

SENATE BILL 759

Q3

6lr1581
CF HB 939

By: **Senator Madaleno (By Request – Tax Credit Evaluation Committee) and
Senator Peters**

Introduced and read first time: February 5, 2016

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2016

CHAPTER _____

1 AN ACT concerning

2 ~~Sustainable Communities~~ Heritage Structure Rehabilitation Tax Credit –
3 Alteration and Extension

4 FOR the purpose of ~~altering the definition of “qualified rehabilitation expenditure”, for~~
5 ~~purposes of the sustainable communities tax credit, to exclude certain amounts~~
6 ~~funded, financed, or reimbursed by federal grants; repealing a requirement, for~~
7 ~~purposes of a certain tax credit, that certain projects must be located in a sustainable~~
8 ~~community; repealing a requirement that the competitive process for the award of~~
9 ~~initial credit certificates favor certain jurisdictions; requiring the Director of the~~
10 ~~Maryland Historical Trust to issue certain tax credit certificates within a certain~~
11 ~~time period~~ adopt regulations that establish certain procedures to announce to the
12 public, within a certain time period, the selection of a commercial rehabilitation
13 project to receive an initial credit certificate; altering the time when a certain fee is
14 assessed; repealing a requirement that a certain certificate expires if a certain fee is
15 not received in a certain time period; prohibiting the Trust from issuing a certain
16 certificate if a certain fee is not received; altering the name of the sustainable
17 communities tax credit; extending the termination date of the tax credit; making
18 nonsubstantive changes to a certain definition; making conforming changes; and
19 generally relating to ~~the sustainable communities~~ a certain tax credit for certain
20 heritage structures.

21 BY repealing and reenacting, with amendments,
22 Article – State Finance and Procurement
23 Section 5A–303

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 Annotated Code of Maryland
2 (2015 Replacement Volume)

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

5 **Article – State Finance and Procurement**

6 5A–303.

7 (a) (1) In this section the following words have the meanings indicated.

8 (2) “Business entity” means:

9 (i) a person conducting or operating a trade or business in the State;
10 or

11 (ii) an organization operating in Maryland that is exempt from
12 taxation under § 501(c)(3) of the Internal Revenue Code.

13 (3) “Certified heritage area” has the meaning stated in § 13–1101 of the
14 Financial Institutions Article.

15 (4) (i) “Certified historic structure” means a structure that is located in
16 the State and is:

17 1. listed in the National Register of Historic Places;

18 2. designated as a historic property under local law and
19 determined by the Director to be eligible for listing on the National Register of Historic
20 Places;

21 3. A. located in a historic district listed on the National
22 Register of Historic Places or in a local historic district that the Director determines is
23 eligible for listing on the National Register of Historic Places; and

24 B. certified by the Director as contributing to the significance
25 of the district; or

26 4. located in a certified heritage area and certified by the
27 Maryland Heritage Areas Authority as contributing to the significance of the certified
28 heritage area.

29 (ii) “Certified historic structure” does not include a structure that is
30 owned by the State, a political subdivision of the State, or the federal government.

1 (5) “Certified rehabilitation” means a completed rehabilitation of a
2 certified historic structure that the Director certifies is a substantial rehabilitation in
3 conformance with the rehabilitation standards of the United States Secretary of the
4 Interior.

5 (6) (i) “Commercial rehabilitation” means a rehabilitation of a
6 structure other than a single-family, owner-occupied residence.

7 (ii) “Commercial rehabilitation” does not include a small commercial
8 project.

9 (7) “Director” means the Director of the Maryland Historical Trust.

10 (8) “Financial assistance” means action by the State or a State unit to
11 award grants, loans, loan guarantees, or insurance to a public or private entity to finance,
12 wholly or partly, a project that involves or may result in building construction, building
13 alteration, or land disturbance.

14 (9) “High performance building” means a building that:

15 (i) meets or exceeds the current version of the U.S. Green Building
16 Council’s LEED (Leadership in Energy and Environmental Design) green building rating
17 system gold rating; or

18 (ii) achieves at least a comparable numeric rating according to a
19 nationally recognized, accepted, and appropriate numeric sustainable development rating
20 system, guideline, or standard approved by the Secretaries of Budget and Management and
21 General Services under § 3-602.1 of this article.

22 (10) (i) “Historic property” means a district, site, building, structure,
23 monument, or object significant to:

24 1. the prehistory or history of the State; or

25 2. the upland or underwater archeology, architecture,
26 engineering, or culture of the State.

27 (ii) “Historic property” includes related artifacts, records, and
28 remains.

29 (11) “Local historic district” means a district that the governing body of a
30 county or municipal corporation, or the Mayor and City Council of Baltimore, has
31 designated under local law as historic.

32 (12) “National register structure” means a structure that is:

33 (i) listed on the National Register of Historic Places; or

1 (ii) located in a historic district listed on the National Register of
2 Historic Places and certified by the Director as contributing to the significance of the
3 district.

4 (13) "Political subdivision" means a county or municipal corporation of the
5 State.

6 (14) "Qualified rehabilitation expenditure" means any amount that:

7 (i) is properly chargeable to a capital account;

8 (ii) is expended in the rehabilitation of a structure that by the end of
9 the calendar year in which the certified rehabilitation is completed is a certified historic
10 structure;

11 (iii) is expended in compliance with a plan of proposed rehabilitation
12 that has been approved by the Director; and

13 (iv) is not funded, financed, or otherwise reimbursed by any:

14 1. ~~FEDERAL, State, State~~ or local grant;

15 2. grant made from the proceeds of tax-exempt bonds issued
16 by the State, a political subdivision of the State, or an instrumentality of the State or of a
17 political subdivision of the State;

18 3. State tax credit other than the tax credit under this
19 section; or

20 4. other financial assistance from the State or a political
21 subdivision of the State, other than a loan that must be repaid at an interest rate that is
22 greater than the interest rate on general obligation bonds issued by the State at the most
23 recent bond sale prior to the time the loan is made.

24 (15) (i) "Single-family, owner-occupied residence" means a structure or
25 a portion of a structure[:

26 1.] occupied by the owner and the owner's immediate family
27 as their primary or secondary residence[; or

28 2. a small commercial project].

29 (ii) "Single-family, owner-occupied residence" includes:

1 1. a residential unit in a cooperative project owned by or
2 leased to a cooperative housing corporation, as defined in § 5-6B-01 of the Corporations
3 and Associations Article, and leased for exclusive occupancy to, and occupied by, a member
4 of the corporation and the member's immediate family under a proprietary lease; **OR**

5 **2. A SMALL COMMERCIAL PROJECT.**

6 (16) (i) "Small commercial project" means a rehabilitation of a structure
7 primarily used for commercial, income-producing purposes if:

8 ~~1.~~ the qualified rehabilitation expenditures do not exceed
9 \$500,000; ~~and~~

10 ~~2.~~ ~~the structure is located in a sustainable community.~~

11 (ii) "Small commercial project" includes a structure that is used for
12 both commercial and residential rental purposes.

13 (iii) "Small commercial project" does not include a structure that is
14 used solely for residential purposes.

15 (17) "Smart Growth Subcabinet" means the Smart Growth Subcabinet
16 established under Title 9, Subtitle 14 of the State Government Article.

17 (18) "State unit" has the meaning stated in § 11-101 of the State
18 Government Article.

19 (19) "Substantial rehabilitation" means rehabilitation of a structure for
20 which the qualified rehabilitation expenditures, during the 24-month period selected by
21 the individual or business entity ending with or within the taxable year, exceed:

22 (i) for single-family, owner-occupied residential property, \$5,000;
23 or

24 (ii) for all other property, the greater of:

25 1. the adjusted basis of the structure; or

26 2. \$25,000.

27 ~~(20) "Sustainable community" has the meaning stated in § 6-201 of the~~
28 ~~Housing and Community Development Article.~~

29 (b) (1) The Director, in consultation with the Smart Growth Subcabinet, shall
30 adopt regulations to:

1 (i) establish procedures and standards for certifying historic
2 structures and rehabilitations under this section;

3 (ii) for commercial rehabilitations, establish an application process
4 for the award of initial credit certificates for ~~Maryland sustainable communities~~ **HERITAGE**
5 **STRUCTURE REHABILITATION** tax credits consistent with the requirements of this
6 subsection;

7 (iii) for commercial rehabilitations, establish criteria, consistent with
8 the requirements of this subsection, for evaluating, comparing, and rating plans of proposed
9 rehabilitation that have been determined by the Director to conform with the rehabilitation
10 standards of the United States Secretary of the Interior;

11 (iv) for commercial rehabilitations, establish a competitive award
12 process for the award of initial credit certificates for ~~Maryland sustainable communities~~
13 **HERITAGE STRUCTURE REHABILITATION** tax credits that favors the award of tax credits
14 for rehabilitation projects that:

15 1. [are located in jurisdictions that have been historically
16 underrepresented in the award of tax credits for commercial rehabilitations, based on the
17 number of national register structures in each jurisdiction;

18 2.] are consistent with and promote current growth and
19 development policies and programs of the State;

20 [3.] 2. are located in areas targeted by the State for
21 additional revitalization and economic development opportunities due to the focusing of
22 State resources and incentives;

23 [4.] 3. are located in areas where the political subdivision
24 has implemented regulatory streamlining or other development incentives that foster
25 redevelopment and revitalization in priority funding areas, as defined in Title 5, Subtitle
26 7B of this article, and the appropriate local governing body or the planning board or
27 commission, if designated by the local governing body, has certified to the Smart Growth
28 Subcabinet those regulatory streamlining or other development incentives; and

29 [5.] 4. include affordable and workforce housing options;

30 **(V) FOR COMMERCIAL REHABILITATIONS, ESTABLISH**
31 **PROCEDURES TO ANNOUNCE TO THE PUBLIC THE SELECTION OF A REHABILITATION**
32 **PROJECT FOR AN AWARD OF AN INITIAL CREDIT CERTIFICATE NOT LATER THAN 60**
33 **DAYS AFTER THE SELECTION IS MADE;**

34 ~~(VI)~~ **(VI)** for commercial rehabilitations, determine whether the
35 certified rehabilitation is a high performance building;

1 ~~(vii)~~ **(VII)** for commercial rehabilitations, establish a required
2 external marker or, at a minimum, an internal marker for the rehabilitation project that
3 identifies that the rehabilitation was funded by ~~Maryland sustainable communities~~
4 **HERITAGE STRUCTURE REHABILITATION** tax credits;

5 ~~(viii)~~ **(VIII)** as provided in paragraph (7) of this subsection, charge
6 reasonable fees to certify historic structures and rehabilitations under this subtitle;

7 ~~(ix)~~ **(IX)** for commercial rehabilitations, require documentation
8 that the applicant has ownership or site control of the structure in order to demonstrate
9 the ability to meet the requirement to begin work as required under subsection (c)(3)(i)1 of
10 this section;

11 ~~(x)~~ **(X)** for commercial rehabilitations, provide a time limit for
12 approval of the additional tax credit for high performance buildings provided for in
13 subsection (c)(1)(ii) of this section; and

14 ~~(xi)~~ **(XI)** for small commercial projects:

15 1. establish conditions regarding the percentage of the
16 structure that may be used for residential rental purposes if the structure is used for both
17 commercial and residential rental purposes; and

18 2. specify criteria and procedures for the issuance of initial
19 credit certificates under subsection (e) of this section.

20 (2) The Director may not certify that a rehabilitation is a certified
21 rehabilitation eligible for a tax credit provided under this section unless the individual or
22 business entity seeking certification states under oath the amount of the individual's or
23 business entity's qualified rehabilitation expenditures.

24 (3) Each year, the Director may accept applications for approval of plans of
25 proposed commercial rehabilitations and for the award of initial credit certificates for the
26 fiscal year that begins July 1 of that year.

27 (4) (i) Except as provided in subsection (e) of this section, a small
28 commercial project shall be treated as a single-family, owner-occupied residential
29 property, including the limitation on the amount of the tax credit provided in subsection
30 (c)(2)(ii) of this section.

31 (ii) A small commercial project is subject to the credit recapture
32 provision in subsection (f) of this section.

33 (5) (i) For commercial rehabilitations, the Director may not accept an
34 application for approval of plans of proposed rehabilitation if:

1 1. any substantial part of the proposed rehabilitation work
2 has begun; or

3 2. the applicant for a commercial rehabilitation has
4 previously submitted three or more applications for commercial rehabilitations with total
5 proposed rehabilitations exceeding \$500,000 in that year.

6 (ii) For commercial rehabilitations, the Director may accept an
7 application for approval of plans of a proposed rehabilitation for which a substantial part
8 of the proposed rehabilitation work has begun if the rehabilitation work has been approved
9 under the federal historic tax credit.

10 (6) Except as provided in subsection (d)(3)(iii) of this section, not more than
11 60% of the total credit amounts under initial credit certificates issued for any fiscal year
12 may be issued for projects in a single county or Baltimore City.

13 (7) (i) The Director shall adopt regulations to charge reasonable fees to
14 certify historic structures and rehabilitations under this section which shall include:

15 1. a minimum fee for the second phase of the application
16 process;

17 2. for a commercial rehabilitation project, a final fee that
18 may not exceed 3% of the amount of the ~~issued~~ **AWARD OF AN** initial credit certificate; and

19 3. for any other rehabilitation project, a final fee that may
20 not exceed 3% of the amount of the credit for which the rehabilitation would be eligible
21 based on the greater of the estimated or final qualified rehabilitation expenditures for the
22 rehabilitation.

23 (ii) The Director shall set the level of the fees so that the projected
24 proceeds from the fees will cover the costs to the Trust of administering the credit under
25 this section and the federal historic tax credit.

26 (iii) If a fee charged for a commercial rehabilitation is not received by
27 the Trust within 90 days after the Trust sends notice **TO THE APPLICANT** that the fee is
28 due, ~~the initial credit certificate for the rehabilitation shall expire~~ **THE TRUST MAY NOT:**

29 **1. ISSUE AN INITIAL CREDIT CERTIFICATE FOR THE**
30 **COMMERCIAL REHABILITATION; OR**

31 **2. ACCEPT AN APPLICATION FOR A COMMERCIAL**
32 **REHABILITATION FROM THE APPLICANT DURING THE 3 FISCAL YEARS FOLLOWING**
33 **THE FISCAL YEAR IN WHICH THE FEE WAS NOT RECEIVED.**

~~(iv) For commercial rehabilitations, if an applicant's initial credit certificate expired for failure to pay a fee as required in this paragraph, the Trust may not accept an application from the applicant for a commercial rehabilitation during the 3 fiscal years following the fiscal year in which the certificate expired.~~

~~(iv)~~ **(IV)** The proceeds from the fees shall be deposited in a special fund, to be used only for the purposes of paying the costs of administering the credit under this section and the federal historic tax credit.

~~(v)~~ **(V)** Any unused balance of the fund at the end of each fiscal year shall be transferred to the Reserve Fund established under subsection (d) of this section and shall increase the amount of the initial credit certificates that the Trust may issue for the following fiscal year.

(c) (1) (i) Except as otherwise provided in this section, for the taxable year in which a certified rehabilitation is completed, an individual or business entity may claim a tax credit in an amount equal to 20% of the individual's or business entity's qualified rehabilitation expenditures for the rehabilitation.

(ii) For a commercial rehabilitation, an individual or business entity may claim an additional tax credit in an amount equal to 5% of the individual's or business entity's qualified rehabilitation expenditures if the certified rehabilitation is a certified historic structure and a high performance building.

(2) (i) For any commercial rehabilitation, the State tax credit allowed under this section may not exceed the lesser of:

1. \$3,000,000; or

2. the maximum amount specified under the initial credit certificate issued for the rehabilitation.

(ii) For a rehabilitation other than a commercial rehabilitation, the State tax credit allowed under this section may not exceed \$50,000.

(iii) For the purposes of the limitation under subparagraph (i) of this paragraph, the following shall be treated as a single commercial rehabilitation:

1. the phased rehabilitation of the same structure or property;

2. the separate rehabilitation of different components of the same structure or property; or

3. the rehabilitation of multiple structures that are functionally related to serve an overall purpose.

1 (3) (i) Subject to subparagraph (ii) of this paragraph, the initial credit
 2 certificate for a proposed commercial rehabilitation shall expire and the credit under this
 3 section may not be claimed if:

4 1. within 18 months after the initial credit certificate was
 5 issued, the applicant has not notified the Trust, in writing, that the commercial
 6 rehabilitation has begun;

7 2. the commercial rehabilitation is not completed within 30
 8 months after the initial credit certificate was issued; or

9 3. the applicant does not submit to the Trust a request for
 10 final certification of the commercial rehabilitation within 12 months after:

11 A. the 30-month expiration date under subparagraph (i)2 of
 12 this paragraph; or

13 B. the date to which the Director postponed the expiration
 14 date under subparagraph (ii) of this paragraph.

15 (ii) For reasonable cause, the Director may postpone:

16 1. the 30-month expiration date under subparagraph (i)2 of
 17 this paragraph for an initial credit certificate for a commercial rehabilitation; or

18 2. if the commercial rehabilitation was completed prior to the
 19 expiration of the initial credit certificate, the deadline under subparagraph (i)3 of this
 20 paragraph for submission of a request for final certification.

21 (4) If the tax credit allowed under this section in any taxable year exceeds
 22 the total tax otherwise payable by the business entity or the individual for that taxable
 23 year, the individual or business entity may claim a refund in the amount of the excess.

24 (5) The State credit allowed under this section may be allocated among the
 25 partners, members, or shareholders of an entity in any manner agreed to by those persons
 26 in writing.

27 (d) (1) In this subsection, "Reserve Fund" means the ~~Sustainable~~
 28 ~~Communities~~ **HERITAGE STRUCTURE REHABILITATION** Tax Credit Reserve Fund
 29 established under paragraph (2) of this subsection.

30 (2) (i) There is a ~~Sustainable-Communities~~ **HERITAGE STRUCTURE**
 31 **REHABILITATION** Tax Credit Reserve Fund that is a continuing, nonlapsing special fund
 32 that is not subject to § 7-302 of this article.

33 (ii) The money in the Fund shall be invested and reinvested by the
 34 Treasurer, and interest and earnings shall be credited to the General Fund.

1 (iii) If the fees paid in any fiscal year are less than the directly related
2 administrative costs of operating the ~~Sustainable Communities~~ **HERITAGE STRUCTURE**
3 **REHABILITATION** Tax Credit Program, funds in the Reserve Fund shall be used for the
4 directly related administrative costs of the Program.

5 (3) (i) Subject to the provisions of this subsection, the Director shall
6 issue an initial credit certificate for each commercial rehabilitation for which a plan of
7 proposed rehabilitation is approved ~~NO LATER THAN 60 DAYS AFTER THE DEADLINE TO~~
8 ~~APPLY FOR AN INITIAL CREDIT CERTIFICATE AND THE FEES CHARGED UNDER~~
9 SUBSECTION (B)(7)(I) OF THIS SECTION ARE PAID.

10 (ii) An initial credit certificate issued under this subsection shall
11 state the maximum amount of credit under this section for which the commercial
12 rehabilitation may qualify.

13 (iii) 1. Except as otherwise provided in this subparagraph and in
14 subsection ~~(b)(7)(vi)~~ **(B)(7)(V)** of this section, for any fiscal year, the Director may not issue
15 initial credit certificates for credit amounts in the aggregate totaling more than the amount
16 appropriated to the Reserve Fund for that fiscal year in the State budget as approved by
17 the General Assembly.

18 2. If the aggregate credit amounts under initial credit
19 certificates issued in a fiscal year total less than the amount appropriated to the Reserve
20 Fund for that fiscal year as a result of the limitation under subsection (b)(6) of this section,
21 any excess amount may be issued under initial credit certificates for projects in a county or
22 Baltimore City in the same fiscal year, without regard to the limitation under subsection
23 (b)(6) of this section.

24 3. Subject to subsubparagraph 2 of this subparagraph, if the
25 aggregate credit amounts under initial credit certificates issued in a fiscal year total less
26 than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount
27 shall remain in the Reserve Fund and may be issued under initial credit certificates for the
28 next fiscal year.

29 4. For any fiscal year, if funds are transferred from the
30 Reserve Fund under the authority of any provision of law other than paragraph (4) of this
31 subsection, the maximum credit amounts in the aggregate for which the Director may issue
32 initial credit certificates shall be reduced by the amount transferred.

33 5. In each fiscal year, the Director shall estimate the amount
34 of fees to be collected based on the amount appropriated to the Reserve Fund and reserve
35 the difference between the estimated fees and estimated directly related administrative
36 costs of the Program to be used to administer the Program.

1 6. If the reservation of funds to administer the Program
2 under subparagraph 5 of this subparagraph is not necessary to cover the directly related
3 administrative costs of the Program, any excess amount shall remain in the Reserve Fund
4 and may be issued under initial credit certificates for the next fiscal year.

5 (iv) For each of fiscal years [2015, 2016, and 2017] **2018 THROUGH**
6 **2022**, the Governor shall include in the budget bill an appropriation to the Reserve Fund.

7 (v) Notwithstanding the provisions of § 7–213 of this article, the
8 Governor may not reduce an appropriation to the Reserve Fund in the State budget as
9 approved by the General Assembly.

10 (vi) The Director may not issue an initial credit certificate for any
11 fiscal year after fiscal year [2017] **2022**.

12 (4) (i) Except as provided in this paragraph, money appropriated to the
13 Reserve Fund shall remain in the Fund.

14 (ii) 1. Within 15 days after the end of each calendar quarter, the
15 Trust shall notify the Comptroller as to each commercial rehabilitation completed and
16 certified during the quarter:

17 A. the maximum credit amount stated in the initial credit
18 certificate for the project; and

19 B. the final certified credit amount for the project.

20 2. On notification that a project has been certified, the
21 Comptroller shall transfer an amount equal to the maximum credit amount stated in the
22 initial credit certificate for the project from the Reserve Fund to the General Fund.

23 (iii) 1. On or before October 1 of each year, the Trust shall notify
24 the Comptroller as to the maximum credit amount stated in the initial credit certificate for
25 each commercial rehabilitation for which the initial credit certificate has expired under
26 subsection (c)(3) of this section as of the end of the prior fiscal year.

27 2. On notification that the initial credit certificate for a
28 project has expired under subsection (c)(3) of this section, the Comptroller shall transfer an
29 amount equal to the maximum credit amount stated in the initial credit certificate for the
30 project from the Reserve Fund to the General Fund.

31 (e) (1) Subject to the provisions of this subsection, the Director shall issue an
32 initial credit certificate for each approved small commercial project on a first–come,
33 first–served basis.

34 (2) An initial credit certificate issued under this subsection shall state the
35 maximum amount of tax credit for which the applicant is eligible.

1 (3) The Director may not issue an initial credit certificate under this
2 subsection:

3 (i) prior to January 1, 2015; or

4 (ii) after the aggregate amount of initial credit certificates issued for
5 small commercial projects totals \$4,000,000.

6 (f) (1) (i) In this subsection the following words have the meanings
7 indicated.

8 (ii) 1. “Dispose of” means to transfer legal title or, in the case of
9 a leasehold, the leasehold interest.

10 2. “Dispose of” includes to sell in a sale-and-leaseback
11 transaction, to transfer on the foreclosure of a security interest, or to transfer by gift.

12 3. “Dispose of” does not include to transfer title or the
13 leasehold interest to a creditor on creation of a security interest.

14 (iii) “Disqualifying work” means work that:

15 1. is performed on a certified rehabilitation; and

16 2. if performed as part of the rehabilitation certified under
17 this section, would have made the rehabilitation ineligible for certification.

18 (2) The credit allowed under this section shall be recaptured as provided in
19 paragraph (3) of this subsection if, during the taxable year in which a certified
20 rehabilitation is completed or any of the 4 taxable years succeeding the taxable year in
21 which the certified rehabilitation is completed:

22 (i) any disqualifying work is performed on the certified
23 rehabilitation; or

24 (ii) for a commercial rehabilitation, the certified rehabilitation is
25 complete and has been disposed of.

26 (3) (i) 1. If the disqualifying work is performed or the certified
27 rehabilitation is disposed of during the taxable year in which the certified rehabilitation
28 was completed, 100% of the credit shall be recaptured.

29 2. If the disqualifying work is performed or the certified
30 rehabilitation is disposed of during the first full year succeeding the taxable year in which
31 the certified rehabilitation was completed, 80% of the credit shall be recaptured.

1 3. If the disqualifying work is performed or the certified
2 rehabilitation is disposed of during the second full year succeeding the taxable year in
3 which the certified rehabilitation was completed, 60% of the credit shall be recaptured.

4 4. If the disqualifying work is performed or the certified
5 rehabilitation is disposed of during the third full year succeeding the taxable year in which
6 the certified rehabilitation was completed, 40% of the credit shall be recaptured.

7 5. If the disqualifying work is performed or the certified
8 rehabilitation is disposed of during the fourth full year succeeding the taxable year in which
9 the certified rehabilitation was completed, 20% of the credit shall be recaptured.

10 (ii) The individual or business entity that claimed the tax credit shall
11 pay the amount to be recaptured as determined under subparagraph (i) of this paragraph
12 as taxes payable to the State for the taxable year in which the disqualifying work is
13 performed or the certified rehabilitation is disposed of.

14 (g) (1) The Comptroller may determine, under the process for return
15 examination and audit under §§ 13–301 and 13–302 of the Tax – General Article:

16 (i) the amount of rehabilitation expenditures used in calculating the
17 credit;

18 (ii) whether such expenditures are qualified rehabilitation
19 expenditures under this section; and

20 (iii) whether the credit is allowable as claimed.

21 (2) The authority of the Comptroller to examine and audit a tax return does
22 not limit the authority of the Director to determine whether a rehabilitation qualifies as a
23 certified rehabilitation or whether a certificate of certified rehabilitation has been properly
24 issued.

25 (3) The Comptroller may adopt regulations to require that an entity other
26 than a corporation claim the tax credit on the tax return filed by that entity.

27 (4) (i) Except as otherwise provided in this paragraph, the credit under
28 this section may be claimed for the year a certified rehabilitation is completed, only if the
29 Director has, by the time the return is filed, issued a certificate of completion for the
30 certified rehabilitation.

31 (ii) A taxpayer claiming the credit may amend a return for the year
32 the certified rehabilitation was completed to account for a certificate issued subsequent to
33 the filing of the original return.

34 (iii) An amended return shall be filed within the period allowed under
35 the Tax – General Article for filing refund claims.

1 (iv) The provisions of this paragraph do not extend the period in
2 which a certified rehabilitation must be completed to be eligible for a tax credit under this
3 section.

4 (v) An amended return may account for an amended certification
5 issued by the Director for a certified rehabilitation.

6 (h) A refund payable under subsection (c) of this section:

7 (1) operates to reduce the income tax revenue from corporations if the
8 person entitled to the refund is a corporation subject to the income tax under Title 10 of the
9 Tax – General Article;

10 (2) operates to reduce insurance premium tax revenues if the person
11 entitled to the refund is subject to taxation under Title 6 of the Insurance Article; and

12 (3) operates to reduce the income tax revenue from individuals if the
13 person entitled to the refund is:

14 (i) an individual subject to the income tax under Title 10 of the Tax
15 – General Article; or

16 (ii) an organization exempt from taxation under § 501(c)(3) of the
17 Internal Revenue Code.

18 (i) (1) On or before December 15 of each fiscal year, the Director shall report
19 to the Governor and, subject to § 2–1246 of the State Government Article, to the General
20 Assembly, on:

21 (i) the initial credit certificates awarded for commercial
22 rehabilitations and small commercial projects under this section for that fiscal year;

23 (ii) the tax credits awarded for certified rehabilitations completed in
24 the preceding fiscal year;

25 (iii) whether the tax credits awarded for certified rehabilitations
26 completed in the preceding fiscal year were located in:

27 1. a local historic district; or

28 2. a national register district; and

29 (iv) the estimated amount of directly related administrative costs
30 reserved in the Reserve Fund, the estimated amount of fees to be collected, the actual
31 directly related administrative costs, and the actual amount of fees collected.

1 (2) The report required under paragraph (1) of this subsection shall include
2 for each initial credit certificate awarded for the fiscal year for a commercial rehabilitation:

3 (i) the name of the owner or developer of the commercial
4 rehabilitation;

5 (ii) the name and address of the proposed or certified rehabilitation
6 and the county where the project is located;

7 (iii) the dates of receipt and approval by the Director of all
8 applications regarding the project, including applications:

9 1. for certification that a structure or property will qualify as
10 a certified historic structure; and

11 2. for approval of the proposed rehabilitation; and

12 (iv) the maximum amount of the credit stated in the initial credit
13 certificate for the project and the estimated rehabilitation expenditures stated in the
14 application for approval of the plan of proposed rehabilitation.

15 (3) The report required under paragraph (1) of this subsection shall include
16 for each certified commercial rehabilitation completed during the preceding fiscal year:

17 (i) the name of the owner or developer of the commercial
18 rehabilitation;

19 (ii) the name and address of the certified rehabilitation and the
20 county where the project is located;

21 (iii) the dates of receipt and approval by the Director of all
22 applications regarding the project; and

23 1. the maximum amount of the credit stated in the initial
24 credit certificate for the project and the estimated rehabilitation expenditures stated in the
25 application for approval of the plan of proposed rehabilitation; and

26 2. the actual qualified rehabilitation expenditures and the
27 final amount of the credit for which the project qualified.

28 (4) The report required under paragraph (1) of this subsection shall
29 summarize for each category of certified rehabilitations:

30 (i) the total number of applicants for:

31 1. certification that a structure or property will qualify as a
32 certified historic structure;

1 2. approval of plans of proposed rehabilitations; or

2 3. certification of the completed rehabilitations;

3 (ii) the number of proposed projects for which plans of proposed
4 rehabilitation were approved; and

5 (iii) the total estimated rehabilitation expenditures stated in
6 approved applications for approval of plans of proposed rehabilitation and the total
7 qualified rehabilitation expenditures for completed rehabilitations certified.

8 (5) The information required under paragraph (4) of this subsection shall
9 be provided in the aggregate and separately for each of the following categories of certified
10 rehabilitations:

11 (i) owner-occupied single family residential structures;

12 (ii) small commercial projects; and

13 (iii) commercial rehabilitations.

14 (j) (1) Subject to the provisions of this subsection, the provisions of this section
15 and the tax credit authorized under this section shall terminate as of July 1, **[2017] 2022**.

16 (2) On and after July 1, **[2017] 2022**:

17 (i) the tax credit authorized under this section may be claimed for:

18 1. a rehabilitation project, other than a commercial
19 rehabilitation, for which an application for approval of a plan of proposed rehabilitation
20 was received by the Director on or before June 30, **[2017] 2022**; or

21 2. a commercial rehabilitation for which an initial credit
22 certificate has been awarded under subsection (d) of this section; and

23 (ii) the Director shall continue to report to the Governor and the
24 General Assembly as required under subsection (i) of this section for as long as any
25 rehabilitation project for which the tax credit may be claimed remains incomplete.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
27 1, 2016.