

SENATE BILL 966

Q3, C8

8lr2991

By: **Senators Ferguson and Rosapepe**

Introduced and read first time: February 5, 2018

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **RISE Zones – Expansion and Income Tax Credit**

3 FOR the purpose of repealing a limitation on the number of Regional Institution Strategic
4 Enterprise zones that may be approved in a county or municipal corporation;
5 providing that a business entity in a RISE zone is eligible for a certain tax credit;
6 authorizing certain business entities to apply for certain tax credit certificates;
7 requiring the Secretary of Commerce, in consultation with the Maryland Technology
8 Development Corporation, to approve certain applications for certain tax credit
9 certificates in a certain manner; providing that the amount of each tax credit
10 certificate may not exceed a certain amount; providing that the Secretary may not
11 issue tax credit certificates that in the aggregate exceed a certain amount;
12 prohibiting a business entity from receiving a tax credit certificate if the business
13 entity has received a certificate within a certain period of time; authorizing the
14 holder of a certain tax credit certificate to claim a credit against the State income tax
15 in a certain amount; providing for the carryforward of unused amounts of the credit;
16 authorizing a business entity receiving a certain tax credit certificate to transfer all
17 or a portion of the credit; requiring the Secretary to issue certain replacement tax
18 credit certificates reflecting a certain transfer; authorizing the Secretary to charge a
19 fee for issuing certain replacement tax credit certificates; specifying the manner in
20 which a pass-through entity may claim a credit; requiring the Comptroller to adopt
21 certain regulations; defining certain terms; providing for the application of this Act;
22 and generally relating to an income tax credit for business entities in RISE zones.

23 BY repealing and reenacting, without amendments,

24 Article – Economic Development

25 Section 5–1401 and 5–1402

26 Annotated Code of Maryland

27 (2008 Volume and 2017 Supplement)

28 BY repealing and reenacting, with amendments,

29 Article – Economic Development

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 5–1404(f) and 5–1406
2 Annotated Code of Maryland
3 (2008 Volume and 2017 Supplement)

4 BY adding to
5 Article – Tax – General
6 Section 10–746
7 Annotated Code of Maryland
8 (2016 Replacement Volume and 2017 Supplement)

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

11 **Article – Economic Development**

12 5–1401.

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

14 (b) “Area” means a geographic area in one or more political subdivisions in the
15 State described by a closed perimeter boundary.

16 (c) “Nonprofit organization” means an organization that is exempt or eligible for
17 exemption from taxation under § 501(c)(3) of the Internal Revenue Code.

18 (d) “Qualified institution” means an entity that is designated as a qualified
19 institution under § 5–1403 of this subtitle and may include:

20 (1) a regional higher education center as defined under § 10–101 of the
21 Education Article;

22 (2) an institution of higher education as defined under § 10–101 of the
23 Education Article; or

24 (3) a nonprofit organization that is affiliated with a federal agency.

25 (e) “RISE zone” means a geographic area in immediate proximity to a qualified
26 institution that is targeted for increased economic and community development that meets
27 the requirements of § 5–1404 of this subtitle and is designated as a Regional Institution
28 Strategic Enterprise zone by the Secretary under § 5–1404 of this subtitle.

29 5–1402.

30 The purpose of the Regional Institution Strategic Enterprise Zone Program is to
31 access institutional assets that have a strong and demonstrated history of commitment to
32 economic development and revitalization in the communities in which they are located.

1 5-1404.

2 (f) (1) [(i)] Subject to [subparagraph (ii) of this paragraph] **PARAGRAPH**
3 **(2) OF THIS SUBSECTION**, the designation of an area as a RISE zone is effective for 5
4 years.

5 [(ii)] **(2)** Upon a joint application of a qualified institution, a county
6 and, if applicable, a municipal corporation, or the economic development agency of a county
7 or municipal corporation, the Secretary may renew a RISE zone for an additional 5 years.

8 [(2) The Secretary may not approve more than three RISE zones in a single
9 county or municipal corporation.]

10 5-1406.

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

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

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

17 (iii) **THE INCOME TAX CREDIT UNDER § 10-746 OF THE**
18 **TAX – GENERAL ARTICLE; AND**

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

21 (2) For purposes of the income tax credit authorized under paragraph (1)(ii)
22 **OR (III)** of this subsection, the business entity is treated as being located in an enterprise
23 zone.

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

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

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

1 the zone is designated.

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

5 **Article – Tax – General**

6 **10-746.**

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) “BUSINESS ENTITY” MEANS A TECHNOLOGY OR
10 INNOVATION-RELATED BUSINESS WITH ITS PRINCIPAL PLACE OF BUSINESS
11 LOCATED IN A RISE ZONE.

12 (3) “PASS-THROUGH ENTITY” MEANS:

13 (I) AN S CORPORATION;

14 (II) A PARTNERSHIP;

15 (III) A LIMITED LIABILITY COMPANY THAT IS NOT TAXED AS A
16 CORPORATION UNDER THIS TITLE; OR

17 (IV) A BUSINESS TRUST OR A STATUTORY TRUST THAT IS NOT
18 TAXED AS A CORPORATION UNDER THIS TITLE.

19 (4) “QUALIFIED INSTITUTION” HAS THE MEANING STATED IN
20 § 5-1401 OF THE ECONOMIC DEVELOPMENT ARTICLE.

21 (5) “RISE ZONE” HAS THE MEANING STATED UNDER § 5-1401 OF THE
22 ECONOMIC DEVELOPMENT ARTICLE.

23 (6) “SECRETARY” MEANS THE SECRETARY OF COMMERCE OR THE
24 SECRETARY’S DESIGNEE.

25 (B) (1) A BUSINESS ENTITY MAY APPLY TO THE SECRETARY FOR A TAX
26 CREDIT CERTIFICATE IF THE GROSS REVENUE OF THE BUSINESS ENTITY HAS
27 INCREASED OVER THE PRECEDING TAXABLE YEAR.

28 (2) A BUSINESS ENTITY IS NOT REQUIRED TO WORK WITH OR
29 DEVELOP THE INTELLECTUAL PROPERTY OF A QUALIFIED INSTITUTION TO BE

1 ELIGIBLE TO RECEIVE A TAX CREDIT CERTIFICATE UNDER THIS SECTION.

2 (3) SUBJECT TO PARAGRAPHS (4), (5), AND (6) OF THIS SUBSECTION,
3 THE SECRETARY, IN CONSULTATION WITH THE MARYLAND TECHNOLOGY
4 DEVELOPMENT CORPORATION, SHALL APPROVE ALL APPLICATIONS THAT QUALIFY
5 FOR A TAX CREDIT CERTIFICATE UNDER PARAGRAPH (1) OF THIS SUBSECTION ON A
6 FIRST-COME, FIRST-SERVED BASIS.

7 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
8 TAX CREDIT CERTIFICATE ISSUED TO A BUSINESS ENTITY SHALL BE IN AN AMOUNT
9 EQUAL TO 50% OF THE INCREASE IN THE BUSINESS ENTITY'S GROSS REVENUE OVER
10 THE PRECEDING TAXABLE YEAR THAT IS ATTRIBUTABLE TO ACTIVITY IN THE RISE
11 ZONE.

12 (II) A TAX CREDIT CERTIFICATE MAY NOT BE ISSUED IN AN
13 AMOUNT EXCEEDING \$100,000.

14 (5) FOR EACH TAXABLE YEAR, THE SECRETARY MAY NOT ISSUE TAX
15 CREDIT CERTIFICATES THAT IN THE AGGREGATE EXCEED \$10,000,000.

16 (6) THE SECRETARY MAY NOT ISSUE A TAX CREDIT CERTIFICATE TO
17 A BUSINESS ENTITY THAT HAS RECEIVED A TAX CREDIT CERTIFICATE UNDER THIS
18 SECTION FOR 1 OF THE 3 PRECEDING TAXABLE YEARS.

19 (C) (1) FOR ANY TAXABLE YEAR, THE HOLDER OF A TAX CREDIT
20 CERTIFICATE ISSUED UNDER THIS SECTION MAY CLAIM A CREDIT AGAINST THE
21 STATE INCOME TAX IN AN AMOUNT NOT EXCEEDING THE HOLDER'S STATE INCOME
22 TAX LIABILITY.

23 (2) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY
24 TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE
25 HOLDER OF THE TAX CREDIT CERTIFICATE MAY APPLY THE EXCESS AS A CREDIT
26 AGAINST THE STATE INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE
27 EARLIER OF:

28 (I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

29 (II) THE EXPIRATION OF THE 3RD TAXABLE YEAR FROM THE
30 DATE THAT THE TAX CREDIT CERTIFICATE WAS ISSUED.

31 (D) (1) A BUSINESS ENTITY THAT IS ISSUED A TAX CREDIT CERTIFICATE
32 UNDER THIS SECTION MAY TRANSFER ALL OR A PORTION OF THE TAX CREDIT
33 AUTHORIZED UNDER THE CERTIFICATE TO ANOTHER TAXPAYER.

1 **(2) IF A PORTION OF THE TAX CREDIT CERTIFICATE IS TRANSFERRED,**
2 **THE BUSINESS ENTITY SHALL:**

3 **(I) SURRENDER THE ORIGINAL TAX CREDIT CERTIFICATE; AND**

4 **(II) REQUEST THAT THE SECRETARY ISSUE REPLACEMENT TAX**
5 **CREDIT CERTIFICATES THAT REFLECT THE TRANSFERRED AND RETAINED CREDIT**
6 **AMOUNTS.**

7 **(3) THE SECRETARY:**

8 **(I) SHALL ISSUE REPLACEMENT TAX CREDIT CERTIFICATES**
9 **THAT REFLECT THE AMOUNT OF THE CREDIT TRANSFERRED AND THE AMOUNT OF**
10 **THE CREDIT RETAINED; AND**

11 **(II) MAY CHARGE AN ADMINISTRATIVE FEE FOR ISSUING**
12 **REPLACEMENT TAX CREDIT CERTIFICATES.**

13 **(E) IF A TAX CREDIT CERTIFICATE HOLDER IS A PASS-THROUGH ENTITY,**
14 **THE SUM OF ALL CREDITS CLAIMED BY MEMBERS OF THE PASS-THROUGH ENTITY IN**
15 **A TAXABLE YEAR MAY NOT EXCEED THE LESSER OF:**

16 **(1) THE AMOUNT SPECIFIED IN THE TAX CREDIT CERTIFICATE; OR**

17 **(2) ANY REMAINING EXCESS CREDIT ALLOWED UNDER SUBSECTION**
18 **(C) OF THIS SECTION.**

19 **(F) THE COMPTROLLER, IN CONSULTATION WITH THE SECRETARY, SHALL**
20 **ADOPT REGULATIONS TO ADMINISTER THIS SECTION.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2018, and shall be applicable to all taxable years beginning after December 31, 2017.