

ENTERPRISE ZONES

Economic Development Article

§ 5–701. Definitions.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Area” means a geographic area in one or more political subdivisions in the State described by a closed perimeter boundary.
- (c) “Business entity” means a person that operates or conducts a trade or business.
- (d) “Enterprise zone” means an area:
 - (1) that meets the requirements of § 5–704(a) of this subtitle and is designated as an enterprise zone by the Secretary under § 5–704(b) of this subtitle;
 - (2) designated as an enterprise zone by the United States government under 42 U.S.C. §§ 11501 through 11505; or
 - (3) designated as an empowerment zone or enterprise community by the United States government under 26 U.S.C. §§ 1391 through 1397F.
- (e) “Focus area” means an area that meets the requirements of § 5–706 of this subtitle and is designated as a focus area by the Secretary under § 5–706 of this subtitle.
- (f) “Political subdivision” means a county or municipal corporation.
- (g) “Submission date” means April 15 or October 15.

§ 5–702. Enterprise Zone Property.

Subject to § 9–103 of the Tax – Property Article, a business entity that owns, operates, develops, constructs, or rehabilitates property intended for use primarily as single or multifamily residential property located in an enterprise zone may not benefit from an incentive or initiative under this subtitle.

§ 5–703. Application for Designation of Enterprise Zone.

- (a) The following political subdivisions may apply to the Secretary to designate an enterprise 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 by regulation;
 - (2) contain sufficient information to allow the Secretary to determine if the proposed enterprise zone meets the criteria in § 5–704 of this subtitle;

(3) be submitted for a political subdivision by its chief elected officer, or if none, its governing body;

(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 enterprise zone; and

(5) state the standards established by the political subdivision that a business entity shall meet before receiving the incentives and initiatives under § 5–707 of this subtitle.

§ 5–704. Requirements for Designation of Enterprise Zone.

(a) (1) The Secretary may only designate an area as an enterprise zone if the area:

(i) is in a priority funding area or meets an exception under Title 5, Subtitle 7B of the State Finance and Procurement Article; and

(ii) satisfies at least one of the requirements specified in paragraph (2) of this subsection.

(2) An area may be designated as an enterprise zone if:

(i) the average rate of unemployment in the area, or within a reasonable proximity to the area but in the same county, for the most recent 18–month period for which data are available is at least 150% of the greater of the average rate of unemployment in either the State or the United States during that period;

(ii) the population in the area, or within a reasonable proximity to the area but in the same county, qualifies the area as a low–income poverty area;

(iii) at least 70% of the families in the area, or within a reasonable proximity to the area but in the same county, have incomes that are less than 80% of the median family income in the political subdivision that contains the area; or

(iv) the population in the area, or within a reasonable proximity to the area but in the same county, decreased by 10% between the most recent two censuses, and the political subdivision can demonstrate to the Secretary’s satisfaction that:

1. chronic abandonment or demolition of property is occurring in the area; or
2. substantial property tax arrearages exist in the area.

(3) (i) In determining if an area meets the requirements of this subsection, the Secretary may consider the most recent census data provided by the United States Bureau of the Census or any other reliable data that is acceptable to the Secretary.

(ii) Before considering data other than the most recent census in making a determination under paragraph (2)(ii) of this subsection, the Secretary shall adopt regulations specifying alternative data that are satisfactory to the Secretary.

(4) The Secretary may establish by regulation any other requirements necessary and appropriate to carry out this subtitle.

(5) Before designating an enterprise zone, the Secretary shall consult with the appropriate advisors.

- (b) (1) Within 60 days after a submission date, the Secretary may designate one or more enterprise zones from among the areas described in the applications timely submitted.
- (2) The designation of an area as an enterprise zone is effective for 10 years.
- (3) The Secretary may not designate more than six enterprise zones in a calendar year.
- (4) A county may not receive more than two enterprise zones in a calendar year.
- (c) The designation of the Secretary is final.
- (d) At any time, a political subdivision may reapply to the Secretary to designate as an enterprise zone an area that is not designated.

§ 5–705. Expansion of Existing Enterprise Zone.

(a) (1) A political subdivision may apply to the Secretary to expand an existing enterprise zone in the same manner as the political subdivision would apply to designate a new enterprise zone.

(2) The Secretary may grant an expansion of an enterprise zone into an area that meets the requirements of § 5–704 of this subtitle.

(3) For purposes of § 5–704(b) of this subtitle, an expansion of an enterprise zone that does not exceed 50% of the existing geographic area of the enterprise zone does not count towards the limit on the number of enterprise zones that:

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

(b) (1) The Secretary may grant one extraordinary expansion of an enterprise zone in the State each calendar year for an area that:

- (i) meets the requirements of § 5–704 of this subtitle; and
- (ii) in the determination of the Secretary, has suffered a significant loss of economic base.

(2) For purposes of § 5–704(b) of this subtitle, an extraordinary expansion of an enterprise zone does not count towards the limit on the number of enterprise zones that:

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

§ 5–706. Focus Area Designation of Enterprise Zone.

(a) A political subdivision may request the Secretary to designate all or part of an enterprise zone as a focus area for the lesser of:

- (1) 5 years; or
- (2) the remainder of the 10–year term of the applicable enterprise zone.

(b) The request may be made on or before a submission date when the political subdivision applies for the designation of a new enterprise zone or after the Secretary has designated an enterprise zone.

(c) The Secretary may grant the request if the area is located in an enterprise zone and meets at least three of the following criteria:

(1) the average unemployment rate in the area, or within a reasonable proximity to the area but in the same county, for the most recent 18-month period for which data are available is at least 150% of the greater of the average rate of unemployment in either the State or the United States during that same period;

(2) the population in the area, or within a reasonable proximity to the area but in the same county, has an incidence of poverty that is at least 150% of the national average;

(3) the crime rate in the area, or within a reasonable proximity to the area but in the same county, is at least 150% of the crime rate in the political subdivision where the area is located;

(4) the percentage of substandard housing in the area, or within a reasonable proximity to the area but in the same county, is at least 200% of the percentage of housing units in the State that are substandard, according to data from the United States Bureau of the Census or other State or federal government data the Secretary considers appropriate; or

(5) at least 20% of the square footage of commercial property in the area, or within a reasonable proximity to the area but within the same county, is vacant, according to data from the United States Bureau of the Census or other State or federal government data the Secretary considers appropriate.

§ 5-707. Incentives and Initiatives.

(a) To the extent provided for in this section, a business entity is entitled to:

(1) the special property tax credit in § 9-103 of the Tax – Property Article;

(2) the income tax credits in § 10-702 of the Tax – General Article; and

(3) consideration for financial assistance from programs in Subtitle 1 of this title.

(b) A business entity that moves into or locates in an enterprise zone on or after the date that the enterprise zone is designated under § 5-704 of this subtitle may benefit from the incentives and initiatives in this section if:

(1) the business entity meets the requirements and conditions of the Code section applicable to each incentive or initiative;

(2) the respective political subdivision certifies that the business entity has complied with the standards that the subdivision submitted under § 5-703(b)(5) of this subtitle;

(3) the business entity creates new or additional jobs or makes a capital investment to qualify for the property tax credit under § 9-103 of the Tax – Property Article and the income tax credits under § 10-702 of the Tax – General Article; and

(4) in considering whether the business entity qualifies for financial assistance from the programs in Subtitle 1 of this title, the Secretary determines that the business entity will create new or additional jobs.

(c) The incentives and initiatives provided for in this section are not available to a business entity that:

(1) was in an enterprise zone before the date that the enterprise zone is designated, except for a capital investment or expansion of its labor force that occurs on or after the enterprise zone is designated; or

(2) is located in an enterprise zone that was designated under federal law unless the Secretary and the Board of Public Works consent to the designation.

(d) (1) Except as provided in § 10–702 of the Tax – General Article and § 9–103 of the Tax – Property Article, the incentives and initiatives set forth in this section are available for 10 years after the date that an area is designated an enterprise zone.

(2) A law enacted after the enactment of this section that eliminates or reduces the benefits available to a business entity under this section does not apply to a business entity that was in an enterprise zone before the effective date of the law.

(e) (1) (i) Notwithstanding subsection (d) of this section, except for a business entity certified to receive a property tax credit under § 9–103 of the Tax – Property Article for a tax year beginning before July 1, 2008, a business entity located in an enterprise zone may not receive the incentives and initiatives set forth in subsection (a)(1) and (2) of this section if the entity is located on land or within improvements owned by the federal government, the State, a county, or a municipal corporation unless the business entity has first utilized all applicable property tax exemptions under Title 7 of the Tax – Property Article, including entering into any available payment in lieu of tax agreement.

(ii) Subparagraph (i) of this paragraph does not apply to a business entity leasing land or improvements owned by the Maryland Economic Development Corporation.

(2) Notwithstanding subsection (d) of this section, a business entity located in a BRAC Revitalization and Incentive Zone established under Subtitle 13 of this title may not receive the property tax credit under § 9–103 of the Tax – Property Article unless:

(i) the business entity qualified for the property tax credit before the date that the BRAC Revitalization and Incentive Zone is designated; or

(ii) the political subdivision where the business entity is located expressly grants the property tax credit to the business entity.

§ 5–708. Federal Law Effect on Enterprise Zone.

(a) An area that is designated an enterprise zone, empowerment zone, or enterprise community under federal law shall automatically be designated as an enterprise zone notwithstanding the limit on the number of enterprise zones that the Secretary may designate under § 5–704(b) of this subtitle.

(b) An application by a political subdivision and the designation by the Secretary of an area as an enterprise zone constitutes the State approval that may be required to designate an area as an enterprise zone under federal law.

NOTE: This Act shall take effect July 1, 2001, and shall be applicable to all taxable years beginning after December 31, 2000.

§ 5–709. Effectiveness of Tax Credits; Annual Report.

(a) The Department and the Comptroller jointly shall assess each year the effectiveness of the tax credits provided to business entities in enterprise zones and focus areas in enterprise zones, including:

(1) the number and amounts of credits granted each year; and

(2) the success of the tax credits in attracting and retaining business entities in enterprise zones and focus areas.

(b) On or before December 15 of each year, the Department and the Comptroller shall 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 the Comptroller and any other information of value in determining the effectiveness of the tax credits provided under § 5-707(b) of this subtitle.

**ENTERPRISE ZONE INCENTIVES
TAX-GENERAL ARTICLE**

§ 10-702. Enterprise Zone Income Tax Credit.

NOTE: This Act shall take effect July 1, 2001, and shall be applicable to all taxable years beginning after December 31, 2000.

- (a) (1) In this section the following words have the meanings indicated.
- (2) (i) "Business entity" means:
1. a person conducting or operating a trade or business; or
 2. an organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code.
- (ii) "Business entity" does not include a person owning, operating, developing, constructing, or rehabilitating property intended for use primarily as single or multifamily residential property located within the enterprise zone.
- (3) "Enterprise zone" has the meaning stated in § 5-701 of the Economic Development Article.
- (4) "Qualified employee" means an individual who:
- (i) is a new employee or an employee rehired after being laid off for more than one year by a business entity;
 - (ii) is employed by a business entity at least 35 hours each week for at least 6 months before or during the taxable year for which the entity claims a credit;
 - (iii) spends at least 50% of the hours under item (ii) of this paragraph, either in the enterprise zone or on activities of the business entity resulting directly from its location in the enterprise zone;
 - (iv) earns at least 150% of the federal minimum wage; and
 - (v) is hired by the business entity after the later of:
 1. the date on which the enterprise zone is designated; or
 2. the date on which the business entity locates in the enterprise zone.
- (5) "Economically disadvantaged individual" means an individual who is certified by provisions that the Department of Labor, Licensing, and Regulation adopts as an individual who, before becoming employed by a business entity in an enterprise zone:

(i) was both unemployed for at least 30 consecutive days and qualified to participate in training activities for the economically disadvantaged under Title II, Part B of the federal Workforce Investment Act or its successor; or

(ii) in the absence of an applicable federal act, met the criteria for an economically disadvantaged individual that the Secretary of Labor, Licensing, and Regulation sets.

(6) "Focus area" has the meaning stated in § 5–701 of the Economic Development Article.

(7) "Focus area employee" means an individual who:

(i) is a new employee or an employee rehired after being laid off for more than 1 year by a business entity;

(ii) is employed by a business entity at least 35 hours each week for at least 12 months before or during the taxable year for which the entity claims a credit;

(iii) spends at least 50 percent of the hours under item (ii) of this paragraph either in the focus area or on activities of the business entity resulting directly from its location in the focus area;

(iv) is hired by the business entity after the later of:

1. the date on which the focus area is designated; or
2. the date on which the business entity located in the focus area; and

(v) earns at least 150 percent of the federal minimum wage.

(b) (1) Any business entity that is located in an enterprise zone and satisfies the requirements of § 5–707 of the Economic Development Article may claim a credit only against the State income tax for the wages specified in subsections (c) and (d) of this section that are paid in the taxable year for which the entity claims the credit.

(2) A business entity that is located in a focus area and satisfies the requirements of § 5–707 of the Economic Development Article may claim a credit only against the State income tax for the wages specified in subsection (e) of this section that are paid to a focus area employee in the taxable year for which the entity claims the credit.

(3) An organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code may apply the credit under this section as a credit against income tax due on unrelated business taxable income as provided under §§ 10-304 and 10-812 of this title.

(c) If a business entity does not claim an enhanced tax credit under subsection (e) of this section for a focus area employee, for the taxable year in which a business entity satisfies the requirements of § 5–707 of the Economic Development Article, a credit is allowed that equals:

(1) up to \$3,000 of the wages paid to each qualified employee who:

(i) is an economically disadvantaged individual; and

(ii) is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years; and

(2) up to \$1,000 of the wages paid to each qualified employee who:

(i) is not an economically disadvantaged individual; and

(ii) is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years.

(d) (1) If a business entity does not claim an enhanced tax credit under subsection (e) of this section for a focus area employee, for each taxable year after the taxable year described in subsection (c) of this section, while the area is designated an enterprise zone, a credit is allowed that equals:

(i) up to \$3,000 of the wages paid to each qualified employee who:

1. is an economically disadvantaged individual;

2. became a qualified employee during the taxable year to which the credit applies; and

3. is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years;

(ii) up to \$2,000 of the wages paid to each qualified employee who is an economically disadvantaged individual, if the business entity received a credit under subsection (c)(1) of this section for the qualified employee in the immediately preceding taxable year; and

(iii) up to \$1,000 of the wages paid to each qualified employee who is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years if the qualified employee:

1. is an economically disadvantaged individual for whom the business entity received a credit under subsection (c)(1) of this section or item (i) of this paragraph and a credit under item (ii) of this paragraph in the 2 immediately preceding taxable years; or

2. is not an economically disadvantaged individual but became a qualified employee during the taxable year to which the credit applies.

(2) A business entity that hires a qualified employee to replace another qualified employee for whom the business entity received a credit under subsection (c)(1) of this section and paragraph (1)(ii) of this subsection in the immediately preceding taxable year may treat the new qualified employee as the replacement for the other qualified employee to determine any credit that may be available to the business entity under paragraph (1)(ii) or (iii) of this subsection.

(e) (1) For the taxable year in which a business entity satisfies the requirements of §§ 5–706 and 5–707 of the Economic Development Article, a credit is allowed that equals:

(i) up to \$4,500 of the wages paid to each focus area employee who:

1. is an economically disadvantaged individual; and

2. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years; and

(ii) up to \$1,500 of the wages paid to each focus area employee who:

1. is not an economically disadvantaged individual; and

2. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years.

(2) For each taxable year after the taxable year described in paragraph (1) of this subsection, while the area is designated a focus area, a credit is allowed that equals:

(i) up to \$4,500 of the wages paid to each focus area employee who:

1. is an economically disadvantaged individual;
2. became a focus area employee during the taxable year to which the credit applies; and
3. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years;

(ii) up to \$3,000 of the wages paid to each focus area employee who is an economically disadvantaged individual, if the business entity received a credit under paragraph (1)(i) of this subsection for the focus area employee in the immediately preceding taxable year; and

(iii) up to \$1,500 of the wages paid to each focus area employee who is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years if the focus area employee:

1. is an economically disadvantaged individual for whom the business entity received a credit under item (ii) of this paragraph in the 2 immediately preceding taxable years and under:

- A. paragraph (1)(i) of this subsection; or
- B. item (i) of this paragraph; or

2. is not an economically disadvantaged individual but became a focus area employee during the taxable year to which the credit applies.

(3) A business entity that hires a focus area employee to replace another focus area employee for whom the business entity received a credit under paragraph (1)(i) of this subsection and paragraph (2)(ii) of this subsection in the immediately preceding taxable year may treat the focus area employee as the replacement for the other focus area employee to determine any credit that may be available to the business entity under paragraph (2)(ii) or (iii) of this subsection.

(f) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, a business entity may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

(1) the full amount of the excess is used; or

(2) the expiration of the 5th taxable year from the date on which the business entity hired the qualified employee to whom the credit first applies.

(g) If a credit is claimed under this section, the claimant must make the addition required in § 10-205, § 10-206, or § 10-306 of this title.

TAX-PROPERTY ARTICLE.
Enterprise Zone Property Tax Credit

§ 9-103. Enterprise Zone Property Tax Credit.

NOTE: Section 9-103(a)(5) shall be applicable to all taxable years beginning after June 30, 2008. Additionally, subparagraph (b)(2) shall be applicable to all taxable years beginning after June 30, 2010.

(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 a property tax credit under this section is to be granted.

(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) (i) "Business entity" means a person who operates or conducts a trade or business.

(ii) "Business entity" includes a person who owns, operates, develops, constructs, or rehabilitates real property, if the real property:

1. is intended for use primarily as single or multifamily residential property located in the enterprise zone; and

2. is partially devoted to a nonresidential use.

(5) (i) "Eligible assessment" means the difference between the base year value and the actual value as determined by the Department for the applicable taxable year in which the tax credit under this section is to be granted.

(ii) For a business entity that is located on land or within improvements owned by the federal, State, county, or municipal government, "eligible assessment" means the difference between the base year value and the actual value reduced by the value of any property entitled to an exemption under Title 7 of this article as determined by the Department for the applicable taxable year in which the tax credit under this section is to be granted.

(6) (i) "Qualified property" means real property that is:

1. not used for residential purposes;

2. used in a trade or business by a business entity that meets the requirements of § 5-707 of the Economic Development Article; and

3. located in an enterprise zone that is designated under Title 5, Subtitle 7 of the Economic Development Article.

(ii) "Qualified property" includes personal property on real property that is located in a focus area as defined in § 5-701 of the Economic Development Article.

(b) (1) The governing body of a county or of a municipal corporation shall grant a tax credit under this section against the property tax imposed on the eligible assessment of qualified property.

(2) In Montgomery County the lessor of real property eligible for a credit under this section shall reduce the amount of taxes for which a tenant is contractually liable under the lease agreement by the amount of any credit allowed under this section that is attributable to improvements made by the tenant.

(c) Unless the county in which a municipal corporation is located agrees to the designation of an enterprise zone in the municipal corporation, qualified property in the municipal corporation may not receive a tax credit against county property tax.

(d) (1) The appropriate governing body shall calculate the amount of the tax credit under this section equal to a percentage of the amount of property tax imposed on the eligible assessment of the qualified property, as follows:

(i) 80% in each of the 1st 5 taxable years following the calendar year in which the property initially becomes a qualified property;

(ii) 70% in the 6th taxable year;

(iii) 60% in the 7th taxable year;

(iv) 50% in the 8th taxable year;

(v) 40% in the 9th taxable year; and

(vi) 30% in the 10th taxable year.

(2) The Department shall allocate the eligible assessment to the nonresidential part of the qualified property at the same percentage as the square footage of the nonresidential part is to the total square footage of the building.

(3) For purposes of calculating the amount of the credit allowed under this section, the amount of property tax imposed on the eligible assessment shall be calculated without reduction for any credits allowed under this title.

(4) For qualified property located in a focus area, the appropriate governing body shall calculate the amount of the tax credit under this section equal to 80% of the amount of property tax imposed on the eligible assessment of the qualified property for each of the 10 taxable years following the calendar year in which the property initially becomes a qualified property.

(e) (1) A tax credit under this section is available to a qualified property for no more than 10 consecutive years beginning with the taxable year following the calendar year in which the real property initially becomes a qualified property.

(2) Even if the designation of an enterprise zone expires, the tax credit under this section continues to be available to a qualified property.

(3) Notwithstanding § 5-707(d) of the Economic Development Article but subject to § 5-707(b) and (c) of the Economic Development Article, a business entity operating in an enterprise zone when the designation of the enterprise zone expires may claim the credits allowed under this section for real property that:

(i) the business owns, operates, develops, constructs, or rehabilitates within 5 years after the date the designation of the enterprise zone expired; and

(ii) otherwise qualifies for the credits allowed under this section.

(4) State property tax imposed on real property is not affected by this section.

(f) When an enterprise zone is designated by the Secretary of the Department of Business and Economic Development, the appropriate governing body shall certify to the Department of Assessments and Taxation:

(1) the real properties in the enterprise zone that are qualified properties for each taxable year for which the property tax credit under this section is to be granted; and

(2) the date that the real properties became qualified properties.

(g) Before property tax bills are sent, the Department of Assessments and Taxation shall submit to the appropriate governing body a list of:

(1) each qualified property;

(2) the amount of the base year value for each qualified property; and

(3) the amount of the eligible assessment for each qualified property.

(h) As provided in the State budget, the State shall remit to each county or municipal corporation an amount equal to one-half of the funds that would have been collected if the property tax credit under this section had not been granted.

(i) (1) Quarterly or more frequently, the county or municipal corporation shall submit a request to the Department of Assessments and Taxation for the amount required by subsection (h) of this section.

(2) Within 5 working days after the Department of Assessments and Taxation receives the request from the county or municipal corporation, the Department shall certify to the Comptroller the reimbursement due to each county or municipal corporation.

(3) Within 5 working days after the Comptroller receives the certification from the Department, the Comptroller shall reimburse each county or municipal corporation.