## **HOUSE BILL 282**

C8 7lr1705

HB 584/16 – W&M

By: Delegate Lafferty

Introduced and read first time: January 23, 2017

Assigned to: Ways and Means

## A BILL ENTITLED

1 AN ACT concerning

2

## Economic Development - One Maryland Tax Credit - Expansion

3 FOR the purpose of expanding the eligibility requirements for the One Maryland Economic Development Tax Credit to include certain qualified businesses that establish or 4 5 expand a certain business facility that is located in a certain qualified distressed 6 political subdivision; expanding the eligibility requirements for the credit by 7 altering, under certain circumstances, the number of qualified positions that must 8 be created and the eligible activities in which a person may engage at a new or 9 expanded business facility; altering the minimum eligible project cost for a qualified economic development project for which a qualified business entity may claim a 10 11 certain project tax credit under certain circumstances; authorizing, under certain 12 circumstances, qualified businesses located in certain qualified distressed political 13 subdivisions to claim certain credits on a prorated basis; defining a certain term; 14 providing for the application of this Act; and generally relating to the One Maryland 15 Economic Development Tax Credit.

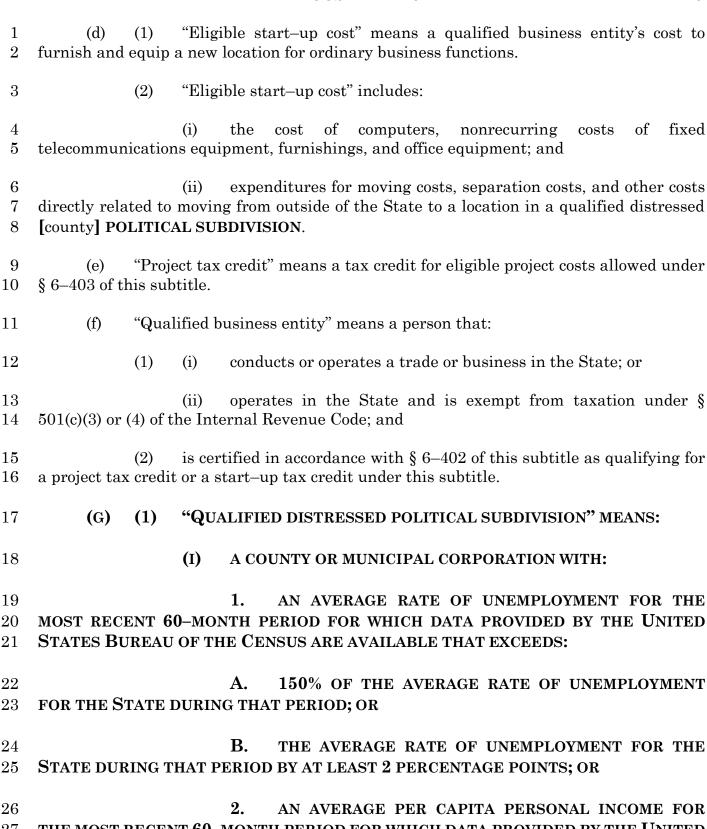
- 16 BY repealing and reenacting, with amendments,
- 17 Article Economic Development
- 18 Section 6–401, 6–402(b), 6–403(a), (e), and (f), 6–404, and 6–405
- 19 Annotated Code of Maryland
- 20 (2008 Volume and 2016 Supplement)
- 21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 22 That the Laws of Maryland read as follows:
- 23 Article Economic Development
- 24 6–401.
- 25 (a) In this subtitle the following words have the meanings indicated.



29

and

- "Eligible economic development project" means an economic development 1 2 project that: 3 (1) establishes or expands a business facility within a qualified distressed [county] POLITICAL SUBDIVISION; and 4 5 is approved for a project tax credit or a start—up tax credit in accordance with this subtitle. 6 "Eligible project cost" means the cost and expense a qualified business 7 (c) (1)entity incurs to acquire, construct, rehabilitate, install, or equip an eligible economic 8 9 development project. 10 "Eligible project cost" includes: (2)the cost of: 11 (i) 12 obligations for labor and payments made to contractors, 13 subcontractors, builders, and suppliers; 14 acquiring land, rights in land, and costs incidental to acquiring land or rights in land; 15 16 3. contract bonds and insurance needed during the acquisition, construction, or installation of the project; 17 18 test borings, surveys, estimates, plans, specifications, 4. preliminary investigations, environmental mitigation, supervision of construction, and 19 20 other architectural and engineering services; 21performing duties required by or consequent to the 5. 22acquisition, construction, and installation of the project; 23installing water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar utilities; and 2425bond insurance, letters of credit, or other forms of credit 7. 26 enhancement or liquidity facilities; 27 the interest cost before and during the acquisition, construction, installation, and equipping of the project, and for up to 2 years after project completion; 28
- 30 (iii) legal, accounting, financial, printing, recording, filing, and other 31 fees and expenses incurred to finance the project.



THE MOST RECENT **60**-MONTH PERIOD FOR WHICH DATA PROVIDED BY THE UNITED STATES BUREAU OF THE CENSUS ARE AVAILABLE THAT IS EQUAL TO OR LESS THAN **67%** OF THE AVERAGE PER CAPITA PERSONAL INCOME FOR THE STATE DURING THAT PERIOD; OR

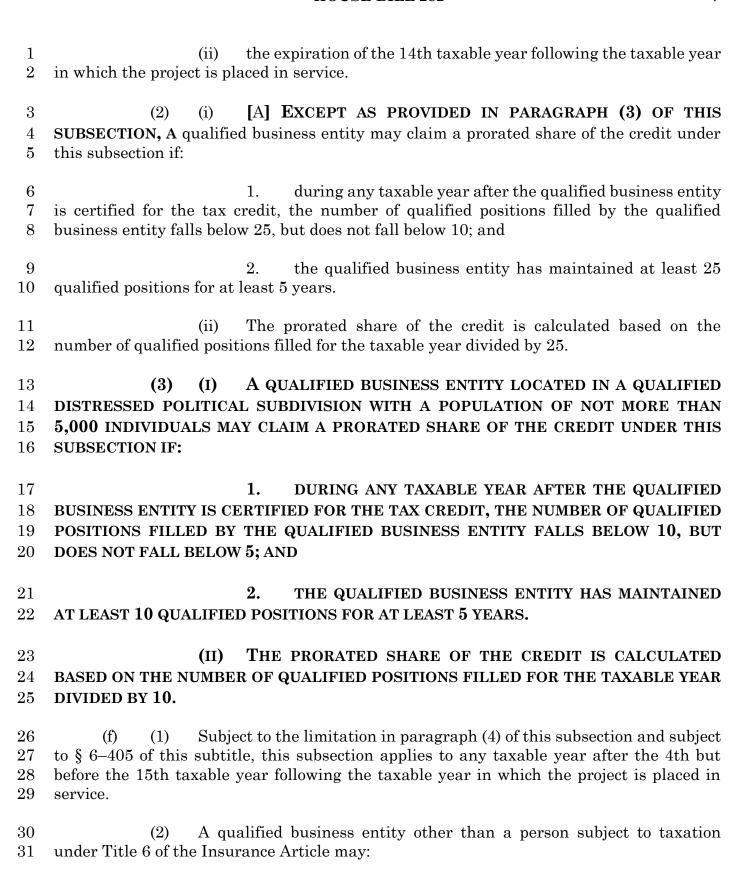
6-402.

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- A COUNTY IN WHICH AT LEAST 55% OF THE MUNICIPAL 1 (II)2 CORPORATIONS LOCATED IN THAT COUNTY MEET THE QUALIFICATIONS UNDER 3 ITEM (I)1 OR 2 OF THIS PARAGRAPH. "QUALIFIED DISTRESSED POLITICAL SUBDIVISION" INCLUDES A 4 **(2)** COUNTY OR MUNICIPAL CORPORATION THAT NO LONGER MEETS EITHER CRITERION 5 6 STATED IN PARAGRAPH (1) OF THIS SUBSECTION BUT HAS MET AT LEAST ONE OF THE CRITERIA AT SOME TIME DURING THE PRECEDING 24-MONTH PERIOD. 7 [(g)] (H) 8 "Qualified position" means a position that: (1) 9 (i) is a full–time position and is of indefinite duration; 10 pays at least 150% of the federal minimum wage; (ii) is in a qualified distressed [county] POLITICAL SUBDIVISION; 11 (iii) is newly created because a business facility begins or expands in 12 (iv) one location in a qualified distressed [county] POLITICAL SUBDIVISION; and 13 is filled. 14 (v) 15 (2)"Qualified position" does not include a position that is: 16 created when an employment function is shifted from an existing business facility of a business entity in the State to another business facility of the same 17 business entity if the position is not a net new job in the State; 18 19 (ii) created through a change in ownership of a trade or business; 20 created through a consolidation, merger, or restructuring of a (iii) 21business entity if the position is not a net new job in the State; 22 created when an employment function is contractually shifted from an existing business entity in the State to another business entity if the position is 2324not a net new job in the State; or 25 filled for a period of less than 12 months. 26 [(h)] (I) "Start-up tax credit" means a tax credit for eligible start-up costs allowed under § 6-404 of this subtitle. 27
- 29 (b) To be eligible for a project tax credit or a start—up tax credit, a person shall:

1	(1)	establish or expand a business facility that:							
1	(1) e	stablish	or expan	id a bu	siness facili	ity that:			
2 3	(i SUBDIVISION; and	) is	located	in a	qualified	distressed	[county]	POLITICAL	
4 5	(i the State Finance an	i) 1. d Procu			_	funding ar	ea under §	§ 5–7B–02 of	
6 7	under § 5–7B–05 or §	2. § 5–7B–		_	_			funding area	
8	(2) d	uring a	ny 24-mo	onth pe	eriod[,]:				
9 10	least 25 qualified pos	•				` ,		CM, create at	
11 12 13 14	(II) FOR A FACILITY LOCATED IN A QUALIFIED DISTRESSED POLITICAL SUBDIVISION WITH A POPULATION OF NOT MORE THAN 5,000 INDIVIDUALS, CREATE AT LEAST 10 QUALIFIED POSITIONS AT THE NEW OR EXPANDED FACILITY; and								
15 16	(3) be primarily engaged at the new or expanded business facility in any combination of:								
17	(i	) ma	anufactur	ring or	mining;				
18	(i	i) tra	ansportat	ion or	communica	tions;			
19	(i	ii) fil	mmaking	, resor	t business,	or recreation	nal busines	38;	
20	(i	v) ag	riculture	, forest	ry, or fishir	ng;			
21	(1	v) re	search, de	evelopi	ment, or tes	ting;			
22	(1	vi) bio	otechnolo	gy;					
23 24	computer–related se		_		_	nformation	technolog	y, or other	
25 26	(viii) central services for a business entity engaged in financial services, real estate services, or insurance services;								
27	(i	x) th	e operatio	on of ce	entral admi	nistrative of	fices;		
28 29	(x headquarters of a pro		_		<del>-</del>	ny headqua	rters othe	er than the	

1	(xi) the operation of a public utility;
2	(xii) warehousing; [or]
3	(xiii) other business services;
4 5 6	(XIV) RETAIL, EXCLUDING ADULT ENTERTAINMENT VENUES, PAWNSHOPS, FAST FOOD RESTAURANTS, GAS STATIONS, OR BUSINESSES WHOSE PRIMARY PURPOSE IS THE SALE OF ALCOHOL;
7 8	(XV) THE ARTS, INCLUDING GALLERIES, MUSEUMS, OR ART PRODUCTION STUDIOS; OR
9	(XVI) THE ACTIVITIES OF A NONPROFIT ORGANIZATION.
10	6–403.
11 12 13 14	(a) (1) A qualified business entity may claim a project tax credit for the cost of an eligible economic development project in a qualified distressed [county] POLITICAL SUBDIVISION if the total eligible project cost for the eligible economic development project is:
15 16	(I) FOR A QUALIFIED DISTRESSED POLITICAL SUBDIVISION WITH A POPULATION OF NOT MORE THAN 5,000 INDIVIDUALS, AT LEAST \$250,000;
17 18	(II) FOR A QUALIFIED DISTRESSED POLITICAL SUBDIVISION WITH A POPULATION OF $5,001$ TO $10,000$ INDIVIDUALS, AT LEAST $\$350,000$ ; OR
19 20	(III) FOR A QUALIFIED DISTRESSED POLITICAL SUBDIVISION WITH A POPULATION OF MORE THAN 10,000 INDIVIDUALS, at least \$500,000.
21 22 23	(2) A qualified business entity is not entitled to a project tax credit for a cost incurred before notifying the Department of its intent to seek certification as qualifying for the project tax credit.
24 25 26 27 28 29 30	(e) (1) Subject to [paragraph (2)] PARAGRAPHS (2) AND (3) of this subsection, if the eligible project cost for the eligible economic development project exceeds the State tax on the qualified business entity's income generated by or arising out of the project for the taxable year in which the project is placed in service, the qualified business entity may apply any excess as a project tax credit for succeeding taxable years against the State tax on the qualified business entity's income generated by or arising out of the project until the earlier of:
31	(i) the full amount of the excess is used; or



32 (i) apply any excess of eligible project costs for the eligible economic 33 development project over the cumulative amount used as a project tax credit for the taxable

- year and all prior taxable years as a tax credit against the State tax for the taxable year on the qualified business entity's income other than income generated by or arising out of the
- 3 project; and
- 4 (ii) claim a refund in the amount, if any, by which the unused excess 5 exceeds the State tax for the taxable year on the qualified business entity's income other
- 6 than income generated by or arising out of the project.
- 7 (3) A qualified business entity that is subject to taxation under Title 6 of 8 the Insurance Article may:
- 9 (i) apply any excess of eligible project costs for the eligible economic 10 development project over the cumulative amount used as a project tax credit for the taxable
- 11 year and all prior taxable years as a tax credit against the premium tax imposed for the
- 12 taxable year; and
- 13 (ii) claim a refund in the amount, if any, by which the unused excess 14 exceeds the premium tax for the taxable year.
- 15 (4) For any taxable year, the total amount used as a project tax credit and claimed as a refund under this subsection may not exceed the amount of tax that the qualified business entity is required to withhold for the taxable year from the wages of qualified employees under § 10–908 of the Tax General Article.
- 19 (5) (i) [A] EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS 20 SUBSECTION, A qualified business entity may claim a prorated share of the credit under 21 this subsection if:
- 1. during any taxable year after the qualified business entity is certified for the tax credit, the number of qualified positions filled by the qualified business entity falls below 25, but does not fall below 10; and
- 25 2. the qualified business entity has maintained at least 25 qualified positions for at least 5 years.
- 27 (ii) The prorated share of the credit is calculated based on the 28 number of qualified positions filled for the taxable year divided by 25.
- 29 (6) (I) A QUALIFIED BUSINESS ENTITY LOCATED IN A QUALIFIED 30 DISTRESSED POLITICAL SUBDIVISION WITH A POPULATION OF NOT MORE THAN 31 5,000 INDIVIDUALS MAY CLAIM A PRORATED SHARE OF THE CREDIT UNDER THIS 32 SUBSECTION IF:
- 1. DURING ANY TAXABLE YEAR AFTER THE QUALIFIED BUSINESS ENTITY IS CERTIFIED FOR THE TAX CREDIT, THE NUMBER OF QUALIFIED

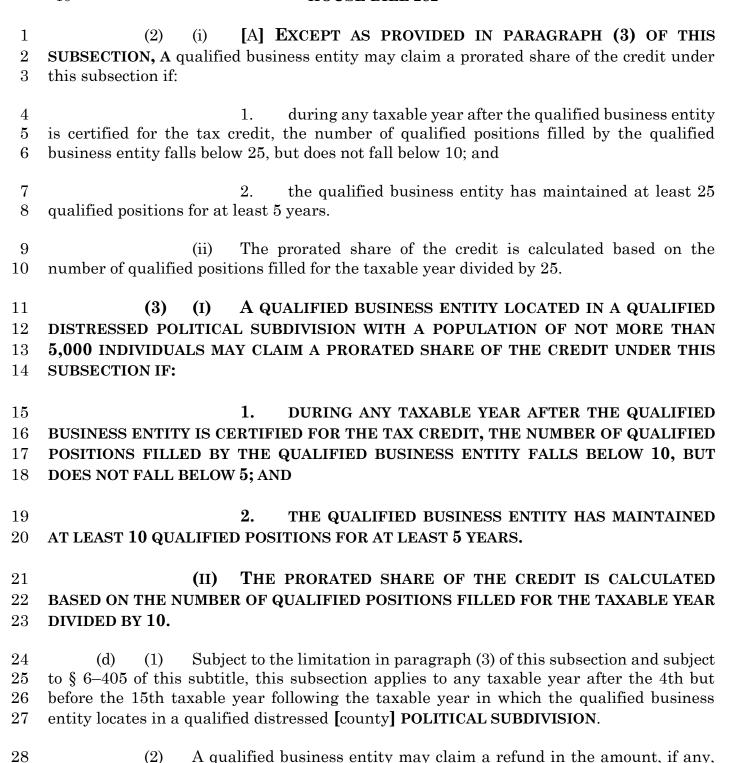
1 POSITIONS FILLED BY THE QUALIFIED BUSINESS ENTITY FALLS BELOW 10, BUT 2 DOES NOT FALL BELOW 5; AND 3 2. THE QUALIFIED BUSINESS ENTITY HAS MAINTAINED 4 AT LEAST 10 QUALIFIED POSITIONS FOR AT LEAST 5 YEARS. 5 THE PRORATED SHARE OF THE CREDIT IS CALCULATED (II)6 BASED ON THE NUMBER OF QUALIFIED POSITIONS FILLED FOR THE TAXABLE YEAR 7 DIVIDED BY 10. 6-404.8 9 (a) (1) A qualified business entity that locates in a qualified distressed 10 [county] POLITICAL SUBDIVISION may claim a start-up tax credit in the amount provided 11 in subsection (b) of this section. 12 A qualified business entity is not entitled to a start-up tax credit for a cost incurred before notifying the Department of its intent to seek certification as qualifying 13 14 for the start-up tax credit. 15 The start-up tax credit allowed under this section for each taxable year equals (b) 16 the least of: 17 the qualified business entity's total eligible start-up cost associated (1)18 with establishing or expanding a business facility in the qualified distressed [county] **POLITICAL SUBDIVISION**, less the amount of the credit previously taken for the project: 19 20 the product of multiplying \$10,000 times the number of qualified 21employees employed at the new or expanded business facility; or 22(3) \$500,000. 23 Subject to [paragraph (2)] PARAGRAPHS (2) AND (3) of this subsection, if the start-up tax credit allowed under subsection (b) of this section for the 2425taxable year in which a qualified business entity locates in a qualified distressed [county] POLITICAL SUBDIVISION exceeds the total tax otherwise due from the qualified business 26 27 entity for that taxable year, the qualified business entity may apply the excess as a credit for succeeding taxable years until the earlier of: 28 29 the full amount of the excess is used; or (i) 30 (ii) the expiration of the 14th taxable year following the taxable year

in which the qualified business entity locates in a qualified distressed [county] POLITICAL

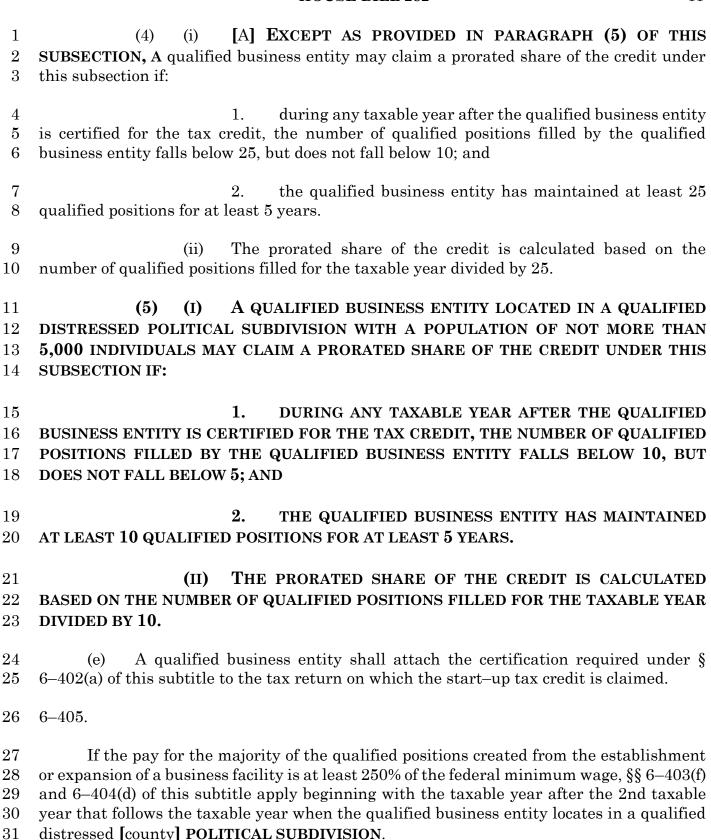
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SUBDIVISION.



- 28 (2) A qualified business entity may claim a refund in the amount, if any, 29 by which the qualified business entity's eligible start—up cost exceeds the cumulative 30 amount used as a start—up tax credit for the taxable year and all prior taxable years.
- 31 (3) For any taxable year, the total amount claimed as a refund under this 32 subsection may not exceed the amount of tax that the qualified business entity is required 33 to withhold for the taxable year from the wages of qualified employees under § 10–908 of 34 the Tax General Article.



SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017, and shall be applicable to all taxable years beginning after December 31, 2016.