OF THE**
26 **TAX – GENERAL ARTICLE; AND**

27 **(IV)** priority consideration for financial assistance from programs in
28 Subtitle 1 of this title.

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

31 (c) A business entity may not qualify for the incentives under subsection (a) of
32 this section unless the Department, in consultation with the county or municipal

1 corporation in which a RISE zone is located, certifies the business entity and its location as
2 consistent with the target strategy of the RISE zone.

3 (d) (1) [Unless] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
4 **SUBSECTION, UNLESS** a business entity makes a significant capital investment or
5 expansion of its labor force after a RISE zone is designated, the incentives under this
6 section are not available to a business entity that was in a RISE zone before the date that
7 the zone is designated.

8 (2) **A BUSINESS ENTITY MAY QUALIFY FOR THE INCOME TAX CREDIT**
9 **UNDER § 10-741 OF THE TAX – GENERAL ARTICLE:**

10 (I) **REGARDLESS OF WHETHER THE BUSINESS ENTITY WAS IN**
11 **THE RISE ZONE BEFORE THE DATE THAT THE ZONE WAS DESIGNATED; AND**

12 (II) **IF, AFTER THE RISE ZONE WAS DESIGNATED, THE**
13 **BUSINESS ENTITY HIRED AND RETAINED AT LEAST ONE NEW EMPLOYEE FOR AT**
14 **LEAST 6 MONTHS BEFORE OR DURING THE TAXABLE YEAR FOR WHICH THE ENTITY**
15 **CLAIMS THE CREDIT.**

16 (3) The Department shall adopt regulations establishing factors to
17 determine if a business entity makes a significant capital investment or expansion of its
18 labor force under paragraph (1) of this subsection.

19 **Article – Tax – General**

20 **10-741.**

21 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

23 (2) **“ENTERPRISE ZONE” HAS THE MEANING STATED IN § 5-701 OF**
24 **THE ECONOMIC DEVELOPMENT ARTICLE.**

25 (3) **“RISE ZONE” HAS THE MEANING STATED IN § 5-1401 OF THE**
26 **ECONOMIC DEVELOPMENT ARTICLE.**

27 (4) (I) **“SMALL BUSINESS ENTITY” MEANS:**

28 1. **A PERSON CONDUCTING OR OPERATING A TRADE OR**
29 **BUSINESS THAT EMPLOYS 25 OR FEWER EMPLOYEES; OR**

30 2. **AN ORGANIZATION THAT:**

1 **A. IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4)**
2 **OF THE INTERNAL REVENUE CODE; AND**

3 **B. EMPLOYS 25 OR FEWER EMPLOYEES.**

4 **(II) “SMALL BUSINESS ENTITY” DOES NOT INCLUDE A PERSON**
5 **OWNING, OPERATING, DEVELOPING, CONSTRUCTING, OR REHABILITATING**
6 **PROPERTY INTENDED FOR USE PRIMARILY AS SINGLE OR MULTIFAMILY**
7 **RESIDENTIAL PROPERTY LOCATED WITHIN AN ENTERPRISE ZONE OR RISE ZONE.**

8 **(B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A SMALL**
9 **BUSINESS ENTITY THAT IS LOCATED IN AN ENTERPRISE ZONE OR A RISE ZONE MAY**
10 **CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT PROVIDED**
11 **UNDER SUBSECTION (C) OF THIS SECTION.**

12 **(2) THE SMALL BUSINESS ENTITY MAY APPLY THE CREDIT UNDER**
13 **THIS SECTION AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER OF TAXES**
14 **THAT THE SMALL BUSINESS ENTITY:**

15 **(I) IS REQUIRED TO WITHHOLD FROM THE WAGES OF**
16 **EMPLOYEES UNDER § 10-908 OF THIS TITLE; AND**

17 **(II) IS REQUIRED TO PAY TO THE COMPTROLLER UNDER §**
18 **10-906(A) OF THIS TITLE.**

19 **(C) THE CREDIT ALLOWED UNDER THIS SECTION SHALL EQUAL, WITH**
20 **RESPECT TO THE WAGES OF EMPLOYEES WHO WORK IN THE ENTERPRISE ZONE OR**
21 **RISE ZONE AND WHOSE EARNINGS EXCEED THE STATE MEDIAN INCOME FOR THE**
22 **PRECEDING TAXABLE YEAR:**

23 **(1) FOR THE FIRST TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED,**
24 **5% OF THE AMOUNT THAT THE SMALL BUSINESS ENTITY IS REQUIRED TO WITHHOLD**
25 **FROM THE WAGES OF THOSE EMPLOYEES;**

26 **(2) FOR THE SECOND TAXABLE YEAR IN WHICH THE CREDIT IS**
27 **CLAIMED, 4% OF THE AMOUNT THAT THE SMALL BUSINESS ENTITY IS REQUIRED TO**
28 **WITHHOLD FROM THE WAGES OF THOSE EMPLOYEES;**

29 **(3) FOR THE THIRD TAXABLE YEAR IN WHICH THE CREDIT IS**
30 **CLAIMED, 3% OF THE AMOUNT THAT THE SMALL BUSINESS ENTITY IS REQUIRED TO**
31 **WITHHOLD FROM THE WAGES OF THOSE EMPLOYEES;**

1 (4) FOR THE FOURTH TAXABLE YEAR IN WHICH THE CREDIT IS
2 CLAIMED, 2% OF THE AMOUNT THAT THE SMALL BUSINESS ENTITY IS REQUIRED TO
3 WITHHOLD FROM THE WAGES OF THOSE EMPLOYEES; AND

4 (5) FOR THE FIFTH TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED,
5 1% OF THE AMOUNT THAT THE SMALL BUSINESS ENTITY IS REQUIRED TO WITHHOLD
6 FROM THE WAGES OF THOSE EMPLOYEES.

7 (D) A SMALL BUSINESS ENTITY MAY NOT CLAIM THE CREDIT ALLOWED
8 UNDER THIS SECTION FOR MORE THAN 5 TAXABLE YEARS.

9 (E) (1) THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER THIS
10 SECTION FOR ANY TAXABLE YEAR MAY NOT EXCEED THE STATE INCOME TAX
11 IMPOSED FOR THAT TAXABLE YEAR.

12 (2) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
13 YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, A SMALL
14 BUSINESS ENTITY MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME
15 TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE FULL AMOUNT OF THE EXCESS IS
16 USED.

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

19 Article – Tax – Property

20 9–103.1.

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

- 22 (6) (I) “Qualified property” means real property that is:
 - 23 [(i)] 1. not used for residential purposes;
 - 24 [(ii)] 2. used in a trade or business by a business entity; and
 - 25 [(iii)] 3. located in a Regional Institution Strategic Enterprise zone
 - 26 that is designated under Title 5, Subtitle 14 of the Economic Development Article.

27 (II) “QUALIFIED PROPERTY” INCLUDES PERSONAL PROPERTY
28 ON REAL PROPERTY THAT IS LOCATED IN A FOCUS AREA AS DEFINED IN § 5–701 OF
29 THE ECONOMIC DEVELOPMENT ARTICLE.

1 (b) The governing body of a county or of a municipal corporation shall grant a tax
2 credit under this section against the property tax imposed on the eligible assessment of
3 qualified property.

4 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
5 effect June 1, 2017, and shall be applicable to all taxable years beginning after June 30,
6 2017.

7 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
8 3 of this Act, this Act shall take effect July 1, 2017, and shall be applicable to all taxable
9 years beginning after December 31, 2016.