

SENATE BILL 966

Q3, C8

8lr2991

By: **Senators Ferguson and Rosapepe**

Introduced and read first time: February 5, 2018

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2018

CHAPTER _____

1 AN ACT concerning

2 **RISE Zones – Expansion and Income Tax Credit**

3 FOR the purpose of ~~repealing~~ altering a limitation on the number of Regional Institution
4 Strategic Enterprise zones that may be approved in a county or municipal
5 corporation; ~~repealing the prohibition on designation of a RISE zone by the Secretary~~
6 ~~of Commerce in a certain development district~~; providing that a business entity in a
7 RISE zone is eligible for a certain tax credit; authorizing certain business entities to
8 apply for certain tax credit certificates; requiring the Secretary ~~of Commerce~~, in
9 consultation with the Maryland Technology Development Corporation, to approve
10 certain applications for certain tax credit certificates in a certain manner; providing
11 that the amount of each tax credit certificate may not exceed a certain amount;
12 providing that the Secretary may not issue tax credit certificates that in the
13 aggregate exceed a certain amount; prohibiting a business entity from receiving a
14 tax credit certificate if the business entity has received a certificate within a certain
15 period of time; authorizing the holder of a certain tax credit certificate to claim a
16 credit against the State income tax in a certain amount; providing for the
17 carryforward of unused amounts of the credit; authorizing a business entity receiving
18 a certain tax credit certificate to transfer all or a portion of the credit; requiring the
19 Secretary to issue certain replacement tax credit certificates reflecting a certain
20 transfer; authorizing the Secretary to charge a fee for issuing certain replacement
21 tax credit certificates; specifying the manner in which a pass-through entity may
22 claim a credit; requiring the Comptroller to adopt certain regulations; defining
23 certain terms; providing for the application of this Act; and generally relating to an
24 income tax credit for business entities in RISE zones.

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 BY repealing and reenacting, without amendments,
2 Article – Economic Development
3 Section 5–1401 and 5–1402
4 Annotated Code of Maryland
5 (2008 Volume and 2017 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Economic Development
8 Section 5–1404(f) and (h) and 5–1406
9 Annotated Code of Maryland
10 (2008 Volume and 2017 Supplement)

11 BY adding to
12 Article – Tax – General
13 Section 10–746
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2017 Supplement)

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

18 Article – Economic Development

19 5–1401.

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

21 (b) “Area” means a geographic area in one or more political subdivisions in the
22 State described by a closed perimeter boundary.

23 (c) “Nonprofit organization” means an organization that is exempt or eligible for
24 exemption from taxation under § 501(c)(3) of the Internal Revenue Code.

25 (d) “Qualified institution” means an entity that is designated as a qualified
26 institution under § 5–1403 of this subtitle and may include:

27 (1) a regional higher education center as defined under § 10–101 of the
28 Education Article;

29 (2) an institution of higher education as defined under § 10–101 of the
30 Education Article; or

31 (3) a nonprofit organization that is affiliated with a federal agency.

32 (e) “RISE zone” means a geographic area in immediate proximity to a qualified
33 institution that is targeted for increased economic and community development that meets

1 the requirements of § 5–1404 of this subtitle and is designated as a Regional Institution
2 Strategic Enterprise zone by the Secretary under § 5–1404 of this subtitle.

3 5–1402.

4 The purpose of the Regional Institution Strategic Enterprise Zone Program is to
5 access institutional assets that have a strong and demonstrated history of commitment to
6 economic development and revitalization in the communities in which they are located.

7 5–1404.

8 (f) (1) ~~[(i)]~~ Subject to ~~[(subparagraph (ii) of this paragraph)]~~ ~~PARAGRAPH~~
9 ~~(2) OF THIS SUBSECTION~~, the designation of an area as a RISE zone is effective for 5
10 years.

11 ~~[(ii)]~~ ~~(2)~~ Upon a joint application of a qualified institution, a county
12 and, if applicable, a municipal corporation, or the economic development agency of a county
13 or municipal corporation, the Secretary may renew a RISE zone for an additional 5 years.

14 ~~[(2)]~~ The Secretary may not approve more than ~~three~~ SIX RISE zones in a
15 single county or municipal corporation.

16 (h) The Secretary may not designate a RISE zone in:

17 (1) a development district established under Title 12, Subtitle 2 of this
18 article; or

19 (2) a special taxing district established under Title 21 of the Local
20 Government Article or Section 62A of the Baltimore City Charter.

21 5–1406.

22 (a) (1) To the extent provided for in this section, a business entity that locates
23 in a RISE zone is entitled to:

24 (i) the property tax credit under § 9–103.1 of the Tax – Property
25 Article;

26 (ii) the income tax credit under § 10–702 of the Tax – General
27 Article; [and]

28 (iii) **THE INCOME TAX CREDIT UNDER § 10–746 OF THE**
29 **TAX – GENERAL ARTICLE; AND**

30 (IV) priority consideration for financial assistance from programs in
31 Subtitle 1 of this title.

1 (2) For purposes of the income tax credit authorized under paragraph (1)(ii)
 2 **OR (III)** of this subsection, the business entity is treated as being located in an enterprise
 3 zone.

4 (b) A business entity that moves into or locates in a RISE zone on or after the
 5 date that the zone is designated under this subtitle may qualify for the incentives under
 6 this section.

7 (c) A business entity may not qualify for the incentives under subsection (a) of
 8 this section unless the Department, in consultation with the county or municipal
 9 corporation in which a RISE zone is located, certifies the business entity and its location as
 10 consistent with the target strategy of the RISE zone.

11 (d) (1) Unless a business entity makes a significant capital investment or
 12 expansion of its labor force after a RISE zone is designated, the incentives under this
 13 section are not available to a business entity that was in a RISE zone before the date that
 14 the zone is designated.

15 (2) The Department shall adopt regulations establishing factors to
 16 determine if a business entity makes a significant capital investment or expansion of its
 17 labor force under paragraph (1) of this subsection.

18 **Article – Tax – General**

19 **10-746.**

20 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
 21 **INDICATED.**

22 (2) **“BUSINESS ENTITY” MEANS A TECHNOLOGY OR**
 23 **INNOVATION-RELATED BUSINESS WITH ITS PRINCIPAL PLACE OF BUSINESS**
 24 **LOCATED IN A RISE ZONE.**

25 (3) **“PASS-THROUGH ENTITY” MEANS:**

26 (I) **AN S CORPORATION;**

27 (II) **A PARTNERSHIP;**

28 (III) **A LIMITED LIABILITY COMPANY THAT IS NOT TAXED AS A**
 29 **CORPORATION UNDER THIS TITLE; OR**

30 (IV) **A BUSINESS TRUST OR A STATUTORY TRUST THAT IS NOT**
 31 **TAXED AS A CORPORATION UNDER THIS TITLE.**

1 (4) “QUALIFIED INSTITUTION” HAS THE MEANING STATED IN
2 § 5-1401 OF THE ECONOMIC DEVELOPMENT ARTICLE.

3 (5) “RISE ZONE” HAS THE MEANING STATED UNDER § 5-1401 OF THE
4 ECONOMIC DEVELOPMENT ARTICLE.

5 (6) “SECRETARY” MEANS THE SECRETARY OF COMMERCE OR THE
6 SECRETARY’S DESIGNEE.

7 (B) (1) A BUSINESS ENTITY MAY APPLY TO THE SECRETARY FOR A TAX
8 CREDIT CERTIFICATE IF THE GROSS REVENUE OF THE BUSINESS ENTITY HAS
9 INCREASED OVER THE PRECEDING TAXABLE YEAR.

10 (2) A BUSINESS ENTITY IS NOT REQUIRED TO WORK WITH OR
11 DEVELOP THE INTELLECTUAL PROPERTY OF A QUALIFIED INSTITUTION TO BE
12 ELIGIBLE TO RECEIVE A TAX CREDIT CERTIFICATE UNDER THIS SECTION.

13 (3) SUBJECT TO PARAGRAPHS (4), (5), AND (6) OF THIS SUBSECTION,
14 THE SECRETARY, IN CONSULTATION WITH THE MARYLAND TECHNOLOGY
15 DEVELOPMENT CORPORATION, SHALL APPROVE ALL APPLICATIONS THAT QUALIFY
16 FOR A TAX CREDIT CERTIFICATE UNDER PARAGRAPH (1) OF THIS SUBSECTION ON A
17 FIRST-COME, FIRST-SERVED BASIS.

18 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
19 TAX CREDIT CERTIFICATE ISSUED TO A BUSINESS ENTITY SHALL BE IN AN AMOUNT
20 EQUAL TO 50% OF THE INCREASE IN THE BUSINESS ENTITY’S GROSS REVENUE OVER
21 THE PRECEDING TAXABLE YEAR THAT IS ATTRIBUTABLE TO ACTIVITY IN THE RISE
22 ZONE.

23 (II) A TAX CREDIT CERTIFICATE MAY NOT BE ISSUED IN AN
24 AMOUNT EXCEEDING ~~\$100,000~~ \$50,000.

25 (5) FOR EACH TAXABLE YEAR, THE SECRETARY MAY NOT ISSUE TAX
26 CREDIT CERTIFICATES THAT IN THE AGGREGATE EXCEED ~~\$10,000,000~~ \$3,000,000.

27 (6) THE SECRETARY MAY NOT ISSUE A TAX CREDIT CERTIFICATE TO
28 A BUSINESS ENTITY THAT HAS RECEIVED A TAX CREDIT CERTIFICATE UNDER THIS
29 SECTION FOR 1 OF THE 3 PRECEDING TAXABLE YEARS.

30 (C) (1) FOR ANY TAXABLE YEAR, THE HOLDER OF A TAX CREDIT
31 CERTIFICATE ISSUED UNDER THIS SECTION MAY CLAIM A CREDIT AGAINST THE
32 STATE INCOME TAX IN AN AMOUNT NOT EXCEEDING THE HOLDER’S STATE INCOME
33 TAX LIABILITY.

1 **(2) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY**
2 **TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE**
3 **HOLDER OF THE TAX CREDIT CERTIFICATE MAY APPLY THE EXCESS AS A CREDIT**
4 **AGAINST THE STATE INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE**
5 **EARLIER OF:**

6 **(I) THE FULL AMOUNT OF THE EXCESS IS USED; OR**

7 **(II) THE EXPIRATION OF THE 3RD TAXABLE YEAR FROM THE**
8 **DATE THAT THE TAX CREDIT CERTIFICATE WAS ISSUED.**

9 **(D) (1) A BUSINESS ENTITY THAT IS ISSUED A TAX CREDIT CERTIFICATE**
10 **UNDER THIS SECTION MAY TRANSFER ALL OR A PORTION OF THE TAX CREDIT**
11 **AUTHORIZED UNDER THE CERTIFICATE TO ANOTHER TAXPAYER.**

12 **(2) IF A PORTION OF THE TAX CREDIT CERTIFICATE IS TRANSFERRED,**
13 **THE BUSINESS ENTITY SHALL:**

14 **(I) SURRENDER THE ORIGINAL TAX CREDIT CERTIFICATE; AND**

15 **(II) REQUEST THAT THE SECRETARY ISSUE REPLACEMENT TAX**
16 **CREDIT CERTIFICATES THAT REFLECT THE TRANSFERRED AND RETAINED CREDIT**
17 **AMOUNTS.**

18 **(3) THE SECRETARY:**

19 **(I) SHALL ISSUE REPLACEMENT TAX CREDIT CERTIFICATES**
20 **THAT REFLECT THE AMOUNT OF THE CREDIT TRANSFERRED AND THE AMOUNT OF**
21 **THE CREDIT RETAINED; AND**

22 **(II) MAY CHARGE AN ADMINISTRATIVE FEE FOR ISSUING**
23 **REPLACEMENT TAX CREDIT CERTIFICATES.**

24 **(E) IF A TAX CREDIT CERTIFICATE HOLDER IS A PASS-THROUGH ENTITY,**
25 **THE SUM OF ALL CREDITS CLAIMED BY MEMBERS OF THE PASS-THROUGH ENTITY IN**
26 **A TAXABLE YEAR MAY NOT EXCEED THE LESSER OF:**

27 **(1) THE AMOUNT SPECIFIED IN THE TAX CREDIT CERTIFICATE; OR**

28 **(2) ANY REMAINING EXCESS CREDIT ALLOWED UNDER SUBSECTION**
29 **(C) OF THIS SECTION.**

30 **(F) THE COMPTROLLER, IN CONSULTATION WITH THE SECRETARY, SHALL**
31 **ADOPT REGULATIONS TO ADMINISTER THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2018, and shall be applicable to all taxable years beginning after December 31, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.