

SENATE BILL 663

C8

9lr0088

By: **Senators Edwards, Eckardt, and Serafini**

Introduced and read first time: February 4, 2019

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Commerce, Housing, and Community Development – Opportunity Zones**

3 FOR the purpose of authorizing the Department of Commerce to provide financial
4 assistance to certain projects in certain opportunity zones under certain
5 circumstances; authorizing the Department of Housing and Community
6 Development to provide financial assistance to certain business and revitalization
7 projects in certain opportunity zones under certain circumstances; authorizing the
8 availability of certain tax credits in certain opportunity zones under certain
9 circumstances; requiring the approval of a municipal corporation or a political
10 subdivision for a certain proposed project affecting an opportunity zone under certain
11 circumstances; authorizing certain growth-related projects without the approval of
12 the Board of Public Works under certain circumstances; altering and defining certain
13 terms; making stylistic changes; and generally relating to opportunity zones and the
14 Department of Commerce and the Department of Housing and Community
15 Development.

16 BY repealing and reenacting, with amendments,
17 Article – Economic Development
18 Section 4-704(a), 5-704(a)(1), 5-1303(a)(1), 6-301(f), and 6-402(b)(1)
19 Annotated Code of Maryland
20 (2018 Replacement Volume)

21 BY repealing and reenacting, with amendments,
22 Article – Housing and Community Development
23 Section 4-223(a), 4-508(g)(1), 6-201, 6-206(b), 6-301, 6-303(b), 6-304(b), and
24 6-305(b)
25 Annotated Code of Maryland
26 (2006 Volume and 2018 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article – Housing and Community Development

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 4–508(a) and 6–305(a)
 2 Annotated Code of Maryland
 3 (2006 Volume and 2018 Supplement)

4 BY repealing and reenacting, without amendments,
 5 Article – State Finance and Procurement
 6 Section 5–7B–01(c)(1)(iii)
 7 Annotated Code of Maryland
 8 (2015 Replacement Volume and 2018 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – State Finance and Procurement
 11 Section 5–7B–06 and 7–314(o)
 12 Annotated Code of Maryland
 13 (2015 Replacement Volume and 2018 Supplement)

14 BY repealing and reenacting, with amendments,
 15 Article – Tax – Property
 16 Section 9–230(b)(4)
 17 Annotated Code of Maryland
 18 (2012 Replacement Volume and 2018 Supplement)

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

21 **Article – Economic Development**

22 4–704.

23 (a) The Secretary may designate an area as an arts and entertainment district
 24 only if the area is a contiguous geographic area that is wholly within:

25 **(1)** a priority funding area as provided under § 5–7B–02 of the State
 26 Finance and Procurement Article; **OR**

27 **(2) A QUALIFIED OPPORTUNITY ZONE DESIGNATED UNDER 26 U.S.C.**
 28 **§ 1400Z–1.**

29 5–704.

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

32 (i) is in a priority funding area **OR A QUALIFIED OPPORTUNITY**
 33 **ZONE UNDER 26 U.S.C. § 1400Z–1** or meets an exception under Title 5, Subtitle 7B of
 34 the State Finance and Procurement Article; and

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

3 5–1303.

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

6 (1) is located within a priority funding area as defined by Title 5, Subtitle
7 7B of the State Finance and Procurement Article **OR A QUALIFIED OPPORTUNITY ZONE**
8 **DESIGNATED UNDER 26 U.S.C. § 1400Z–1;**

9 6–301.

10 (f) “State priority funding area” means:

11 (1) a municipal corporation;

12 (2) Baltimore City;

13 (3) a sustainable community, as defined in § 6–301 of the Housing and
14 Community Development Article;

15 (4) an enterprise zone designated by the Secretary under § 5–704 of this
16 article;

17 (5) an enterprise zone designated by the United States government under
18 42 U.S.C. §§ 11501 through 11505;

19 (6) those areas of the State located between Interstate Highway 495 and
20 the District of Columbia;

21 (7) those areas of the State located between Interstate Highway 695 and
22 Baltimore City;

23 (8) any area in a county designated by the county as a priority funding area
24 under § 5–7B–03(c) of the State Finance and Procurement Article; **[and]**

25 (9) that portion of the Port Land Use Development Zone, as defined in §
26 6–501 of the Transportation Article, that has been designated as an area appropriate for
27 growth in a county comprehensive master plan; **AND**

28 **(10) A QUALIFIED OPPORTUNITY ZONE DESIGNATED UNDER 26 U.S.C.**
29 **§ 1400Z–1.**

1 6-402.

2 (b) To be eligible for a project tax credit, a person shall:

3 (1) establish or expand a business facility that:

4 (i) is located in a Tier I county; and

5 (ii) 1. **A.** is located in a priority funding area under §
6 5-7B-02 of the State Finance and Procurement Article; or

7 **[2.] B.** is eligible for funding outside of a priority funding
8 area under § 5-7B-05 or § 5-7B-06 of the State Finance and Procurement Article; **OR**

9 **2. IS LOCATED IN A QUALIFIED OPPORTUNITY ZONE**
10 **DESIGNATED UNDER 26 U.S.C. § 1400Z-1;**

11 **Article – Housing and Community Development**

12 4-223.

13 (a) A project qualifies as a business project if the project is:

14 (1) located in:

15 **(I)** an area designated as a priority funding area under § 5-7B-02
16 of the State Finance and Procurement Article; **OR**

17 **(II) A QUALIFIED OPPORTUNITY ZONE DESIGNATED UNDER 26**
18 **U.S.C. § 1400Z-1; and**

19 (2) (i) acquired, owned, developed, constructed, reconstructed,
20 rehabilitated, or improved by a person or an entity for the purposes of carrying on a
21 business whether or not for profit; or

22 (ii) eligible for funding from the Neighborhood Business
23 Development Fund under § 6-310 of this article.

24 4-508.

25 (a) In this section, “Fund” means the Strategic Demolition and Smart Growth
26 Impact Fund.

27 (g) (1) The Fund may be used only to provide grants and loans to government
28 agencies and community development organizations for interior and exterior demolition,
29 land assembly, architecture and engineering, and site development for revitalization

1 projects in an area designated as:

2 (I) a Sustainable Community; OR

3 (II) A QUALIFIED OPPORTUNITY ZONE DESIGNATED UNDER 26
4 U.S.C. § 1400Z-1.

5 6-201.

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

7 (b) “Application” means an application to the Secretary that includes a request
8 to:

9 (1) designate an area as a sustainable community;

10 (2) approve a sustainable community plan; or

11 (3) approve a community legacy project.

12 (c) “Community development financial institution” has the meaning stated in 12
13 U.S.C. § 4702.

14 (d) “Community development organization” means an entity that meets the
15 qualifications of § 6-203 of this subtitle.

16 (e) “Community legacy agreement” means an agreement between the
17 Department and a sponsor to develop a sustainable community plan or to implement one
18 or more community legacy projects in a designated sustainable community OR AN
19 OPPORTUNITY ZONE.

20 (f) “Community legacy project” includes [projects] A PROJECT IN A
21 SUSTAINABLE COMMUNITY OR AN OPPORTUNITY ZONE to:

22 (1) create, improve, or preserve housing opportunities by acquiring,
23 constructing, rehabilitating, or improving new or existing residential properties;

24 (2) demolish buildings or improvements strategically to enhance the use of
25 land;

26 (3) create, improve, or preserve commercial or mixed-use development,
27 including an appropriate combination of properties related to business, housing,
28 open-space, and institutional uses;

29 (4) develop public infrastructure that is incidental to the implementation
30 of a community legacy project, such as streets, parking, public utilities, landscaping,

1 lighting, and improvements to pedestrian and bicycle circulation;

2 (5) encourage and develop cooperative ownership or control of open space;

3 (6) develop or create strategies designed to increase investment in existing
4 communities, including outreach activities to attract business, capital, residents, and
5 visitors and the development and maintenance of resources directly related to the
6 development of a sustainable community plan or the implementation of a community legacy
7 project;

8 (7) engage in landbanking or otherwise acquire or improve vacant
9 buildings or unimproved land;

10 (8) provide financial assistance for neighborhood intervention projects; or

11 (9) develop other plans or implement other projects as the Department
12 considers necessary to further the purposes of this subtitle.

13 (g) “Financial assistance” includes:

14 (1) a grant;

15 (2) a loan;

16 (3) a reduction in the principal obligation of or rate of interest payable on
17 a loan or portion of a loan;

18 (4) a prepayment of interest on a subordinate or superior loan or portion of
19 a loan;

20 (5) an assurance;

21 (6) a guarantee; or

22 (7) any other form of credit enhancement.

23 (h) “Landbanking” means acquiring or holding improved and unimproved
24 property:

25 (1) in anticipation of future development of the property; or

26 (2) to keep the future use of the property and improvements affordable.

27 **(I) “OPPORTUNITY ZONE” MEANS AN AREA DESIGNATED AS A QUALIFIED**
28 **OPPORTUNITY ZONE UNDER 26 U.S.C. § 1400Z-1.**

29 **[(i)] (J)** “Priority funding area” means an area designated as a priority funding

1 area under § 5–7B–02 of the State Finance and Procurement Article.

2 [(j)] (K) “Program” means the Community Legacy Program established by this
3 subtitle.

4 [(k)] (L) “Smart Growth Subcabinet” means the subcabinet established under §
5 9–1406 of the State Government Article.

6 [(l)] (M) “Sustainable community” means the part of a priority funding area
7 that:

8 (1) as determined by the Smart Growth Subcabinet, satisfies the
9 requirements of § 6–205 of this subtitle;

10 (2) has been designated as a BRAC Revitalization and Incentive Zone
11 under Title 5, Subtitle 13 of the Economic Development Article; or

12 (3) has been designated a transit-oriented development under § 7–101 of
13 the Transportation Article.

14 [(m)] (N) “Sustainable community plan” means a plan consisting of one or more
15 community legacy projects or other revitalization projects to prevent or reverse the decline
16 of or disinvestment in a sustainable community through improvements in residential,
17 commercial, or other public or private properties.

18 6–206.

19 (b) (1) The Department shall provide written notice to the political subdivision
20 in which the proposed project is located.

21 (2) Except as provided in paragraph (5) of this subsection, the Department
22 may not approve an application unless the political subdivision in which the proposed
23 project is located approves the application by:

24 (i) resolution; or

25 (ii) letter, delivered to the Department by the political subdivision’s
26 authorized designee, expressing support for the plan or project.

27 (3) If an application affects a sustainable community **OR AN**
28 **OPPORTUNITY ZONE** entirely within a municipal corporation, the approval must come
29 from the municipal corporation rather than the surrounding county.

30 (4) If an application affects a sustainable community **OR AN**
31 **OPPORTUNITY ZONE** within more than one political subdivision, each political subdivision
32 must approve it by:

1 (i) resolution; or

2 (ii) letter, delivered to the Department by the political subdivision's
3 authorized designee, expressing support for the plan or project.

4 (5) If the Department does not receive notice of approval or denial of an
5 application from the affected jurisdictions within 45 days after notice of the proposed
6 project is given in accordance with paragraph (1) of this subsection, the Department may
7 approve the application.

8 6–301.

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

10 (b) (1) “Development costs” means the costs incurred to develop, redevelop, or
11 expand a neighborhood business development project.

12 (2) “Development costs” includes the costs of:

13 (i) necessary studies, surveys, plans, and specifications;

14 (ii) architectural, engineering, or other special services, including
15 flood plain studies, environmental audits, and critical area or wetland assessments;

16 (iii) land and improvements;

17 (iv) site preparation;

18 (v) construction, reconstruction, and rehabilitation;

19 (vi) machinery, equipment, and furnishings;

20 (vii) essential operating costs, including working capital and
21 occupancy expenses;

22 (viii) indemnity and surety bonds and premiums on insurance;

23 (ix) temporary relocation expenses; and

24 (x) other costs determined to be acceptable by the Department.

25 (c) “Food desert” means the part of a priority funding area **OR AN OPPORTUNITY**
26 **ZONE** designated by the Secretary under § 6–308(c) of this subtitle.

27 (d) “Fund” means the Neighborhood Business Development Fund.

1 (e) “Microenterprise” means a business that qualifies as a microenterprise under
2 § 6–302 of this subtitle.

3 (F) **“OPPORTUNITY ZONE” MEANS AN AREA DESIGNATED AS A QUALIFIED**
4 **OPPORTUNITY ZONE UNDER 26 U.S.C. § 1400Z–1.**

5 [(f)] (G) “Priority funding area” means an area designated as a priority funding
6 area under § 5–7B–02 of the State Finance and Procurement Article.

7 [(g)] (H) “Program” means the Neighborhood Business Development Program.

8 [(h)] (I) (1) “Project” means a neighborhood business development project
9 that receives financial assistance from the Fund.

10 (2) “Project” includes a microenterprise project that receives
11 financial assistance from the Fund.

12 [(i)] (J) “Small business” means a business that qualifies as a small business
13 under § 6–302 of this subtitle.

14 [(j)] (K) “Sustainable community” means the part of a priority funding area
15 that:

16 (1) as determined by the Smart Growth Subcabinet, satisfies the
17 requirements of § 6–205 of this title;

18 (2) has been designated as a BRAC Revitalization and Incentive Zone
19 under Title 5, Subtitle 13 of the Economic Development Article; or

20 (3) has been designated a transit-oriented development under § 7–101 of
21 the Transportation Article.

22 6–303.

23 (b) The purposes of the Program are:

24 (1) in priority funding areas **OR OPPORTUNITY ZONES**, to:

25 (i) help develop, redevelop, or expand small businesses and
26 microenterprises;

27 (ii) stimulate investment by the private sector;

28 (iii) invest in revitalization projects for small businesses and
29 microenterprises; and

1 (iv) stimulate political subdivisions to participate in developing and
2 expanding small businesses and microenterprises; and

3 (2) in food deserts or parts of priority funding areas **OR OPPORTUNITY**
4 **ZONES** that serve food deserts, to help create small businesses and other food-related
5 enterprises that provide fresh fruits, vegetables, and other healthy foods to residents in the
6 food desert.

7 6-304.

8 (b) The Business Development Program shall provide financial assistance to
9 projects in priority funding areas **OR OPPORTUNITY ZONES**.

10 6-305.

11 (a) (1) A small business, nonprofit organization, or microenterprise may apply
12 for financial assistance under the Business Development Program.

13 (2) The Department shall review each application.

14 (b) An applicant may qualify for financial assistance for a project in a priority
15 funding area **OR AN OPPORTUNITY ZONE** if the application demonstrates that:

16 (1) the financial assistance from the Fund is the minimum amount
17 necessary to make the project financially feasible;

18 (2) the project is ready to proceed when it receives financial assistance from
19 the Business Development Program; and

20 (3) any food desert project includes a plan to seek out sources of
21 Maryland-grown produce and Maryland produced foods.

22 Article – State Finance and Procurement

23 5-7B-01.

24 (c) (1) “Growth-related project” means only the items set forth below:

25 (iii) funding by the Department of Commerce under any of the
26 following:

27 1. the Maryland Industrial Development Financing
28 Authority, authorized under Title 5, Subtitle 4 of the Economic Development Article;

29 2. the Maryland Small Business Development Financing
30 Authority, authorized under Title 5, Subtitle 5 of the Economic Development Article;

- 1 3. a railroad facility;
- 2 4. a transit facility; or
- 3 5. a major highway interchange; or

4 (iv) a tourism facility or museum that is required to be located away
 5 from other development due to necessary proximity to specific historic, natural, or cultural
 6 resources; **OR**

7 **(4) A GROWTH-RELATED PROJECT INVOLVING FUNDING FOR A**
 8 **PROJECT UNDER:**

9 **(I) § 7-314 OF THIS ARTICLE;**

10 **(II) TITLE 5, SUBTITLE 3, SUBTITLE 4, OR SUBTITLE 5 OF THE**
 11 **ECONOMIC DEVELOPMENT ARTICLE; OR**

12 **(III) TITLE 6, SUBTITLE 2 OR SUBTITLE 3 OF THE HOUSING AND**
 13 **COMMUNITY DEVELOPMENT ARTICLE.**

14 (b) A procedure for notification, review, and comment on exceptions proposed
 15 under this section shall be established jointly by the applicable State agency and the
 16 Department of Planning.

17 7-314.

18 (o) **(1) THIS SUBSECTION DOES NOT APPLY TO AN ECONOMIC**
 19 **DEVELOPMENT OPPORTUNITY LOCATED IN AN AREA DESIGNATED AS A QUALIFIED**
 20 **OPPORTUNITY ZONE UNDER 26 U.S.C. § 1400Z-1.**

21 **(2)** In the case of an economic development opportunity located outside a
 22 priority funding area as established under Title 5, Subtitle 7B of this article, the
 23 Department shall first comply with the provisions of that subtitle before making a request
 24 for approval by the Legislative Policy Committee under this section.

25 **Article – Tax – Property**

26 9-230.

27 (b) (4) To qualify for a tax credit under this section, the new or expanded
 28 premises must be located in:

29 **(I)** a priority funding area as designated in Title 5, Subtitle 7B of
 30 the State Finance and Procurement Article; **OR**

1 **(II) A QUALIFIED OPPORTUNITY ZONE DESIGNATED UNDER 26**
2 **U.S.C. § 1400Z-1.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2019.