

ECONOMIC DEVELOPMENT ARTICLE

BRAC REVITALIZATION AND INCENTIVE ZONES.

NOTE: This Act shall take effect June 1, 2009, and shall be applicable to all BRAC Revitalization and Incentive Zones designated after October 1, 2008.

§ 5–1301. Terms Defined.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Area” means a geographic area within one or more political subdivisions within the State described by a closed perimeter boundary.
- (c) “BRAC Revitalization and Incentive Zone” means an area that:
 - (1) meets the requirements of § 5–1303 of this subtitle; and
 - (2) is designated as a BRAC Revitalization and Incentive Zone by the Secretary under § 5–1304 of this subtitle.
- (d) “Enterprise zone” has the meaning stated in § 5–701 of this title.
- (e) “Political subdivision” means any county or municipal corporation.
- (f) “Submission date” means the date the Secretary receives an application from a political subdivision for designation of a BRAC Revitalization and Incentive Zone.
- (g) “Tax increment financing bonds” means bonds issued by:
 - (1) a political subdivision under Title 12, Subtitle 2 of this article; or
 - (2) Baltimore City under Article II, § 62 of the Charter of Baltimore City.

§ 5–1302. Political Subdivision Designation Criteria; Application.

- (a) The following political subdivisions may apply to the Secretary to designate a BRAC Revitalization and Incentive Zone:
 - (1) a political subdivision for an area within that political subdivision;
 - (2) with the prior consent of the municipal corporation, a county on behalf of a municipal corporation for an area in the municipal corporation; or
 - (3) two or more political subdivisions jointly for an area astride their common boundaries.
- (b) The application shall:
 - (1) be in the form and manner and contain the information that the Secretary requires;
 - (2) contain sufficient information to allow the Secretary to determine if the proposed BRAC Revitalization and Incentive Zone meets the criteria in § 5–1303 of this subtitle;
 - (3) be submitted for a political subdivision by its chief elected officer, or if none, its governing body; and

(4) state whether the political subdivision has examined the feasibility of creating educational or training opportunities for employers and employees of business entities located or to be located in the proposed BRAC Revitalization and Incentive Zone.

(c) After the Secretary's receipt of an application for designation of an area as a BRAC Revitalization and Incentive Zone or expansion of an existing zone under § 5-1305 of this subtitle, the Secretary shall notify the members of the county delegation to the General Assembly for each county in which a zone is proposed to be located.

§ 5-1303. Requirements for Designation of a BRAC Revitalization and Incentive Zone.

(a) The Secretary may only designate an area as a BRAC Revitalization and Incentive Zone if the area:

(1) is located within a priority funding area as defined by Title 5, Subtitle 7B of the State Finance and Procurement Article;

(2) is served by a public or community water and sewer system or planned to be served by a public or community water and sewer system under the approved 10-year water and sewer plan;

(3) is designated for mixed use development that includes residential uses as part of the mix of land uses by the political subdivision; and

(4) has an average density of at least 3.5 units per acre, calculated in accordance with § 5-7B-03 of the State Finance and Procurement Article, in that part of the area designated by the political subdivision for residential use or development.

(b) An area shall receive priority consideration for designation as a BRAC Revitalization and Incentive Zone under this section if the area is within one-half mile of a present or planned:

(1) MARC station along the Penn, Camden, or Brunswick lines;

(2) Baltimore Metro Subway station;

(3) Baltimore MTA Light Rail station; or

(4) Metrorail system station in the State.

(c) An area may receive priority consideration for designation as a BRAC Revitalization and Incentive Zone under this section if the area is of strategic importance to the economic development interests of a county.

(d) The Secretary shall consider the following factors in determining whether to designate an area as a BRAC Revitalization and Incentive Zone:

(1) whether the area's designation as a BRAC Revitalization and Incentive Zone is consistent with the political subdivision's comprehensive plan;

(2) whether the area contains brownfields sites that are capable of redevelopment;

(3) whether the political subdivision has targeted the area for revitalization as provided for in the political subdivision's comprehensive plan or in another plan or ordinance;

(4) the relationship of the area to a BRAC installation or how the area is impacted by BRAC;

- (5) the availability, cost, and condition of business facilities;
- (6) the number and age of abandoned structures;
- (7) the number and age of substandard structures;
- (8) the income of residents relative to the State or regional median incomes, including the number of persons who receive public assistance or are unemployed;
- (9) the extent of unemployment and the ability to upgrade the social and economic conditions of the area;
- (10) the need for financing for small businesses to upgrade the social and economic conditions of the area;
- (11) any plans and financial commitments of local jurisdictions to undertake improvements in the proposed area;
- (12) a political subdivision's participation in revitalization activities including whether the area has been designated an enterprise zone;
- (13) the presence of a special taxing district, a historic district listed on the National Register of Historic Places, or a local historic district;
- (14) support from community or business organizations;
- (15) other revitalization projects undertaken in the proposed area;
- (16) a political subdivision's participation in workforce readiness programs;
- (17) a political subdivision's participation in the creation of affordable and workforce housing options for residents;
- (18) whether the political subdivision has acted to provide for the adequate protection and conservation of vital natural resource areas and agricultural areas within the political subdivision's comprehensive plan or in another local government plan or ordinance;
- (19) the presence of sensitive areas, as defined in § 1-101 of the Land Use Article;
- (20) a political subdivision's provision of a breadth of transportation options to improve accessibility and land use that supports transit ridership, walking, and bicycle use; and
- (21) the fiscal impact of the designation of the BRAC Revitalization and Incentive Zone on the State.

§ 5-1304. Designation of BRAC Revitalization and Incentive Zones.

(a) (1) Within 60 days after a submission date, the Secretary, after receiving a recommendation of the Smart Growth Subcabinet, may designate one or more BRAC Revitalization and Incentive Zones from among the areas described in the applications timely submitted.

(2) The designation of an area as a BRAC Revitalization and Incentive Zone is effective for 10 years, beginning on the date the first property in the BRAC Revitalization and Incentive Zone becomes a qualified property, as defined in § 2-222 of the Tax – Property Article.

(3) The Secretary may not designate more than six BRAC Revitalization and Incentive Zones in a calendar year.

(4) A county may not receive more than two BRAC Revitalization and Incentive Zones.

(5) The precise location and boundaries of a BRAC Revitalization and Incentive Zone may be determined only on application to and approval by the Secretary.

(b) The designation of the Secretary is final.

(c) At any time, a political subdivision may reapply to the Secretary to designate as a BRAC Revitalization and Incentive Zone an area that is not designated.

(d) (1) This subsection applies only to a political subdivision that is authorized under § 7–211.3 of the Tax – Property Article to enter into a payment in lieu of tax agreement with a private developer for federal enclave property.

(2) The Secretary may not designate a BRAC Revitalization and Incentive Zone in a county until, in the judgment of the Secretary, the political subdivision has entered into good faith negotiations for a payment in lieu of tax agreement with all private developers of federal enclave property.

§ 5–1305. Expansions of Existing BRAC Revitalization and Incentive Zones.

(a) (1) A political subdivision may apply to the Secretary to expand an existing BRAC Revitalization and Incentive Zone in the same manner as the political subdivision would apply to designate a new BRAC Revitalization and Incentive Zone.

(2) The Secretary may grant an expansion of a BRAC Revitalization and Incentive Zone into an area that meets the requirements of § 5–1303 of this subtitle.

(3) For purposes of § 5–1304(a) of this subtitle, an expansion of a BRAC Revitalization and Incentive Zone that does not exceed 50% of the existing geographic area of the BRAC Revitalization and Incentive Zone does not count towards the limit on the number of BRAC Revitalization and Incentive Zones that:

- (i) the Secretary may designate in a calendar year; or
- (ii) a county may receive.

(b) (1) The Secretary may grant an extraordinary expansion of a BRAC Revitalization and Incentive Zone in the State each calendar year for an area that:

- (i) meets the requirements of § 5–1303 of this subtitle; and
- (ii) in the determination of the Secretary, is of strategic importance to the economic development interests of the county in which the BRAC Revitalization and Incentive Zone is located.

(2) For purposes of § 5–1304(a) of this subtitle, an extraordinary expansion of a BRAC Revitalization and Incentive Zone does not count towards the limit on the number of BRAC Revitalization and Incentive Zones that:

- (i) the Secretary may designate in a calendar year; or
- (ii) a county may receive.

(3) The Secretary may not grant more than two extraordinary expansions in the State during a single calendar year.

§ 5–1306. Benefits for Political Subdivisions; Adoption of Regulations.

(a) Benefits are available to political subdivisions with BRAC Revitalization and Incentive Zones as provided in this section.

(b) (1) A political subdivision that receives designation of an area as a BRAC Revitalization and Incentive Zone may receive amounts as provided in § 2–222 of the Tax – Property Article.

(2) Amounts received by a political subdivision as provided in § 2–222 of the Tax – Property Article:

(i) shall be used to pay for infrastructure improvements in the BRAC Revitalization and Incentive Zone; and

(ii) may be used for the repayment of bonds, including tax increment financing bonds, issued by the political subdivision for infrastructure improvements in the BRAC Revitalization and Incentive Zone.

(c) Political subdivisions and business entities may receive priority consideration for financial assistance for projects or operations in a BRAC Revitalization and Incentive Zone from:

(1) programs in:

(i) the Department;

(ii) the Department of Housing and Community Development; or

(iii) the Department of Planning; or

(2) any other appropriate State programs.

(d) The benefits set forth in this section are available for 10 years after the date that the first property in the BRAC Revitalization and Incentive Zone becomes a qualified property, as defined in § 2–222 of the Tax – Property Article.

(e) The Department shall adopt regulations to carry out the provisions of this subtitle and to specify criteria and procedures for the application, approval, and monitoring the eligibility for the benefits under this subtitle.

§ 5–1307. Reporting Requirements.

(a) On or before October 15 of each year, a political subdivision with a BRAC Revitalization and Incentive Zone designation shall submit a report to the Department that assesses the effectiveness of the benefits provided to the BRAC Revitalization and Incentive Zone in attracting and retaining businesses within the BRAC Revitalization and Incentive Zone.

(b) On or before December 15 of each year, the Department shall:

(1) assess the effectiveness of the benefits provided to the BRAC Revitalization and Incentive Zones in attracting and retaining businesses within BRAC Revitalization and Incentive Zones; and

(2) submit to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly a report outlining the findings of the Department and any other information of value in determining the effectiveness of the benefits under this subtitle.

OTHER TAX CREDIT PROVISIONS

BRAC REVITALIZATION AND INCENTIVE ZONE.

TAX-PROPERTY ARTICLE.

§ 2-222. Payments to political subdivisions.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Base year” means the taxable year immediately before the taxable year in which property first becomes qualified property under this section.
- (3) (i) “Base year value” means the value of the property used to determine the assessment on which the property tax on real property was imposed for the base year.
- (ii) “Base year value” does not include any new real property that was first assessed in the base year.
- (4) “BRAC Revitalization and Incentive Zone” has the meaning stated in § 5–1301 of the Economic Development Article.
- (5) “BRAC Revitalization and Incentive Zone Tax Rate” means the property tax rate of the political subdivision where a BRAC Revitalization and Incentive Zone is located for the taxable year when the Secretary of Business and Economic Development first designates the area as a BRAC Revitalization and Incentive Zone.
- (6) “Eligible assessment” means the difference between the base year value and the actual value as determined by the Department for the applicable taxable year.
- (7) “Property tax increment” means the property tax attributable to the eligible assessment of qualified property.
- (8) “Qualified property” means real property that is:
- (i) located in a BRAC Revitalization and Incentive Zone that is designated under Title 5, Subtitle 13 of the Economic Development Article; and
- (ii) in one of the categories of commercial or residential property that the Department of Business and Economic Development has determined, in consultation with the Base Realignment and Closure Subcabinet and as provided in regulations adopted by the Department of Business and Economic Development, enhance the economic development of the BRAC Revitalization and Incentive Zone.
- (9) “Tax increment financing bonds” means bonds issued:
- (i) by a county or municipal corporation under Title 12, Subtitle 2 of the Economic Development Article; or
- (ii) by Baltimore City under Article II, § 62 of the Charter of Baltimore City.
- (b) (1) The amounts received by a political subdivision under this section may be used only for the purposes provided in § 5–1306 of the Economic Development Article.
- (2) Subject to subsections (c) and (f) of this section, for each fiscal year for a period of 10 consecutive fiscal years beginning in fiscal 2010, the State shall provide to each political subdivision in which a BRAC Revitalization and Incentive Zone has been established an amount equal to:

(i) the State property tax increment on the qualified properties in the BRAC Revitalization and Incentive Zone; and

(ii) one-half of the political subdivision's property tax increment on qualified properties, determined using the BRAC Revitalization and Incentive Zone Tax Rate for the political subdivision.

(c) (1) The total amount paid to all political subdivisions for any fiscal year under this section may not exceed the lesser of:

(i) the amount appropriated for the purpose of this section for that fiscal year in the State budget as approved by the General Assembly; or

(ii) \$5,000,000.

(2) If the total amount to be paid to all political subdivisions as determined under subsection (b)(2) of this section without regard to the limitation under paragraph (1) of this subsection exceeds the limitation under paragraph (1) of this subsection, each political subdivision shall receive an amount equal to the product of multiplying the amount determined for that political subdivision under subsection (b)(2) of this section times a fraction:

(i) the numerator of which is the limitation under paragraph (1) of this subsection; and

(ii) the denominator of which is the total amount to be paid to all subdivisions as determined under subsection (b)(2) of this section without regard to the limitation under paragraph (1) of this subsection.

(d) (1) After a BRAC Revitalization and Incentive Zone is designated by the Secretary of Business and Economic Development, on or before February 1 of each year, the appropriate governing body shall certify to the Department:

(i) any real property in the BRAC Revitalization and Incentive Zone that is qualified property for the next taxable year; and

(ii) the date that the real property became qualified property.

(2) (i) On or before March 1 of each year, the Department shall calculate the amount determined for each political subdivision under subsection (b)(2) of this section for the next fiscal year.

(ii) The Comptroller shall pay the amounts due the political subdivisions under this section quarterly.

(e) Any amount provided under this section does not limit or otherwise affect any authority of a political subdivision under any other provision of law to pledge any other assets or revenues towards the repayment of tax increment financing bonds.

(f) (1) This subsection applies only to a political subdivision that is authorized under § 7–211.3 of this article to enter into a payment in lieu of tax agreement with a private developer of federal enclave property.

(2) The State may not provide amounts under this section to a political subdivision until, in the judgment of the Secretary of Business and Economic Development, the local jurisdiction has entered into good-faith negotiations for a payment in lieu of tax agreement with all private developers of federal enclave property.

(g) The Department and the Department of Business and Economic Development jointly shall adopt regulations to carry out the provisions of this section and to specify criteria and procedures for application, approval, and monitoring the eligibility for the amounts under this section.

§ 7-211. Interest in government property.

NOTE: This Act shall be applicable to all taxable years beginning after June 30, 2008. Additionally, Subsections (a), (b), and (d) through (h) were intentionally deleted.

(c) (1) Except for an interest in federal enclave property as defined in § 7–211.3 of this subtitle, an interest of a person in any property of the federal government or the State is not subject to property tax, if the government that owns the property makes negotiated payments in lieu of tax payments.

(2) Land owned by the federal government that is the location for federal enclave property as defined in § 7–211.3 of this subtitle is not subject to property tax.

§ 7-211.3. Payment in lieu of tax agreement.

NOTE: This Act shall be applicable to all taxable years beginning after June 30, 2008.

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

(2) “Federal enclave property” means real property improvements or an interest in real property improvements:

(i) that are located within the defined boundaries of federally owned land where:

1. the federal jurisdiction would preclude taxation by the State; and
2. the federal government has waived its immunity from State property taxation by law or other form of consent;

(ii) that are either:

1. owned by a person other than the federal government; or
2. held by a person that is taxable under § 6–102(e) of this article; and

(iii) that are not otherwise exempt under this title or any other provision of law.

(iv) “Federal enclave property” does not include any property owned by the United States Department of Veterans Affairs that is leased to a person through an enhanced use lease.

(3) “Local jurisdiction” means a county and, where appropriate, a municipal corporation in which federal enclave property is located.

(4) “Private developer” means a person, other than the federal government or an agency thereof, that owns federal enclave property or holds an interest or privilege under § 6–102(e) of this article in federal enclave property.

(b) (1) Subject to the provisions of this section and on initiation by the local jurisdiction where the federal enclave property is located, the local jurisdiction and the State may jointly enter into a payment in lieu of tax agreement with a private developer for federal enclave property.

(2) An agreement authorized under paragraph (1) of this subsection is not effective until it is approved by the federal government.

(3) (i) A local jurisdiction shall initiate any discussions to negotiate a payment in lieu of tax agreement with a private developer of federal enclave property no later than 30 days after receiving written notice by the private developer or the federal government that a development has been proposed for the federal enclave property.

(ii) When any discussions to negotiate a payment in lieu of tax agreement have commenced, the Maryland Department of Transportation shall notify the Legislative Policy Committee within 30 days.

(4) Federal enclave property is not subject to property tax if a private developer enters into a payment in lieu of tax agreement with the State and the local jurisdiction where the federal enclave property is located.

(5) The parties to an agreement under this subsection and the federal government shall consider the total impact and benefits of the development of the federal enclave property on the State and on local jurisdictions, including but not limited to:

(i) the impact on local and regional transportation;

(ii) future economic development;

(iii) the financial resources of the local jurisdiction;

(iv) the environment;

(v) natural resource allocation;

(vi) infrastructure capacity;

(vii) employment;

(viii) disadvantaged business enterprises, minority business enterprises, and small business enterprises;

(ix) the availability and use of public services;

(x) in-kind contributions related to the development, including the services, facilities, personal and real property, traffic mitigation, rights-of-way, and other assets and benefits of the federal government or the private developer made available to and used by the public; and

(xi) any other matter impacted by the development of the federal enclave property.

(6) (i) An agreement under this subsection shall be approved and signed by the Maryland Department of Transportation, on behalf of the State, any party responsible for making a required payment or fulfilling any other provision of the agreement, and the governing body of the local jurisdiction where the federal enclave property is located.

(ii) The Maryland Department of Transportation shall seek consultation with any local jurisdiction impacted by the development of the federal enclave property.

(7) The private developer shall make a payment, if any, in lieu of property taxes to the county tax collector for the county where the federal enclave property is located in an amount and at a time determined by the agreement under this subsection.

(8) The payment required by an agreement under this subsection may not exceed the property tax that would otherwise be due to the State and local jurisdiction if the payment in lieu of tax agreement were not in effect.

(9) The payment received under paragraph (7) of this subsection shall be distributed by the tax collector in accordance with the agreement under this subsection to:

(i) a dedicated fund specifically designated in the agreement as a contribution to the cost of a specific public improvement associated with the development of the federal enclave property; or

(ii) the State, county, and, if applicable, municipal corporation where the federal enclave property is located in the ratio stated in the agreement.

(10) An agreement under this subsection may provide for abating or reducing property tax previously imposed on the federal enclave property.

(11) The Maryland Department of Transportation may adopt regulations to implement this section, in consultation with:

(i) the Department;

(ii) the Department of Business and Economic Development;

(iii) the Department of the Environment;

(iv) the Department of Housing and Community Development; and

(v) the Department of Planning.

§ 7-501. Local Property Tax Exemptions.

NOTE: This Act shall be applicable to all taxable years beginning after June 30, 2008.

(a) The governing body of Allegany County, Anne Arundel County, Montgomery County, or Washington County or the governing body of a municipal corporation in those counties may authorize, by law, an exemption from county or municipal corporation property tax for the property that is described in § 6-102(e) of this article.

(b) Except for an interest in federal enclave property as defined in § 7-211.3 of this title, in all counties except Worcester County, the governing body of the county or of a municipal corporation in those counties or the Mayor and City Council of Baltimore City may authorize, by law, an exemption from county or municipal corporation property tax for the property described in § 6-102(e) of this article and provide for a negotiated payment in lieu of the tax.

(c) Notwithstanding subsections (a) and (b) of this section, the assessment of any property exempted under subsections (a) and (b) shall be included in the assessable base of the county or municipal corporation to determine the amount of any State aid that is based on the assessable base of the county or municipal corporation.