

# SENATE BILL 174

C8, Q3, Q1

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CF 9lr0163

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By: **The President (By Request – Administration) and Senators Serafini, Bailey, Carozza, Cassilly, Eckardt, Edwards, Gallion, Hershey, Hough, Jennings, Ready, Salling, Simonaire, and West**

Introduced and read first time: January 21, 2019

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **More Opportunities for Marylanders Act of 2019**

3 FOR the purpose of extending certain benefits under the More Jobs for Marylanders  
4 Program to businesses that locate or expand in opportunity zones in the State;  
5 extending the termination date of the Program; altering the maximum aggregate  
6 credit amounts of initial tax credit certificates the Department of Commerce may  
7 issue from the More Jobs for Marylanders Tax Credit Reserve Fund in a fiscal year;  
8 altering the calculation the Governor shall use in determining the amount to include  
9 in the budget for the More Jobs for Marylanders Tax Credit Reserve Fund; altering  
10 the information required to be contained in a certain report on the More Jobs for  
11 Marylanders Tax Credit; altering the maximum aggregate amount of sales and use  
12 tax refunds the Department may issue from the More Jobs for Marylanders Sales  
13 and Use Tax Refund Reserve Fund in a fiscal year; defining certain terms and  
14 altering certain definitions; making conforming changes; providing for the  
15 application of this Act; and generally relating to benefits provided to businesses  
16 under the More Jobs for Marylanders Program.

17 BY repealing and reenacting, with amendments,  
18 Article – Corporations and Associations  
19 Section 1–203.1(b)  
20 Annotated Code of Maryland  
21 (2014 Replacement Volume and 2018 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article – Economic Development  
24 Section 6–801 and 6–803 through 6–805  
25 Annotated Code of Maryland  
26 (2018 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,  
2 Article – Tax – General  
3 Section 10–741(a)(1) and 11–411(b)  
4 Annotated Code of Maryland  
5 (2016 Replacement Volume and 2018 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Tax – General  
8 Section 10–741(a)(9) and (10) and (b) through (e) and 11–411(d)  
9 Annotated Code of Maryland  
10 (2016 Replacement Volume and 2018 Supplement)

11 BY repealing and reenacting, without amendments,  
12 Article – Tax – Property  
13 Section 9–110(a)(1) and (b)  
14 Annotated Code of Maryland  
15 (2012 Replacement Volume and 2018 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Tax – Property  
18 Section 9–110(a)(5)  
19 Annotated Code of Maryland  
20 (2012 Replacement Volume and 2018 Supplement)

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

23 **Article – Corporations and Associations**

24 1–203.1.

25 (b) A qualified business entity that is a new business entity in a Tier I [county]  
26 AREA, as defined under the More Jobs for Marylanders Program established under Title 6,  
27 Subtitle 8 of the Economic Development Article, is not subject to the fees enumerated in §  
28 1–203 of this subtitle.

29 **Article – Economic Development**

30 6–801.

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

32 (b) “Benefit year” means a taxable year in which a qualified business entity  
33 claims a program benefit established under § 6–805 of this subtitle.

34 (c) (1) “Business entity” means a person conducting or operating a trade or  
35 business that is:

1 (I) primarily engaged in activities that, in accordance with the  
2 North American Industrial Classification System (NAICS), United States Manual, United  
3 States Office of Management and Budget, 2012 Edition, would be included in Sector 31, 32,  
4 or 33; OR

5 (II) LOCATED IN AN OPPORTUNITY ZONE.

6 (2) “Business entity” does not include:

7 (I) a refiner, as defined in § 10–101 of the Business Regulation  
8 Article;

9 (II) A PERSON CONDUCTING OR OPERATING A TRADE OR  
10 BUSINESS THAT IS:

11 1. PROVIDING ADULT ENTERTAINMENT, AS  
12 DETERMINED BY THE DEPARTMENT;

13 2. PRIMARILY ENGAGED IN RETAIL ACTIVITIES; OR

14 3. PRIMARILY ENGAGED IN THE SALE OR DISTRIBUTION  
15 OF ALCOHOLIC BEVERAGES.

16 (d) “Eligible project” means a facility operated by a business entity in a Tier I  
17 [county] AREA or Tier II [county] AREA.

18 (e) “Existing business entity” means a business entity that is located in the State  
19 at the time it notifies the Department under § 6–803(c) of this subtitle.

20 (f) “New business entity” means a business entity that is not located in the State  
21 at the time it notifies the Department under § 6–803(b) of this subtitle.

22 (g) (1) “OPPORTUNITY ZONE” MEANS AN AREA THAT HAS BEEN  
23 DESIGNATED AS A QUALIFIED OPPORTUNITY ZONE IN THE STATE UNDER § 1400Z–1  
24 OF THE INTERNAL REVENUE CODE.

25 (2) “OPPORTUNITY ZONE” DOES NOT INCLUDE AN AREA WHOSE  
26 DESIGNATION UNDER § 1400Z–1 OF THE INTERNAL REVENUE CODE HAS LAPSED.

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

1           **[(h)] (I)**       “Qualified business entity” means a new business entity or an existing  
2 business entity operating an eligible project under this subtitle.

3           **[(i)] (J)**       (1)     “Qualified position” means a position that:

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

5                           (ii)    pays at least 120% of the State minimum wage;

6                           (iii)  is located in a facility;

7                           (iv)   is newly created at a single facility in the State; and

8                           (v)    is filled.

9                       (2)     “Qualified position” does not include a position that is:

10                           (i)     created when an employment function is shifted from an existing  
11 facility of a business entity in the State to another facility of the same business entity if the  
12 position is not a net new job in the State;

13                           (ii)    created through a change in ownership of a trade or business;

14                           (iii)  created through a consolidation, merger, or restructuring of a  
15 business entity if the position is not a net new job in the State;

16                           (iv)   created when an employment function is contractually shifted  
17 from an existing business entity to another business entity in the State if the position is  
18 not a net new job in the State; or

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

20           **[(j)] (K)**       “Tier I [county] AREA” means:

21                       (1)     a Tier I county, as defined in § 1–101 of this article; [or]

22                       (2)     a county designated by the Department that is not a county described  
23 in item (1) of this subsection, not to exceed three counties; **OR**

24                       **(3)    AN OPPORTUNITY ZONE.**

25           **[(k)] (L)**       “Tier II [county] AREA” means [a county] AN AREA that is not [a  
26 county] AN AREA described in subsection [(j)] (K) of this section.

27 6–803.

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

3 (1) is in a Tier I [county] AREA and the business entity intends to create  
4 at least five qualified positions at the project location; or

5 (2) is in a Tier II [county] AREA and the business entity intends to create  
6 at least 10 qualified positions at the project location.

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

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

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

13 (2) The Department may certify a new business entity as a qualified  
14 business entity after the new business entity provides the required notice under paragraph  
15 (1)(i) of this subsection, applies to the Department under paragraph (3) of this subsection,  
16 and establishes and operates an eligible project.

17 (3) A new business entity shall submit to the Department an application  
18 containing at least the following information:

19 (i) the anticipated date of the establishment and initial operation of  
20 the facility and the nature of its operations;

21 (ii) the expected location of the facility;

22 (iii) the estimated number of qualified positions to be created and  
23 qualified employees to be hired and the anticipated payroll of the new qualified employees;  
24 and

25 (iv) any other information the Department requires.

26 (c) (1) An existing business entity may apply to be certified as a qualified  
27 business entity if the existing business entity increases the number of qualified positions  
28 as required under subsection (a) of this section for an eligible project in a Tier I AREA or A  
29 Tier II [county] AREA.

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

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

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

6 (3) An existing business entity shall submit an application to the  
7 Department containing at least the following information:

8 (i) the number of full-time employees existing before the expansion  
9 and the payroll of the existing employees;

10 (ii) the estimated number of qualified positions to be created and  
11 qualified employees to be hired and the anticipated payroll of the new qualified employees;  
12 and

13 (iii) any other information that the Department requires.

14 (d) A business entity must begin hiring the employees to fill the qualified  
15 positions necessary to meet the requirements of this subtitle within 12 months after it  
16 notifies the Department of its intent to seek designation of an eligible project.

17 6-804.

18 (a) The Program benefits authorized under this section may be claimed by a  
19 qualified business entity for up to 10 consecutive benefit years.

20 (b) On enrollment in the Program:

21 (1) a new business entity in a Tier I [county] **AREA** is eligible for:

22 (i) a credit against the State income tax, established under §  
23 10-741(b) of the Tax – General Article;

24 (ii) a credit against the State property tax, established under §  
25 9-110 of the Tax – Property Article;

26 (iii) a refund of sales and use tax paid during the immediately  
27 preceding taxable year, as provided under § 11-411 of the Tax – General Article; and

28 (iv) a waiver of fees charged by the State Department of Assessments  
29 and Taxation, established under § 1-203.1 of the Corporations and Associations Article;  
30 and

1 (2) except as provided in subsection (c) of this section, an existing business  
2 entity that operates an eligible project is eligible for a credit against the State income tax,  
3 established under § 10–741(b) of the Tax – General Article.

4 (c) The income tax credit established under § 10–741(b) of the Tax – General  
5 Article is not available to an existing business entity if the entity moves its facility to  
6 another county in the State on or after June 1, 2017.

7 (d) If the number of qualified positions at the eligible project decreases to a  
8 number less than the number established in the first benefit year, the project shall be  
9 removed from the Program and all program benefits terminate.

10 6–805.

11 (a) The Department shall provide to a qualified business entity a certificate that:

12 (1) certifies the eligible project that is enrolled in the Program;

13 (2) provides the duration of the certification; and

14 (3) provides any additional information necessary for the Comptroller and  
15 Department to administer the Program.

16 (b) The Department may not provide a qualified business entity a certificate on  
17 or after June 1, [2020] **2030**.

## 18 Article – Tax – General

19 10–741.

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

21 (9) “Tier I [county] AREA” has the meaning stated in § 6–801 of the  
22 Economic Development Article.

23 (10) “Tier II [county] AREA” has the meaning stated in § 6–801 of the  
24 Economic Development Article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 (iii) 1. Except as otherwise provided in this subparagraph, for  
2 any fiscal year, the Department may not issue initial tax credit certificates for credit  
3 amounts in the aggregate totaling more than ~~[\$9,000,000]~~ **\$13,500,000** in a fiscal year.

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

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

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

16 1. maintain the current level of manufacturing activity in the  
17 State; [and]

18 2. attract new manufacturing activity to the State; AND

19 **3. ATTRACT NEW BUSINESSES TO AND ENCOURAGE THE**  
20 **EXPANSION OF EXISTING BUSINESSES WITHIN OPPORTUNITY ZONES IN THE STATE.**

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

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

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

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

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

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

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

7           (e)     On or before July 1 each year, the Department shall report to the Governor  
8 and, subject to § 2–1246 of the State Government Article, the General Assembly on the  
9 amount of tax credits necessary to:

10                   (1)     maintain the current level of manufacturing activity in the State; [and]

11                   (2)     attract new manufacturing activity to the State; **AND**

12                   **(3)     ATTRACT NEW BUSINESSES TO AND ENCOURAGE THE EXPANSION**  
13 **OF EXISTING BUSINESSES WITHIN OPPORTUNITY ZONES IN THE STATE.**

14 11–411.

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

22           (d)     (1)     There is a More Jobs for Marylanders Sales and Use Tax Refund  
23 Reserve Fund that is a special continuing, nonlapsing fund that is not subject to § 7–302 of  
24 the State Finance and Procurement Article.

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

27                   (3)     The Department shall issue a refund in an amount equal to the amount  
28 claimed by the qualified business entity under subsection (c) of this section.

29                   (4)     (i)     Except as otherwise provided in this paragraph, for any fiscal  
30 year, the Department may not issue sales and use tax refunds in amounts in the aggregate  
31 totaling more than **[\$1,000,000] \$1,500,000** in a fiscal year.

32                               (ii)     If the aggregate amount of sales and use tax refunds issued in a  
33 fiscal year totals less than the maximum provided under subparagraph (i) of this

1 paragraph, any excess amount shall be transferred to the More Jobs for Marylanders Tax  
2 Credit Reserve Fund established under § 10–741 of this article.

3 (iii) For any fiscal year, if funds are transferred from the Reserve  
4 Fund under authority of any provision of law, the maximum amounts in the aggregate for  
5 which the Department may issue sales and use tax refunds shall be reduced by the amount  
6 transferred.

7 (5) For fiscal year 2019 and each fiscal year thereafter, the Governor shall  
8 include in the annual budget bill an appropriation to the Reserve Fund.

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

### 12 Article – Tax – Property

13 9–110.

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

15 (5) “Qualified business entity” means a new business entity operating an  
16 eligible project in a Tier I [county] AREA, as defined under § 6–801 of the Economic  
17 Development Article.

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

22 (2) The property tax credit provided under this section is equal to 100% of  
23 all State property tax that is due.

24 (3) The property tax credit provided under this section does not affect the  
25 amount of the county or municipal corporation property tax imposed on the property.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
27 1, 2019.