

# SENATE BILL 663

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

Introduced and read first time: February 4, 2019

Assigned to: Budget and Taxation

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## 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

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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.     the former Maryland Energy Financing Act, authorized  
2 under former Article 83A, Title 6, Subtitle 4 of the Code, succeeded by the Maryland  
3 Industrial Development Financing Authority;

4                               4.     the Economic Development Opportunities Program Fund,  
5 authorized under § 7–314 of this article;

6                               5.     the former Maryland Competitive Advantage Financing  
7 Fund, authorized under former Article 83A, Title 5, Subtitle 13 of the Code; and

8                               6.     the Maryland Economic Development Assistance  
9 Authority and Fund, authorized under Title 5, Subtitle 3 of the Economic Development  
10 Article;

11 5–7B–06.

12       (a)     The State may provide funding for a growth–related project not in a priority  
13 funding area without receiving approval from the Board of Public Works as provided under  
14 § 5–7B–05 of this subtitle for:

15               (1)     a project that is required to protect public health or safety;

16               (2)     a project involving federal funds, to the extent compliance with this  
17 subtitle would conflict or be inconsistent with federal law; **[or]**

18               (3)     a growth–related project related to a commercial or industrial activity  
19 which, due to its operational or physical characteristics, shall be located away from other  
20 development, including:

21                       (i)     a natural resource based industry;

22                       (ii)    an industry relating to:

23                               1.     agricultural operations, as defined in § 7–101 of the Labor  
24 and Employment Article;

25                               2.     forestry activities; or

26                               3.     mineral extraction;

27                       (iii)  an industry that is proximate to:

28                               1.     an airport facility;

29                               2.     a port facility;



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.