

SENATE BILL 391

C8

(2lr0045)

ENROLLED BILL

— Budget and Taxation / Ways and Means —

Introduced by **The President (By Request – Administration) and Senators Bailey, Carozza, Cassilly, Corderman, Eckardt, Edwards, Elfreth, Gallion, Griffith, Hershey, Hester, Hough, Jennings, Ready, Salling, Simonaire, and West**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Economic Development – More Jobs for Marylanders Program – Extension and**
3 **Alterations**

4 FOR the purpose of *establishing the purpose of the More Jobs for Marylanders Program;*
5 *altering the circumstances under which and the period of time for which the*
6 *Department of Commerce may provide a certain qualified business entity a*
7 *certificate certifying that a certain eligible project is enrolled in the ~~More Jobs for~~*
8 *~~Marylanders~~ Program; altering eligibility for enrollment in the Program and for*
9 *certain benefits under the Program; prohibiting the Department from awarding*
10 *initial tax credit certificates exceeding a certain amount for qualified business entities*
11 *provided a certain certificate on or after a certain date; altering the manner in which*
12 *certain excess tax credit amounts may be utilized;* requiring the Comptroller to
13 transfer, from the More Jobs for Marylanders Tax Credit Reserve Fund to the

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.

Italics indicate opposite chamber / conference committee amendments.



1 General Fund of the State, an amount equal to the credit amount stated in the final
 2 tax credit certificate issued to a qualified business entity, rather than the amount
 3 stated in the initial tax credit certificate; and generally relating to the More Jobs for
 4 Marylanders Program.

5 BY repealing and reenacting, without amendments,

6 Article – Economic Development

7 Section ~~6–801(a) through (e), (g), and (i) through (m), 6–803(a), (b)(1), (i), (j), (l), and~~
 8 ~~(m), and 6–803(b)(1)~~ and (c)(2), ~~and 6–804~~

9 Annotated Code of Maryland

10 (2018 Replacement Volume and 2021 Supplement)

11 BY repealing and reenacting, with amendments,

12 Article – Economic Development

13 Section ~~6–801(k), 6–802, 6–803(a), 6–804, and~~ 6–805

14 Annotated Code of Maryland

15 (2018 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Corporations and Associations

18 Section 1–203.1(b)

19 Annotated Code of Maryland

20 (2014 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – Tax – General

23 Section ~~10–741(a) through (e) and (c) and 11–411(b)~~

24 Annotated Code of Maryland

25 (2016 Replacement Volume and 2021 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Tax – General

28 Section ~~10–741(d)~~ 10–741(b) and (d) and 11–411(a)

29 Annotated Code of Maryland

30 (2016 Replacement Volume and 2021 Supplement)

31 BY repealing and reenacting, with amendments,

32 Article – Tax – Property

33 Section 9–110(a)

34 Annotated Code of Maryland

35 (2019 Replacement Volume and 2021 Supplement)

36 BY repealing and reenacting, without amendments,

37 Article – Tax – Property

38 Section 9–110(b)(1)

39 Annotated Code of Maryland

40 (2019 Replacement Volume and 2021 Supplement)

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

3 **Article – Economic Development**

4 6–801.

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

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

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

10 (i) primarily engaged in activities that, in accordance with the
11 North American Industrial Classification System (NAICS), United States Manual, United
12 States Office of Management and Budget, 2012 Edition, would be included in Sector 31, 32,
13 or 33; or

14 (ii) located in an opportunity zone.

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

16 (i) a refiner, as defined in § 10–101 of the Business Regulation
17 Article;

18 (ii) a person conducting or operating a trade or business that is:

19 1. providing adult entertainment, as determined by the
20 Department;

21 2. primarily engaged in retail activities, unless the person is
22 operating a grocery store located in an opportunity zone; or

23 3. primarily engaged in the sale or distribution of alcoholic
24 beverages; or

25 (iii) the following entities:

26 1. a private or commercial golf course or country club;

27 2. a tanning salon; or

28 3. a bail bondsman.

1 (d) “Eligible project” means a facility operated by a business entity in a Tier I area
2 or Tier II area.

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

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

7 (i) “Program” means the More Jobs for Marylanders Program established under
8 this subtitle.

9 (j) “Qualified business entity” means a new business entity or an existing
10 business entity operating an eligible project under this subtitle.

11 (k) (1) “Qualified position” means a position that:

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

13 (ii) 1. except as provided in item 2 of this item, for a position in
14 a facility that is located in an opportunity zone, pays an average annual salary that exceeds
15 \$50,000; or

16 2. A. for a position in a facility of a business entity
17 described under subsection (c)(1)(i) of this section ***THAT IS PROVIDED A CERTIFICATE***
18 ***UNDER § 6–805 OF THIS SUBTITLE BEFORE JUNE 1, 2022***, pays at least 120% of the
19 State minimum wage; ***OR***

20 ***B. FOR A POSITION IN A FACILITY OF A BUSINESS ENTITY***
21 ***DESCRIBED UNDER SUBSECTION (C)(1)(I) OF THIS SECTION THAT IS PROVIDED A***
22 ***CERTIFICATE UNDER § 6–805 OF THIS SUBTITLE ON OR AFTER JUNE 1, 2022, PAYS***
23 ***AT LEAST 150% OF THE STATE MINIMUM WAGE;***

24 (iii) is located in a facility;

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

26 (v) is filled.

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

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

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

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

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

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

7 (l) "Tier I area" means:

8 (1) a Tier I county, as defined in § 1–101 of this article;

9 (2) a county designated by the Department that is not a county described
10 in item (1) of this subsection, not to exceed three counties; or

11 (3) an opportunity zone.

12 (m) "Tier II area" means an area that is not an area described in subsection (l) of
13 this section.

14 6–802.

15 **(A)** *There is a More Jobs for Marylanders Program in the Department.*

16 **(B)** **THE PURPOSE OF THE PROGRAM IS TO:**

17 **(1)** **INCENTIVIZE THE CREATION OF NEW MANUFACTURING JOBS IN**
18 **THE STATE; AND**

19 **(2)** **ATTRACT NEW BUSINESSES TO AND ENCOURAGE THE EXPANSION**
20 **OF EXISTING BUSINESSES WITHIN OPPORTUNITY ZONES.**

21 6–803.

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

24 (1) is in a Tier I area and the business entity intends:

25 **(1)** **WITH RESPECT TO NOTICE PROVIDED UNDER THIS SECTION**
26 **TO THE DEPARTMENT BEFORE JUNE 1, 2022,** to create at least five qualified positions
27 at the project location; or

1 (II) WITH RESPECT TO NOTICE PROVIDED UNDER THIS SECTION
 2 TO THE DEPARTMENT ON OR AFTER JUNE 1, 2022, TO CREATE AT LEAST 10
 3 QUALIFIED POSITIONS AT THE PROJECT LOCATION; OR

4 (2) is in a Tier II area and the business entity intends:

5 (I) WITH RESPECT TO NOTICE PROVIDED UNDER THIS SECTION
 6 TO THE DEPARTMENT BEFORE JUNE 1, 2022, to create at least 10 qualified positions at
 7 the project location; OR

8 (II) WITH RESPECT TO NOTICE PROVIDED UNDER THIS SECTION
 9 TO THE DEPARTMENT ON OR AFTER JUNE 1, 2022, TO CREATE AT LEAST 20
 10 QUALIFIED POSITIONS AT THE PROJECT LOCATION.

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

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

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

17 (c) (2) An existing business entity may not be certified as a qualified business
 18 entity unless the business entity:

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

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

24 6-804.

25 (a) (1) ~~The~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
 26 SUBSECTION, THE Program benefits authorized under this section may be claimed by a
 27 qualified business entity for up to 10 consecutive benefit years.

28 (2) IN THE CASE OF A QUALIFIED BUSINESS ENTITY THAT IS LOCATED
 29 IN A TIER II AREA AND IS PROVIDED A CERTIFICATE UNDER § 6-805 OF THIS
 30 SUBTITLE ON OR AFTER JUNE 1, 2022, THE PROGRAM BENEFITS AUTHORIZED
 31 UNDER THIS SECTION MAY BE CLAIMED BY THE QUALIFIED BUSINESS ENTITY FOR UP
 32 TO 5 CONSECUTIVE BENEFIT YEARS.

1 (b) On enrollment in the Program:

2 (1) a new business entity in a Tier I area THAT IS PROVIDED A
3 CERTIFICATE UNDER § 6-805 OF THIS SUBTITLE BEFORE JUNE 1, 2022, is eligible for:

4 (i) a credit against the State income tax, established under §
5 10-741(b) of the Tax – General Article;

6 (ii) a credit against the State property tax, established under §
7 9-110 of the Tax – Property Article;

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

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

13 (2) except as provided in subsection (c) of this section, A NEW BUSINESS
14 ENTITY NOT DESCRIBED UNDER ITEM (1) OF THIS SUBSECTION OR an existing
15 business entity that operates an eligible project is eligible for a credit against the State
16 income tax, established under § 10-741(b) of the Tax – General Article.

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

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

23 6-805.

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

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

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

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

29 (b) (1) [The] **FOR A QUALIFIED BUSINESS ENTITY THAT HAS SUBMITTED**
30 **THE NOTICE REQUIRED UNDER § 6-803(B)(1)(I) OR (C)(2)(I) OF THIS SUBTITLE**
31 **BEFORE JUNE 1, 2022**, THE Department may not provide [a] THE qualified business
32 entity a certificate on or after June 1, 2022.

1 (2) FOR A QUALIFIED BUSINESS ENTITY THAT HAS SUBMITTED THE
 2 NOTICE REQUIRED UNDER § 6-803(B)(1)(I) OR (C)(2)(I) OF THIS SUBTITLE ON OR
 3 AFTER JUNE 1, 2022, THE DEPARTMENT MAY NOT PROVIDE THE QUALIFIED
 4 BUSINESS ENTITY A CERTIFICATE ON OR AFTER JUNE 1, ~~2027~~ 2024.

5 Article – Corporations and Associations

6 1-203.1.

7 (b) A qualified business entity that is a new business entity in a Tier I area, as
 8 defined under the More Jobs for Marylanders Program established under Title 6, Subtitle 8
 9 of the Economic Development Article, is not subject to the fees enumerated in § 1-203 of this
 10 subtitle IF THE QUALIFIED BUSINESS ENTITY RECEIVED A CERTIFICATE UNDER §
 11 6-805 OF THE ECONOMIC DEVELOPMENT ARTICLE BEFORE JUNE 1, 2022.

12 Article – Tax – General

13 11-411.

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

15 (2) “Business entity” has the meaning stated in § 6-801 of the Economic
 16 Development Article.

17 (3) “Department” means the Department of Commerce.

18 (4) “Eligible project” has the meaning stated in § 6-801 of the Economic
 19 Development Article.

20 (5) “New business entity” has the meaning stated in § 6-801 of the Economic
 21 Development Article.

22 (6) “Program” means the More Jobs for Marylanders Program established
 23 under Title 6, Subtitle 8 of the Economic Development Article.

24 (7) “Qualified business entity” means a new business entity operating an
 25 eligible project under Title 6, Subtitle 8 of the Economic Development Article IF THE
 26 BUSINESS ENTITY RECEIVED A CERTIFICATE UNDER § 6-805 OF THE ECONOMIC
 27 DEVELOPMENT ARTICLE BEFORE JUNE 1, 2022.

28 (8) “Qualified personal property or services” means personal property or
 29 services purchased for use at an eligible project by a qualified business entity that is enrolled
 30 in the Program.

1 (9) *“Reserve Fund” means the More Jobs for Marylanders Sales and Use*
2 *Tax Refund Reserve Fund established under this section.*

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

10 *SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read*
11 *as follows:*

12 **Article – Tax – General**

13 10–741.

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

15 (2) “Business entity” has the meaning stated in § 6–801 of the Economic
16 Development Article.

17 (3) “Department” means the Department of Commerce.

18 (4) “Eligible project” has the meaning stated in § 6–801 of the Economic
19 Development Article.

20 (5) “Existing business entity” has the meaning stated in § 6–801 of the
21 Economic Development Article.

22 (6) “New business entity” has the meaning stated in § 6–801 of the
23 Economic Development Article.

24 (7) “Qualified business entity” has the meaning stated in § 6–801 of the
25 Economic Development Article.

26 (8) “Qualified position” has the meaning stated in § 6–801 of the Economic
27 Development Article.

28 (9) “Tier I area” has the meaning stated in § 6–801 of the Economic
29 Development Article.

30 (10) “Tier II area” has the meaning stated in § 6–801 of the Economic
31 Development Article.

1 (b) (1) Subject to the limitations of this section, an individual or corporation
2 that is a new business entity that operates an eligible project in a Tier I area or an existing
3 business entity that operates an eligible project may claim a credit against the State income
4 tax equal to the amount stated in the final tax credit certificate approved by the
5 Department for an eligible project.

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

8 (i) ~~the State employer withholding amount, which is equal to the~~
9 ~~highest tax rate listed in § 10-105(a) of this title~~

10 1. IF THE QUALIFIED BUSINESS ENTITY RECEIVED A
11 CERTIFICATE UNDER § 6-805 OF THE ECONOMIC DEVELOPMENT ARTICLE BEFORE
12 JUNE 1, 2022, 5.75%; OR

13 2. IF THE QUALIFIED BUSINESS ENTITY RECEIVED A
14 CERTIFICATE UNDER § 6-805 OF THE ECONOMIC DEVELOPMENT ARTICLE ON OR
15 AFTER JUNE 1, 2022, 4.75%; and

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

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

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

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

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

29 (ii) In determining the allocation of the aggregate tax credit amounts
30 available in a fiscal year as provided under subsection (d) of this section, the Department
31 shall give priority to applications for eligible projects in a Tier I area, as defined under §
32 6-801 of the Economic Development Article.

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

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

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

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

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

12 (iii) 1. Except as otherwise provided in this subparagraph, for
13 any fiscal year, the Department may not issue initial tax credit certificates for credit
14 amounts in the aggregate totaling more than:

15 **A. WITH RESPECT TO QUALIFIED BUSINESS ENTITIES**
16 **PROVIDED A CERTIFICATE UNDER § 6-805 OF THE ECONOMIC DEVELOPMENT**
17 **ARTICLE BEFORE JUNE 1, 2022, \$9,000,000 in a fiscal year; AND**

18 **B. WITH RESPECT TO QUALIFIED BUSINESS ENTITIES**
19 **PROVIDED A CERTIFICATE UNDER § 6-805 OF THE ECONOMIC DEVELOPMENT**
20 **ARTICLE ON OR AFTER JUNE 1, 2022, \$5,000,000 IN A FISCAL YEAR.**

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

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

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

33 1. maintain the current level of manufacturing activity in the
34 State;

35 2. attract new manufacturing activity to the State; and

1 3. attract new businesses to and encourage the expansion of
2 existing businesses within opportunity zones in the State.

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

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

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

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

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

17 B. the final certified credit amount for the qualified business
18 entity.

19 2. On notification that a final credit amount has been
20 certified, the Comptroller shall transfer an amount equal to the credit amount stated in the
21 [initial] FINAL tax credit certificate for the qualified business entity from the Reserve Fund
22 to the General Fund.

23 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
24 as follows:

25 Article – Tax – Property

26 9–110.

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

28 (2) “Business entity” has the meaning stated in § 6–801 of the Economic
29 Development Article.

30 (3) “Eligible project” has the meaning stated in § 6–801 of the Economic
31 Development Article.

1 (4) “New business entity” has the meaning stated in § 6–801 of the Economic
2 Development Article.

3 (5) “Qualified business entity” means a new business entity operating an
4 eligible project in a Tier I area, as defined under § 6–801 of the Economic Development
5 Article, **IF THE BUSINESS ENTITY RECEIVED A CERTIFICATE UNDER § 6–805 OF THE**
6 **ECONOMIC DEVELOPMENT ARTICLE BEFORE JUNE 1, 2022.**

7 (6) “Qualified position” has the meaning stated in § 6–801 of the Economic
8 Development Article.

9 (7) “Qualified property” means real property where an eligible project is
10 located.

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

15 SECTION 4. AND BE IT FURTHER ENACTED, That:

16 (a) Section 2 of this Act shall be applicable to all taxable years beginning after
17 December 31, 2021.

18 (b) Section 3 of this Act shall be applicable to all taxable years beginning after
19 June 30, 2022.

20 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
21 effect July 1, 2022.

22 SECTION ~~2~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in
23 Section 5 of this Act, this Act shall take effect ~~July~~ June 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.