

# SENATE BILL 391

C8

2lr0045  
CF HB 418

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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**

Introduced and read first time: January 24, 2022

Assigned to: Budget and Taxation

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 26, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of altering the circumstances under which and the period of time for which  
5 the Department of Commerce may provide a certain qualified business entity a  
6 certificate certifying that a certain eligible project is enrolled in the More Jobs for  
7 Marylanders Program; requiring the Comptroller to transfer, from the More Jobs for  
8 Marylanders Tax Credit Reserve Fund to the General Fund of the State, an amount  
9 equal to the credit amount stated in the final tax credit certificate issued to a  
10 qualified business entity, rather than the amount stated in the initial tax credit  
11 certificate; and generally relating to the More Jobs for Marylanders Program.

12 BY repealing and reenacting, without amendments,  
13 Article – Economic Development  
14 Section 6–801(a) through (e), (g), and (i) through (m), 6–803(a), (b)(1), and (c)(2), and  
15 6–804  
16 Annotated Code of Maryland  
17 (2018 Replacement Volume and 2021 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Economic Development  
20 Section 6–805  
21 Annotated Code of Maryland

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### 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.



1 (2018 Replacement Volume and 2021 Supplement)

2 BY repealing and reenacting, without amendments,  
 3 Article – Tax – General  
 4 Section 10–741(a) through (c)  
 5 Annotated Code of Maryland  
 6 (2016 Replacement Volume and 2021 Supplement)

7 BY repealing and reenacting, with amendments,  
 8 Article – Tax – General  
 9 Section 10–741(d)  
 10 Annotated Code of Maryland  
 11 (2016 Replacement Volume and 2021 Supplement)

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

14 **Article – Economic Development**

15 6–801.

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

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

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

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

25 (ii) located in an opportunity zone.

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

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

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

30 1. providing adult entertainment, as determined by the  
 31 Department;

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

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

5                                   (iii)   the following entities:

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

7                                   2.     a tanning salon; or

8                                   3.     a bail bondsman.

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

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

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

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

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

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

20                                   (i)    is full–time and of indefinite duration;

21                                   (ii)   1.     except as provided in item 2 of this item, for a position in  
22 a facility that is located in an opportunity zone, pays an average annual salary that exceeds  
23 \$50,000; or

24                                   2.     for a position in a facility of a business entity described  
25 under subsection (c)(1)(i) of this section, pays at least 120% of the State minimum wage;

26                                   (iii)  is located in a facility;

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

28                                   (v)   is filled.

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

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

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

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

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

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

11 (l) "Tier I area" means:

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

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

15 (3) an opportunity zone.

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

18 6-803.

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

21 (1) is in a Tier I area and the business entity intends to create at least five  
22 qualified positions at the project location; or

23 (2) is in a Tier II area and the business entity intends to create at least 10  
24 qualified positions at the project location.

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

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

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

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

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

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

8 6–804.

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

11 (b) On enrollment in the Program:

12 (1) a new business entity in a Tier I area is eligible for:

13 (i) a credit against the State income tax, established under §  
14 10–741(b) of the Tax – General Article;

15 (ii) a credit against the State property tax, established under §  
16 9–110 of the Tax – Property Article;

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

19 (iv) a waiver of fees charged by the State Department of Assessments  
20 and Taxation, established under § 1–203.1 of the Corporations and Associations Article;  
21 and

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

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

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

31 6–805.

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

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

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

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

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

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

14 **Article – Tax – General**

15 10-741.

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

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

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

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

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

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

26 (7) “Qualified business entity” has the meaning stated in § 6-801 of the  
27 Economic Development Article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (iii) 1. Except as otherwise provided in this subparagraph, for  
10 any fiscal year, the Department may not issue initial tax credit certificates for credit  
11 amounts in the aggregate totaling more than \$9,000,000 in a fiscal year.

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

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

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

24 1. maintain the current level of manufacturing activity in  
25 the State;

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

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

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

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



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

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

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

8   B.    the final certified credit amount for the qualified business  
9 entity.

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

14           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
15 1, 2022.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.