

SENATE BILL 656

Q3

9lr1216
CF HB 1162

By: **Senator Ferguson**

Introduced and read first time: February 4, 2019

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2019

CHAPTER _____

1 AN ACT concerning

2 **Heritage Structure Rehabilitation Tax Credit – Alterations – Opportunity Zones,**
3 **Targeted Projects, and Transferability**

4 FOR the purpose of authorizing a certain additional tax credit under the heritage structure
5 rehabilitation tax credit program for certain commercial rehabilitations that qualify
6 as opportunity zone projects; altering the definition of “small commercial project” to
7 include certain residential structures sold as part of a development project and
8 certain targeted projects; requiring the Director of the Maryland Historical Trust, in
9 consultation with the Smart Growth Subcabinet, to adopt certain regulations;
10 ~~increasing by a certain amount the maximum tax credit allowed for rehabilitations~~
11 ~~other than commercial rehabilitations;~~ making the tax credit transferable and
12 refundable under certain circumstances; ~~requiring the Governor to include in the~~
13 ~~annual State budget an appropriation of at least a certain amount for the tax credit~~
14 ~~reserve fund; increasing the aggregate amount of initial tax credit certificates the~~
15 ~~Director may issue for small commercial projects;~~ prohibiting the Director from
16 issuing initial tax credit certificates for targeted projects before a certain date and
17 for more than a certain amount; altering the name of the heritage structure
18 rehabilitation tax credit; extending for a certain number of years the termination
19 date of the tax credit; requiring the Department of Planning to conduct and report
20 the findings of a certain feasibility study to the Governor and the General Assembly
21 on or before a certain date; making stylistic changes; providing for the application of
22 this Act; defining certain terms; making conforming changes; and generally relating
23 to the heritage structure rehabilitation tax credit.

24 BY repealing and reenacting, with amendments,

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 Article – State Finance and Procurement
2 Section 5A–303
3 Annotated Code of Maryland
4 (2015 Replacement Volume and 2018 Supplement)

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

7 **Article – State Finance and Procurement**

8 5A–303.

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

10 (2) “Affordable housing” means a project or undertaking that has received
11 an allocation of federal low–income housing tax credits by the Department of Housing and
12 Community Development.

13 **(3) “AGRICULTURAL STRUCTURE” MEANS A CERTIFIED HISTORIC**
14 **STRUCTURE THAT IS USED OR WAS USED AS AN AGRICULTURAL FACILITY OR FOR**
15 **PURPOSES RELATED TO AGRICULTURE.**

16 **[(3)] (4)** “Business entity” means:

17 (i) a person conducting or operating a trade or business in the State;
18 or

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

21 **[(4)] (5)** “Certified heritage area” has the meaning stated in § 13–1101 of
22 the Financial Institutions Article.

23 **[(5)] (6)** (i) “Certified historic structure” means a structure that is
24 located in the State and is:

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

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

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

1 B. certified by the Director as contributing to the significance
2 of the district; or

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

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

8 ~~[(6)] (7)~~ “Certified rehabilitation” means a completed rehabilitation of a
9 certified historic structure that the Director certifies is a substantial rehabilitation in
10 conformance with the rehabilitation standards of the United States Secretary of the
11 Interior.

12 ~~[(7)] (8)~~ (i) “Commercial rehabilitation” means a rehabilitation of a
13 structure other than a single-family, owner-occupied residence.

14 (ii) “Commercial rehabilitation” does not include a small commercial
15 project.

16 ~~[(8)] (9)~~ “Director” means the Director of the Maryland Historical Trust.

17 ~~[(9)] (10)~~ “Financial assistance” means action by the State or a State unit
18 to award grants, loans, loan guarantees, or insurance to a public or private entity to finance,
19 wholly or partly, a project that involves or may result in building construction, building
20 alteration, or land disturbance.

21 ~~[(10)] (11)~~ “High performance building” means a building that:

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

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

29 ~~[(11)] (12)~~ (i) “Historic property” means a district, site, building,
30 structure, monument, or object significant to:

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

32 2. the upland or underwater archeology, architecture,
33 engineering, or culture of the State.

1 (ii) “Historic property” includes related artifacts, records, and
2 remains.

3 [(12)] (13) “Local historic district” means a district that the governing body
4 of a county or municipal corporation, or the Mayor and City Council of Baltimore, has
5 designated under local law as historic.

6 [(13)] (14) “National register structure” means a structure that is:

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

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

11 (15) “OPPORTUNITY ZONE PROJECT” MEANS A CERTIFIED
12 REHABILITATION WITHIN A GEOGRAPHICAL AREA DESIGNATED AND IN EFFECT AS A
13 QUALIFIED OPPORTUNITY ZONE IN THE STATE UNDER § 1400Z-1 OF THE INTERNAL
14 REVENUE CODE.

15 [(14)] (16) “Political subdivision” means a county or municipal corporation
16 of the State.

17 (17) “POST-WORLD WAR II STRUCTURE” MEANS A CERTIFIED
18 HISTORIC STRUCTURE THAT WAS BUILT AFTER DECEMBER 31, 1944, BUT BEFORE
19 JANUARY 1, 1970.

20 [(15)] (18) “Qualified rehabilitation expenditure” means any amount that:

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

22 (ii) is expended in the rehabilitation of a structure that by the end of
23 the calendar year in which the certified rehabilitation is completed is a certified historic
24 structure;

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

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

28 1. State or local grant;

29 2. grant made from the proceeds of tax-exempt bonds issued
30 by the State, a political subdivision of the State, or an instrumentality of the State or of a
31 political subdivision of the State;

1 [(18)] **(21)** “Smart Growth Subcabinet” means the Smart Growth
2 Subcabinet established under Title 9, Subtitle 14 of the State Government Article.

3 [(19)] **(22)** “State unit” has the meaning stated in § 11–101 of the State
4 Government Article.

5 [(20)] **(23)** “Substantial rehabilitation” means rehabilitation of a structure
6 for which the qualified rehabilitation expenditures, during the 24–month period selected
7 by the individual or business entity ending with or within the taxable year, exceed:

8 (i) for single–family, owner–occupied residential property, \$5,000;
9 or

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

11 1. the adjusted basis of the structure; or

12 2. \$25,000.

13 **(24) “TARGETED PROJECT” MEANS A REHABILITATION OF:**

14 **(I) AN AGRICULTURAL STRUCTURE; OR**

15 **(II) A POST–WORLD WAR II STRUCTURE.**

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

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

20 (ii) for commercial rehabilitations, establish an application process
21 for the award of initial credit certificates for [heritage structure rehabilitation] **HISTORIC**
22 **REVITALIZATION** tax credits consistent with the requirements of this subsection;

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

27 (iv) for commercial rehabilitations, establish a competitive award
28 process for the award of initial credit certificates for [heritage structure rehabilitation]
29 **HISTORIC REVITALIZATION** tax credits that favors the award of tax credits for
30 rehabilitation projects that:

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

3 2. are located in areas targeted by the State for additional
4 revitalization and economic development opportunities due to the focusing of State
5 resources and incentives;

6 3. are located in areas where the political subdivision has
7 implemented regulatory streamlining or other development incentives that foster
8 redevelopment and revitalization in priority funding areas, as defined in Title 5, Subtitle
9 7B of this article, and the appropriate local governing body or the planning board or
10 commission, if designated by the local governing body, has certified to the Smart Growth
11 Subcabinet those regulatory streamlining or other development incentives; and

12 4. include affordable and workforce housing options;

13 (v) for commercial rehabilitations, establish procedures to announce
14 to the public the selection of a rehabilitation project for an award of an initial credit
15 certificate not later than 60 days after the selection is made;

16 (vi) for commercial rehabilitations, determine whether the certified
17 rehabilitation:

18 1. is a high performance building; or

19 2. qualifies as affordable housing **OR AN OPPORTUNITY**
20 **ZONE PROJECT**;

21 (vii) for commercial rehabilitations, establish a required external
22 marker or, at a minimum, an internal marker for the rehabilitation project that identifies
23 that the rehabilitation was funded by [heritage structure rehabilitation] **HISTORIC**
24 **REVITALIZATION** tax credits;

25 (viii) as provided in paragraph (7) of this subsection, charge
26 reasonable fees to certify historic structures and rehabilitations under this subtitle;

27 (ix) for commercial rehabilitations, require documentation that the
28 applicant has ownership or site control of the structure in order to demonstrate the ability
29 to meet the requirement to begin work as required under subsection (c)(3)(i)1 of this section;

30 (x) for commercial rehabilitations, provide a time limit for approval
31 of the additional tax credit for high performance buildings [or], affordable housing, **OR**
32 **OPPORTUNITY ZONE PROJECTS** provided for in subsection (c)(1)(ii) of this section; [and]

1 **(XI) FOR COMMERCIAL REHABILITATIONS, ESTABLISH**
 2 **PROCEDURES FOR THE TRANSFER OF THE TAX CREDIT UNDER SUBSECTION (C)(6)**
 3 **OF THIS SECTION; AND**

4 **[(xi)] (XII)** for small commercial projects:

5 1. establish conditions regarding the percentage of the
 6 structure that may be used for residential rental purposes if the structure is used for both
 7 commercial and residential rental purposes; [and]

8 **2. SPECIFY CRITERIA FOR DETERMINING WHETHER A**
 9 **CERTIFIED HISTORIC STRUCTURE IS:**

10 **A. AN AGRICULTURAL STRUCTURE; OR**

11 **B. A POST-WORLD WAR II STRUCTURE; AND**

12 **[2.] 3.** specify criteria and procedures for the issuance of
 13 initial credit certificates under subsection (e) of this section.

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

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

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

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

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

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

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

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

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

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

10 1. a minimum fee for the second phase of the application
11 process;

12 2. for a commercial rehabilitation project, a final fee that
13 may not exceed 3% of the amount of the award of an initial credit certificate; and

14 3. for any other rehabilitation project, a final fee that may
15 not exceed 3% of the amount of the credit for which the rehabilitation would be eligible
16 based on the greater of the estimated or final qualified rehabilitation expenditures for the
17 rehabilitation.

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

21 (iii) If a fee charged for a commercial rehabilitation is not received by
22 the Trust within 90 days after the Trust sends notice to the applicant that the fee is due,
23 the Trust may not:

24 1. issue an initial credit certificate for the commercial
25 rehabilitation; or

26 2. accept an application for a commercial rehabilitation from
27 the applicant during the 3 fiscal years following the fiscal year in which the fee was not
28 received.

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

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

1 (8) If an initial credit certificate expires or is otherwise unclaimed as
2 provided for under this section, the amount of the credit certificate shall:

3 (i) remain in the Reserve Fund established under subsection (d) of
4 this section; and

5 (ii) increase the amount of the initial credit certificates that the
6 Trust may issue for the following fiscal year.

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

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

15 1. is a high performance building; or

16 2. qualifies as affordable housing **OR AN OPPORTUNITY**
17 **ZONE PROJECT.**

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

20 1. \$3,000,000; or

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

23 (ii) For a rehabilitation other than a commercial rehabilitation, the
24 State tax credit allowed under this section may not exceed ~~[\$50,000]~~ **\$75,000**.

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

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

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

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 **(6) (I) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE**
28 **DIRECTOR UNDER THIS SECTION, THE AMOUNT OF THE STATE TAX CREDIT**
29 **ALLOWED, BUT NOT USED, FOR COMMERCIAL REHABILITATIONS UNDER THIS**
30 **SECTION MAY BE TRANSFERRED IN WHOLE OR IN PART TO ANY INDIVIDUAL OR**
31 **BUSINESS ENTITY.**

32 **(II) 1. FOR THE TAXABLE YEAR OF ANY TRANSFER UNDER**
33 **THIS PARAGRAPH, THE TRANSFEREE UNDER SUBPARAGRAPH (I) OF THIS**

1 PARAGRAPH MAY APPLY THE TAX CREDIT AGAINST THE TOTAL TAX OTHERWISE
2 PAYABLE BY THE TRANSFEREE IN THAT TAXABLE YEAR.

3 **2. IF THE TAX CREDIT EXCEEDS THE STATE INCOME TAX**
4 **OF THE TRANSFEREE IN ANY TAXABLE YEAR, THE TRANSFEREE:**

5 **A. MAY CLAIM A REFUND IN THE AMOUNT OF THE**
6 **EXCESS; OR**

7 **B. MAY TRANSFER THE REMAINDER OF THE TAX CREDIT**
8 **TO ANY INDIVIDUAL OR BUSINESS ENTITY.**

9 (d) (1) In this subsection, "Reserve Fund" means the [Heritage Structure
10 Rehabilitation] **HISTORIC REVITALIZATION** Tax Credit Reserve Fund established under
11 paragraph (2) of this subsection.

12 (2) (i) There is a [Heritage Structure Rehabilitation] **HISTORIC**
13 **REVITALIZATION** Tax Credit Reserve Fund that is a continuing, nonlapsing special fund
14 that is not subject to § 7-302 of this article.

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

17 (iii) If the fees paid in any fiscal year are less than the directly related
18 administrative costs of operating the [Heritage Structure Rehabilitation] **HISTORIC**
19 **REVITALIZATION** Tax Credit Program, funds in the Reserve Fund shall be used for the
20 directly related administrative costs of the Program.

21 (3) (i) Subject to the provisions of this subsection, the Director shall
22 issue an initial credit certificate for each commercial rehabilitation for which a plan of
23 proposed rehabilitation is approved and the fees charged under subsection (b)(7)(i) of this
24 section are paid.

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

28 (iii) 1. Except as otherwise provided in this subparagraph and in
29 subsection (b)(7)(v) of this section, for any fiscal year, the Director may not issue initial
30 credit certificates for credit amounts in the aggregate totaling more than the amount
31 appropriated to the Reserve Fund for that fiscal year in the State budget as approved by
32 the General Assembly.

33 2. If the aggregate credit amounts under initial credit
34 certificates issued in a fiscal year total less than the amount appropriated to the Reserve
35 Fund for that fiscal year as a result of the limitation under subsection (b)(6) of this section,

1 any excess amount may be issued under initial credit certificates for projects in a county or
2 Baltimore City in the same fiscal year, without regard to the limitation under subsection
3 (b)(6) of this section.

4 3. Subject to subparagraph 2 of this subparagraph, if the
5 aggregate credit amounts under initial credit certificates issued in a fiscal year total less
6 than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount
7 shall remain in the Reserve Fund and may be issued under initial credit certificates for the
8 next fiscal year.

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

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

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

21 (iv) For each of fiscal years 2018 through [2022] **2024**, the Governor
22 shall include in the budget bill an appropriation ~~[to] OF AT LEAST \$20,000,000 FOR~~ the
23 Reserve Fund.

24 (v) Notwithstanding the provisions of § 7-213 of this article, the
25 Governor may not reduce an appropriation [to] **FOR** the Reserve Fund in the State budget
26 as approved by the General Assembly.

27 (vi) The Director may not issue an initial credit certificate for any
28 fiscal year after fiscal year [2022] **2024**.

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

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

34 A. the maximum credit amount stated in the initial credit
35 certificate for the project; and

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

1 (ii) 1. "Dispose of" means to transfer legal title or, in the case of
2 a leasehold, the leasehold interest.

3 2. "Dispose of" includes to sell in a sale-and-leaseback
4 transaction, to transfer on the foreclosure of a security interest, or to transfer by gift.

5 3. "Dispose of" does not include to transfer title or the
6 leasehold interest to a creditor on creation of a security interest.

7 (iii) "Disqualifying work" means work that:

8 1. is performed on a certified rehabilitation; and

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

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

15 (i) any disqualifying work is performed on the certified
16 rehabilitation; or

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

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

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

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

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

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

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

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

7 (i) the amount of rehabilitation expenditures used in calculating the
8 credit;

9 (ii) whether such expenditures are qualified rehabilitation
10 expenditures under this section; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 1. a local historic district; or

22 2. a national register district; and

23 (iv) the estimated amount of directly related administrative costs
24 reserved in the Reserve Fund, the estimated amount of fees to be collected, the actual
25 directly related administrative costs, and the actual amount of fees collected.

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

28 (i) the name of the owner or developer of the commercial
29 rehabilitation;

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

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

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

5 2. for approval of the proposed rehabilitation; and

6 (iv) the maximum amount of the credit stated in the initial credit
7 certificate for the project and the estimated rehabilitation expenditures stated in the
8 application for approval of the plan of proposed rehabilitation.

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

11 (i) the name of the owner or developer of the commercial
12 rehabilitation;

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

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

17 (iv) 1. the maximum amount of the credit stated in the initial
18 credit certificate for the project and the estimated rehabilitation expenditures stated in the
19 application for approval of the plan of proposed rehabilitation; and

20 2. the actual qualified rehabilitation expenditures and the
21 final amount of the credit for which the project qualified.

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

24 (i) the total number of applicants for:

25 1. certification that a structure or property will qualify as a
26 certified historic structure;

27 2. approval of plans of proposed rehabilitations; or

28 3. certification of the completed rehabilitations;

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

1 (iii) the total estimated rehabilitation expenditures stated in
2 approved applications for approval of plans of proposed rehabilitation and the total
3 qualified rehabilitation expenditures for completed rehabilitations certified.

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

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

8 (ii) small commercial projects; and

9 (iii) commercial rehabilitations.

10 (j) (1) Subject to the provisions of this subsection, the provisions of this section
11 and the tax credit authorized under this section shall terminate as of July 1, [2022] **2024**.

12 (2) On and after July 1, [2022] **2024**:

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

14 1. a rehabilitation project, other than a commercial
15 rehabilitation, for which an application for approval of a plan of proposed rehabilitation
16 was received by the Director on or before June 30, [2022] **2024**; or

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

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Planning
23 shall:

24 (1) conduct a feasibility study on the development of an online application
25 for the historic revitalization tax credit that integrates with applications administered by
26 the Department of Housing and Community Development for the Community Legacy
27 Program and the Baltimore Regional Neighborhood Initiative Program; and

28 (2) report the findings of the feasibility study to the Governor and, in
29 accordance with § 2-1246 of the State Government Article, to the General Assembly on or
30 before July 1, 2020.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
32 1, 2019, and shall be applicable to all taxable years beginning after December 31, 2019.