

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

Senate Bill 656

(Senator Ferguson)

Budget and Taxation

Ways and Means

**Heritage Structure Rehabilitation Tax Credit - Alterations - Opportunity Zones, Targeted Projects, and Transferability**

This bill renames the Heritage Structure Rehabilitation Tax Credit Program as the Historic Revitalization Tax Credit Program, extends the termination date of the program through fiscal 2024, requires the Governor to include an appropriation for the commercial credit program in fiscal 2023 and 2024, and alters certain program eligibility requirements and procedures. The Maryland Historical Trust (MHT) must adopt regulations implementing the bill. **The bill takes effect July 1, 2019, and applies to tax year 2020 and beyond.**

**Fiscal Summary**

**State Effect:** General fund revenues decrease by \$1.0 million in FY 2023 and by \$2.0 million in FY 2024 due to residential credits claimed against the income tax. General fund expenditures increase by \$9.0 million in FY 2023 and 2024 due to commercial credit appropriations. Special fund revenues and expenditures increase by \$0.4 million in FY 2023 and 2024 reflecting administrative fees and expenditures at MHT.

(\$ in millions)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
GF Revenue	\$0	\$0	\$0	(\$1.0)	(\$2.0)
SF Revenue	\$0	\$0	\$0	\$0.4	\$0.4
GF Expenditure	\$0	\$0	\$0	\$9.0	\$9.0
SF Expenditure	\$0	\$0	\$0	\$0.4	\$0.4
Net Effect	\$0.0	\$0.0	\$0.0	(\$10.0)	(\$11.0)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Local highway user revenues decrease as a result of any credits claimed against the corporate income tax. Local expenditures are not affected.

**Small Business Effect:** Meaningful. Any small business that benefits from the tax credit will be positively impacted by additional tax credits.

## Analysis

### Bill Summary:

- ***Extends Program Termination Date and Funding:*** The program's termination date is extended through fiscal 2024 for commercial, small commercial, and owner-occupied residential property rehabilitations. The Governor is required to provide an appropriation to the reserve fund for commercial projects in fiscal 2023 and 2024. MHT can award credits through June 30, 2024.
- ***Alters Small Commercial Project Eligibility:*** Current law requires that a small commercial project meet certain requirements and specifies that these projects include a structure that is used for both commercial and residential rental purposes but does not include a structure that is used solely for residential purposes. The bill instead specifies that a small commercial project includes (1) a residential unit in a consecutive series of similar residential units that are arranged in a row, side by side, and is sold as part of a specified development project. The bill also extends small commercial project eligibility to agricultural and post-World War II structures that meet certain requirements. MHT may not issue more than \$1.0 million in credits to each of these structures.
- ***Provides an Additional Enhanced Tax Credit:*** Commercial rehabilitations within a geographic area designated as a federal Opportunity Zone qualify for an additional 5% tax credit.
- ***Other Provisions:*** The bill allows, subject to specified requirements, the commercial credit to be transferable. The Maryland Department of Planning must conduct a feasibility study on the development of an online tax credit process that meets specified requirements and report its findings to the Governor and General Assembly by July 1, 2020.

**Current Law/Background:** The Heritage Structure Rehabilitation Tax Credit Program provides tax credits for commercial, small commercial, and owner-occupied residential property rehabilitations. The value of the refundable credit is based on the type of rehabilitation undertaken and up to a percentage of qualified rehabilitation expenditures, as follows:

- 20% for the rehabilitation of a single-family, owner-occupied residence or a small commercial project; and
- 20% for the commercial rehabilitation of a certified historic structure, or 25% if certain energy efficiency or affordable housing standards are met.

The value of the tax credit may not exceed (1) for a commercial rehabilitation (any building that is not a single-family, owner-occupied residence or small commercial project), \$3 million or the maximum amount specified under the initial credit certificate or (2) for all other rehabilitations, \$50,000. Applying for the credit is a three-part process that is administered by MHT within the Maryland Department of Planning.

### *Commercial Program*

The commercial program includes the rehabilitation of certified historic structures and is the largest component of the program. The commercial credit is a budgeted tax credit and the Governor must appropriate funds to the program annually through fiscal 2022. The Governor is not required to appropriate an amount to the reserve fund in each year. MHT awards credits through a competitive process, with the amount awarded each year generally limited to the amount appropriated to the program.

### *Small Commercial Project Program*

Chapter 601 of 2014 established credit eligibility for certain small commercial projects. Applicants must apply to MHT in order to qualify and receive an initial credit certificate. MHT may award a total of \$4.0 million in tax credits through June 30, 2022. There is no reserve fund to offset the cost of small commercial credits.

### *Residential Program*

MHT can award an unlimited amount of residential credits for applications received through June 30, 2022. A single-family, owner-occupied residence is a structure or a portion of a structure occupied by the owner and the owner's immediate family as their primary or secondary residence. A single-family, owner-occupied residence also includes a residential unit in a cooperative project owned or leased to a cooperative housing corporation and leased for exclusive occupancy to, and occupied by, a member of the corporation and the member's immediate family.

**State Fiscal Effect:** The bill extends the termination date of the program to June 30, 2024, and requires that the Governor provide an appropriation to the reserve fund for commercial projects in fiscal 2023 through 2024. As a result, the net effect on State finances will be a decrease of \$10.0 million in fiscal 2023 and \$11.0 million in fiscal 2024. **Appendix 1** details the fiscal impact of the bill in fiscal 2020 through 2024.

### *Commercial Credit Reserve Fund*

The bill does not require or suggest an amount that should be appropriated to the reserve fund. The Governor's proposed fiscal 2020 budget includes \$9.0 million in funding for

commercial credits. Based on the fiscal 2020 appropriation and the average amount of funding provided under the existing program, it is estimated that the program will receive \$9.0 million annually in fiscal 2023 and 2024 as shown in Appendix 1.

#### *Small Commercial Projects*

The bill extends the authority for MHT to issue small commercial project credits but does not alter the total amount of credits that MHT can award. Accordingly, there will be no fiscal impact beyond that provided under current law.

#### *Residential Credits*

The bill extends the residential tax credit program beginning with the second half of calendar 2022. Based on the history of the existing program, it is estimated that extending the program will decrease revenues by \$1.0 million in fiscal 2023 and \$2.0 million in fiscal 2024.

#### *Administrative Fees*

The bill extends MHT's authority to assess fees to pay the cost of administering the State and federal historic tax credits. Appendix 1 shows MHT's projected fees and administrative expenses in each fiscal year.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1162 (Delegate Lierman, *et al.*) - Ways and Means.

**Information Source(s):** Comptroller's Office; Maryland Department of Planning; Department of Legislative Services

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## Appendix 1 – Fiscal Impact of Legislation Fiscal 2020-2024

<u>Expenditures</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
<b>General Fund Expenditures</b>					
Reserve Fund Appropriation	\$0	\$0	\$0	\$9,000,000	\$9,000,000
<b>Special Fund Expenditures</b>					
MHT Administrative Expenses	0	0	0	384,000	397,000
<b>Total Expenditures</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$9,384,000</b>	<b>\$9,397,000</b>
 <b>Revenues</b>					
<b>General Fund Revenues</b>					
Residential Credits	\$0	\$0	\$0	(\$1,000,000)	(\$2,000,000)
<b>Special Fund Revenues</b>					
MHT Certification Fees	0	0	0	384,000	397,000
<b>Total Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$616,000)</b>	<b>(\$1,603,000)</b>
<b>Net Effect</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$10,000,000)</b>	<b>(\$11,000,000)</b>

MHT: Maryland Historical Trust