

Chapter 489

(Senate Bill 873)

AN ACT concerning

Economic Development – Job Creation Tax Credit – Alteration

FOR the purpose of altering the definitions of “qualified position” and “State priority funding area” for purposes of the job creation tax credit program; altering a requirement related to the number of positions a person is required to create in order to be eligible for the tax credit; authorizing the Department of Commerce to require that certain information be verified by the Department of Labor, Licensing, and Regulation rather than by an independent auditor; requiring the Department of Commerce to certify the amount of the tax credit for which a qualified business entity is eligible; altering the calculation of the credits earned under the program; prohibiting the Department of Commerce from certifying tax credits in a taxable year in excess of a certain amount; altering the manner in which the tax credit shall be claimed; repealing an authorization allowing the Department of Commerce to require that certain information be verified by a certain independent auditor; altering the contents of a certain report that the Department of Commerce is required to submit; requiring the Maryland Insurance Commissioner to submit a certain report; making a conforming change; providing for the application of this Act; and generally relating to the job creation tax credit program.

BY repealing and reenacting, without amendments,

Article – Economic Development

Section 6–301(a)

Annotated Code of Maryland

(2008 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 6–301(d)(1) and (f), 6–303(b) and (e), 6–304, 6–305(c), 6–307, and 6–309

Annotated Code of Maryland

(2008 Volume and 2016 Supplement)

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

Article – Economic Development

6–301.

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

(d) (1) “Qualified position” means a position that:

- (i) is full-time and of indefinite duration;
 - (ii) pays at least ~~150%~~ **120%** of the [federal] **STATE** minimum wage;
 - (iii) is located in the State;
 - (iv) is newly created as a result of the establishment or expansion of a business facility in a single location in the State; and
 - (v) is filled.
- (f) “State priority funding area” means:
- (1) a municipal corporation;
 - (2) Baltimore City;
 - (3) a sustainable community, as defined in § 6–301 of the Housing and Community Development Article;
 - (4) an enterprise zone designated by the Secretary under § 5–704 of this article;
 - (5) an enterprise zone designated by the United States government under 42 U.S.C. §§ 11501 through 11505;
 - (6) those areas of the State located between Interstate Highway 495 and the District of Columbia;
 - (7) those areas of the State located between Interstate Highway 695 and Baltimore City;
 - (8) **[no more than one] ANY** area in a county designated by the county as a priority funding area under § 5–7B–03(c) of the State Finance and Procurement Article; and
 - (9) that portion of the Port Land Use Development Zone, as defined in § 6–501 of the Transportation Article, that has been designated as an area appropriate for growth in a county comprehensive master plan.

6–303.

(b) To be eligible for a tax credit under this subtitle, a person shall establish or expand a business facility in the State that:

(1) during any 24-month period creates at least:

(i) 60 qualified positions;

(ii) [30 qualified positions if the aggregate payroll for the qualified positions is greater than a threshold amount equal to the product of multiplying 60 times the State's average annual salary, as determined by the Department; or

(iii)] 25 qualified positions if the business facility established or expanded is located in a State priority funding area; **OR**

**(III) 10 QUALIFIED POSITIONS IN A COUNTY WITH ~~A POPULATION~~
~~UNDER 50,000~~:**

**1. AN ANNUAL AVERAGE EMPLOYMENT THAT IS LESS
THAN 75,000; OR**

**2. A MEDIAN HOUSEHOLD INCOME THAT IS LESS THAN
TWO-THIRDS OF THE STATEWIDE MEDIAN HOUSEHOLD INCOME; and**

(2) is primarily engaged in:

(i) manufacturing or mining;

(ii) transportation or communications;

(iii) agriculture, forestry, or fishing;

(iv) research, development, or testing;

(v) biotechnology;

(vi) computer programming, information technology, or other computer-related services;

(vii) central services for a business entity engaged in financial services, real estate services, or insurance services;

(viii) the operation of central administrative offices;

(ix) the operation of a company headquarters other than the headquarters of a professional sports organization;

(x) the operation of a public utility;

(xi) warehousing;

(xii) business services, if the business facility established or expanded is located in a State priority funding area; or

(xiii) entertainment, recreation, cultural, or tourism-related activities in a multi-use facility located within a revitalization area if the facility:

1. generates a minimum of 1,000 new full-time equivalent filled positions in a 24-month period; and

2. is not primarily used by a professional sports franchise or for gaming.

(e) The Department may require that any information provided under subsection (c) of this section be verified by [an independent auditor that the qualified business entity selects] **THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

6-304.

(a) (1) A qualified business entity may claim a tax credit in the amount determined under this section.

(2) **THE DEPARTMENT SHALL CERTIFY THE AMOUNT OF THE TAX CREDIT FOR WHICH A QUALIFIED BUSINESS ENTITY IS ELIGIBLE UNDER THIS SECTION.**

(3) **[A] THE** qualified business entity shall submit to the appropriate State units, with the tax return on which the credit is claimed, certification from the Department that the business entity has met the requirements of this subtitle and is eligible for the credit **IN THE AMOUNT CERTIFIED BY THE DEPARTMENT.**

(b) (1) Except as provided in this section, the credit earned under this section:

(i) for qualified employees working in a facility not located in a revitalization area, is ~~the lesser of:~~

~~1. \$1,000~~ **\$3,000** multiplied by the number of qualified employees employed by the qualified business entity during the credit year; and

~~2. 2.5% of the wages paid by the qualified business entity during the credit year to the qualified employees; and~~

(ii) for qualified employees working in a facility located in a revitalization area, is ~~the lesser of:~~

~~1. \$1,500~~ **\$5,000** multiplied by the number of qualified employees employed by the qualified business entity during the credit year; ~~and~~

~~2. 5% of the wages paid by the qualified business entity during the credit year to the qualified employees.~~

(2) The credit earned by a qualified business entity under this subtitle may not exceed \$1,000,000 for any credit year.

(3) THE TOTAL AMOUNT OF CREDITS CERTIFIED BY THE DEPARTMENT FOR QUALIFIED BUSINESS ENTITIES IN A TAXABLE YEAR MAY NOT EXCEED \$4,000,000.

(c) (1) [The credit earned under subsection (b) of this section shall be taken over a 2-year period, with one-half of the credit amount allowed each year beginning with the credit year.

(2) The same credit cannot be applied more than once against different taxes by the same taxpayer.

~~[(3)]~~ **(2)** If the credit allowed under this subtitle exceeds the total tax otherwise due from a qualified business entity in a taxable year, the qualified business entity may apply the excess as a credit for succeeding taxable years until the earlier of:

- (i) the full amount of the excess is used; or
- (ii) the expiration of the 5th taxable year from the credit year.

~~[(4)]~~ **(3)** The credit under this subtitle may not be carried back to a preceding taxable year.

6-305.

(c) ~~[(1)]~~ During the 3 taxable years after the credit year, a qualified business entity shall provide any information required by the Department in regulation to verify that the qualified business entity is not subject to subsection (a) or (b) of this section.

~~[(2)]~~ The Department may require that any information provided under this subsection be verified by an independent auditor that the qualified business entity selects.]

6-307.

(A) In accordance with § 2.5-109 of this article, the Department shall submit a report on:

(1) [the] EACH business [entities] ENTITY certified as eligible for job creation tax credits in the preceding [fiscal] TAXABLE year;

(2) WHETHER THE CREDITS FOR WHICH THE BUSINESS ENTITY WAS CERTIFIED RESULTED FROM THE ENTITY'S ESTABLISHMENT, EXPANSION, OR RELOCATION;

(3) WHETHER THE BUSINESS ENTITY HAD A PRESENCE IN THE STATE BEFORE CLAIMING THE CREDIT;

(4) THE TOTAL NUMBER OF EMPLOYEES OF THE BUSINESS ENTITY;
AND

(5) THE TOTAL NUMBER OF YEARS THAT THE BUSINESS ENTITY HAS BEEN IN BUSINESS.

(B) IN ACCORDANCE WITH § 2-110 OF THE INSURANCE ARTICLE, THE MARYLAND INSURANCE COMMISSIONER SHALL SUBMIT A REPORT ON:

(1) EACH INSURER CLAIMING THE CREDIT AGAINST THE INSURANCE PREMIUM TAX UNDER § 6-114 OF THE INSURANCE ARTICLE;

(2) THE TOTAL AMOUNT OF CREDITS CLAIMED BY INSURERS UNDER § 6-114 OF THE INSURANCE ARTICLE; AND

(3) THE NUMBER OF INSURERS CLAIMING THE CREDIT.

6-309.

(a) Subject to subsection (b) of this section, this subtitle and the tax credit authorized under it shall terminate on January 1, 2020.

(b) After termination of this subtitle:

(1) a business entity may be considered for eligibility for the tax credit authorized under this subtitle based on positions filled before termination of this subtitle, provided that the other requirements of the subtitle are satisfied; and

(2) tax credits earned [may be allowed ratably over a 2-year period,] may be carried forward[,] and are subject to recapture in accordance with § 6-305 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017, and shall be applicable to job creation tax credits certified after December 31, 2017.

Approved by the Governor, May 4, 2017.