

SENATE BILL 425

P1

3lr1553
CF HB 674

By: **Senators Elfreth, Hester, and Corderman**

Introduced and read first time: February 2, 2023

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2023

CHAPTER _____

1 AN ACT concerning

2 **Maryland Historic Trust – Historic Preservation ~~Partnership Program and~~**
3 **~~Fund – Established~~ Loan Fund – Qualified Cooperating Nonprofit Organizations**
4 **– Transfers**

5 FOR the purpose of altering the uses of the Historic Preservation Loan Fund; establishing
6 the Historic Preservation Partnership Program in authorizing the Maryland Historic
7 Trust to ~~implement and encourage the preservation of historic properties in~~
8 ~~partnership with~~ transfer funds from the Fund to a qualified cooperating nonprofit
9 organization for certain purposes; establishing the Historic Preservation
10 Partnership Fund as a special, nonlapsing fund; requiring certain funds to be
11 transferred by the Trust to the qualified cooperating nonprofit organization by a
12 certain date each year; requiring the Governor to transfer certain funds to the
13 Partnership Fund by a certain date; transferring the funds of the Historic
14 Preservation Loan Fund to the Partnership Fund and dissolving the Historic
15 Preservation Loan Fund; and generally relating to the Historic Preservation
16 Partnership Program and Loan Fund.

17 BY repealing and reenacting, with amendments,
18 Article – State Finance and Procurement
19 Section 5A–327
20 Annotated Code of Maryland
21 (2021 Replacement Volume and 2022 Supplement)

22 BY adding to
23 Article – State Finance and Procurement

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 Section ~~5A-327~~ 5A-331
 2 Annotated Code of Maryland
 3 (2021 Replacement Volume and 2022 Supplement)

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

6 **Article – State Finance and Procurement**

7 ~~§~~5A-327.

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

9 (2) “MHT Loan Fund” means the Historic Preservation Loan Fund of the
 10 Trust.

11 (3) “MHT Loan Program” means the Historic Preservation Loan Program
 12 of the Trust.

13 (b) (1) There is an MHT Loan Program in the Trust.

14 (2) The purpose of the MHT Loan Program is to implement and encourage
 15 the preservation of historic properties.

16 (3) The Trust shall administer the MHT Loan Program and coordinate the
 17 MHT Loan Program with federal and State programs that complement or facilitate
 18 carrying out the MHT Loan Program.

19 (c) There is an MHT Loan Fund in the Trust.

20 (d) The MHT Loan Fund may be used:

21 (1) to pay administrative costs directly related to the MHT Loan Program;

22 (2) to pay for the Trust to acquire historic properties or interests in historic
 23 properties for its authorized purposes or for resale or lease subject to appropriate
 24 preservation covenants;

25 (3) to pay costs, including preparation costs, to restore or rehabilitate
 26 historic properties owned by the Trust for:

27 (i) the Trust’s authorized purposes; or

28 (ii) resale or lease subject to appropriate preservation covenants; ~~or~~

29 (4) to make loans to nonprofit organizations, political subdivisions,
 30 business entities, and individuals to:

1 (i) acquire, rehabilitate, restore, or refinance historic properties; or

2 (ii) provide short-term financing for costs, including preparation
3 costs, directly related to work that the Trust or the State Historic Preservation Officer
4 requires or recommends to be undertaken before a construction project financed with
5 federal or State money is begun or continued; OR

6 **(5) TO MAKE A TRANSFER TO A QUALIFIED COOPERATING NONPROFIT**
7 **ORGANIZATION AS PROVIDED FOR UNDER § 5A-331 OF THIS PART.**

8 (e) (1) The MHT Loan Fund is a continuing, nonlapsing special fund that is
9 not subject to § 7-302 of this article.

10 (2) The State Treasurer shall hold and the Comptroller shall account for
11 the MHT Loan Fund.

12 (f) The MHT Loan Fund consists of:

13 (1) money appropriated in the State budget to the MHT Loan Program;

14 (2) money received as interest or repayment of principal on loans made
15 under the MHT Loan Program or the Capital Revolving Fund for Historic Preservation;

16 (3) the proceeds from the resale or lease of property originally acquired by
17 the Trust with money from the MHT Loan Fund or the Capital Revolving Fund for Historic
18 Preservation;

19 (4) money received from other public or private sources for the benefit of
20 the MHT Loan Fund; and

21 (5) money received from the sale of general obligation bonds.

22 (g) Money in the MHT Loan Fund shall be invested in the same manner as other
23 State money.

24 (h) (1) The Department shall adopt regulations to carry out the purposes of
25 the MHT Loan Program.

26 (2) The regulations shall include:

27 (i) application procedures;

28 (ii) procedures to give adequate notice to the public of assistance
29 available under the MHT Loan Program;

30 (iii) provisions for the review of plans and specifications;

1 (iv) provisions for the inspection of projects during construction; and

2 (v) selection criteria the Trust must consider in evaluating loan
3 applications, including:

4 1. the relative historical or cultural significance of, and the
5 urgency of need for, the project to be financed by the loan;

6 2. any proposed contribution by the appropriate political
7 subdivision to the project;

8 3. the geographic distribution of loan assistance from the
9 MHT Loan Fund; and

10 4. other relevant factors.

11 (i) (1) With the approval of the Secretary, for each loan the Trust may set:

12 (i) the principal amount;

13 (ii) the maturity;

14 (iii) the repayment terms; and

15 (iv) an interest rate that complies with applicable federal regulations
16 governing State borrowing.

17 (2) A loan from the MHT Loan Fund may be granted at an interest rate
18 lower than rates on other loans from the MHT Loan Fund if:

19 (i) the loan recipient is a nonprofit organization or a political
20 subdivision; or

21 (ii) the Secretary of Housing and Community Development
22 determines under § 4–212 of the Housing and Community Development Article that after
23 restoration or rehabilitation, the historic property will be wholly or partly occupied by
24 individuals or families of limited income.

25 (3) A loan from the MHT Loan Program may be secured by:

26 (i) a mortgage lien, which may be subordinate to other mortgage
27 liens;

28 (ii) a guarantee of repayment; or

29 (iii) another form of collateral acceptable to the Trust.

1 (4) Without approval or execution by the Board of Public Works, the Trust
2 may take title to a mortgaged property by foreclosure or by deed in lieu of foreclosure and:

3 (i) convey title to a buyer; and

4 (ii) obtain and seek enforcement of a deficiency judgment.

5 (5) An individual or business entity may receive a loan only if the recipient
6 can document that private financing is unavailable.

7 (6) The Trust shall ensure that no loan is made under the MHT Loan
8 Program to acquire, restore, or rehabilitate a historic property unless the historic property
9 is listed in or eligible to be listed in the Historic Register.

10 (j) (1) The Trust shall require the recipient of a loan from the MHT Loan
11 Program to enter into an agreement to preserve and maintain the property.

12 (2) If the property is real property, the agreement shall be a recordable
13 historic preservation easement.

14 (3) The Secretary may waive the agreement requirement if the Secretary
15 finds that an agreement is impracticable.

16 (k) The trustees shall review and make recommendations to the Secretary about
17 loans and expenditures from the MHT Loan Fund, and the Secretary shall approve each
18 loan and expenditure from the MHT Loan Fund.

19 (l) (1) To the extent required by regulations adopted by the Secretary and
20 approved by the Board of Public Works, the Secretary shall submit to the Board of Public
21 Works for approval a proposed loan or expenditure from the MHT Loan Fund that will be
22 financed through the sale of State general obligation bonds.

23 (2) Except for an expenditure under subsection (d)(2) or (3) of this section,
24 a loan or expenditure from the MHT Loan Fund is not subject to Titles 4 and 5 of this
25 article.

26 (m) On or before December 31 of each year, the Trust shall report to the Governor
27 and, in accordance with § 2-1257 of the State Government Article, to the General Assembly
28 on the financial status and the activities of the MHT Loan Program for the preceding fiscal
29 year.

30 (n) (1) A person may not knowingly make or cause to be made a material false
31 statement of fact, including an understatement or overstatement of financial condition, in
32 a statement or report in or regarding an application for a loan or affecting an existing loan.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$5,000 or both.†

~~5A-327, 5A-331.~~

(A) ~~(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "PARTNERSHIP FUND" MEANS THE HISTORIC PRESERVATION PARTNERSHIP FUND OF THE TRUST.~~

~~(3) "PARTNERSHIP PROGRAM" MEANS THE HISTORIC PRESERVATION PARTNERSHIP PROGRAM OF THE TRUST.~~

~~(4) "QUALIFIED, A "QUALIFIED COOPERATING NONPROFIT ORGANIZATION" MEANS A NONPROFIT ORGANIZATION IN GOOD STANDING WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION THAT:~~

~~(1)~~ (1) IS BASED IN THE STATE;

~~(2)~~ (2) OPERATES STATEWIDE; AND

~~(3)~~ (3) HAS DEMONSTRATED EXPERIENCE:

~~1.~~ (I) REHABILITATING HISTORIC STRUCTURES;

~~2.~~ (II) MANAGING PRESERVATION FUNDS; AND

~~3.~~ (III) HOLDING PRESERVATION EASEMENTS.

(B) ~~(1) THERE IS A PARTNERSHIP PROGRAM IN THE TRUST.~~

~~(2) THE PURPOSE OF THE PARTNERSHIP PROGRAM IS TO IMPLEMENT AND ENCOURAGE THE PRESERVATION OF HISTORIC PROPERTIES BY PARTNERING WITH A QUALIFIED COOPERATING NONPROFIT ORGANIZATION THAT WILL ADMINISTER FLEXIBLE FINANCIAL ASSISTANCE FOR COMPLEX PRESERVATION PROJECTS AROUND THE STATE.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE A QUALIFIED COOPERATING NONPROFIT ORGANIZATION MAY USE FUNDS PROVIDED BY THE TRUST ONLY:~~

1 (I) TO PAY FOR THE QUALIFIED COOPERATING NONPROFIT
2 ORGANIZATION TO ACQUIRE HISTORIC PROPERTIES OR INTERESTS IN HISTORIC
3 PROPERTIES FOR RESALE OR LEASE;

4 (II) TO PAY COSTS, INCLUDING PREPARATION AND
5 ADMINISTRATIVE COSTS, TO RESTORE OR REHABILITATE HISTORIC PROPERTIES
6 OWNED BY THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION FOR RESALE
7 OR LEASE;

8 (III) TO MAKE LOANS TO OTHER NONPROFIT ORGANIZATIONS,
9 POLITICAL SUBDIVISIONS, AND BUSINESS ENTITIES TO ACQUIRE, REHABILITATE,
10 RESTORE, OR REFINANCE HISTORIC PROPERTIES;

11 (IV) TO MAKE LOANS TO INDIVIDUALS TO REHABILITATE OR
12 RESTORE HISTORIC PROPERTIES RECOGNIZED BY THE NATIONAL PARK SERVICE AS
13 NATIONAL HISTORIC LANDMARKS; OR

14 (V) FOR NECESSARY ADMINISTRATIVE AND PROGRAMMATIC
15 EXPENSES ASSOCIATED WITH CARRYING OUT THE ~~GOALS OF THE PARTNERSHIP~~
16 ~~PROGRAM~~ TRANSFER OF FUNDS.

17 (2) ~~(I) THE TRUST~~ A QUALIFIED COOPERATING NONPROFIT
18 ORGANIZATION SHALL DEVELOP A COMPETITIVE PROCESS FOR MAKING AWARDS OF
19 FINANCIAL ASSISTANCE UNDER THE PARTNERSHIP PROGRAM WITH FUNDS
20 RECEIVED FROM THE TRUST.

21 ~~(II) THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION~~
22 ~~SHALL AWARD FINANCIAL ASSISTANCE UNDER THE PARTNERSHIP PROGRAM IN A~~
23 ~~MANNER CONSISTENT WITH THE PROCESS DEVELOPED BY THE TRUST IN~~
24 ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH.~~

25 ~~(D) (1) THERE IS A PARTNERSHIP FUND.~~

26 ~~(2) THE PURPOSE OF THE PARTNERSHIP FUND IS TO PROVIDE FUNDS~~
27 ~~IN THE FORM OF A GRANT OR COOPERATIVE AGREEMENT TO A QUALIFIED~~
28 ~~COOPERATING NONPROFIT ORGANIZATION TO ADMINISTER THE PARTNERSHIP~~
29 ~~PROGRAM.~~

30 ~~(3) THE TRUST SHALL ADMINISTER THE PARTNERSHIP FUND.~~

31 ~~(4) (I) THE PARTNERSHIP FUND IS A SPECIAL, NONLAPSING FUND~~
32 ~~THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT~~
33 ~~ARTICLE.~~

~~(H) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.~~

~~(5) THE PARTNERSHIP FUND CONSISTS OF:~~

~~(I) MONEY RECEIVED AS INTEREST OR REPAYMENT OF PRINCIPAL ON LOANS MADE UNDER THE PARTNERSHIP PROGRAM OR THE CAPITAL REVOLVING FUND FOR HISTORIC PRESERVATION;~~

~~(II) THE PROCEEDS FROM THE RESALE OR LEASE OF PROPERTY ORIGINALLY ACQUIRED BY THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION WITH MONEY FROM THE PARTNERSHIP FUND OR THE CAPITAL REVOLVING FUND FOR HISTORIC PRESERVATION;~~

~~(III) MONEY RECEIVED FROM OTHER PUBLIC OR PRIVATE SOURCES FOR THE BENEFIT OF THE PARTNERSHIP FUND; AND~~

~~(IV) MONEY RECEIVED FROM THE SALE OF GENERAL OBLIGATION BONDS.~~

~~(6) THE PARTNERSHIP FUND MAY BE USED FOR THE PURPOSE IDENTIFIED IN PARAGRAPH (2) OF THIS SUBSECTION.~~

~~(7) THE STATE TREASURER SHALL INVEST THE MONEY OF THE PARTNERSHIP FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.~~

~~(8) FOR FISCAL YEAR 2025 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE PARTNERSHIP PROGRAM TRANSFERRING THE AMOUNT OF UNENCUMBERED AND UNAPPROPRIATED FUNDS IN THE PARTNERSHIP FUND TO THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION FOR THE PURPOSE IDENTIFIED IN PARAGRAPH (2) OF THIS SUBSECTION.~~

~~(E) (1) (I) ON OR BEFORE OCTOBER 1 EACH YEAR, THE TRUST SHALL TRANSFER TO THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION THE FUNDS APPROPRIATED TO THE PARTNERSHIP PROGRAM FOR THE CURRENT FISCAL YEAR.~~

~~(II) TO THE EXTENT POSSIBLE, THE GOAL WILL BE TO PRESERVE THE CORPUS OF THE PARTNERSHIP FUND AS A REVOLVING FUND.~~

~~(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION SHALL~~

1 ~~MAINTAIN A SEPARATE INTERNAL ACCOUNT FOR FUNDS PROVIDED FROM THE~~
2 ~~PARTNERSHIP FUND.~~

3 ~~(H) SUBJECT TO THE APPROVAL OF THE QUALIFIED~~
4 ~~COOPERATING NONPROFIT ORGANIZATION'S INVESTMENT POLICY BY THE BOARD~~
5 ~~OF DIRECTORS OF THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION,~~
6 ~~FUNDS MAY BE COMMINGLED WITH OTHER FUNDS OF THE ORGANIZATION IF THE~~
7 ~~FUNDS CAN BE ACCOUNTED FOR INDEPENDENTLY OF OTHER FUNDS.~~

8 ~~(3) ON THE TRANSFER OF FUNDS TO THE PARTNERSHIP FUND, THE~~
9 ~~USE OF FUNDS IS NO LONGER SUBJECT TO § 5A-325 OF THIS SUBTITLE.~~

10 ~~(F) (C) THE A QUALIFIED COOPERATING NONPROFIT ORGANIZATION~~
11 ~~SELECTED TO ADMINISTER THE PARTNERSHIP PROGRAM RECEIVING FUNDS FROM~~
12 ~~THE TRUST, IN COORDINATION WITH THE DIRECTOR, SHALL ADOPT APPROPRIATE~~
13 ~~GUIDELINES TO CARRY OUT THE PURPOSES OF THE PARTNERSHIP PROGRAM~~
14 ~~ENUMERATED IN SUBSECTION (B) OF THIS SECTION.~~

15 ~~(G) (D) THE A QUALIFIED COOPERATING NONPROFIT ORGANIZATION~~
16 ~~SHALL MAKE THE FOLLOWING INFORMATION AVAILABLE ON ITS WEBSITE:~~

17 (1) THE GUIDELINES ESTABLISHED UNDER SUBSECTION ~~(F) (C)~~ (C) OF
18 THIS SECTION;

19 (2) THE AVAILABILITY OF ~~PARTNERSHIP PROGRAM~~ FUNDS; AND

20 (3) INFORMATION ON PROJECTS RECEIVING FINANCIAL ASSISTANCE
21 FROM THE ~~PARTNERSHIP FUND~~ TRANSFERRED FUNDS.

22 ~~(H) (E) (1) ON OR BEFORE JUNE 30 EACH YEAR, THE A QUALIFIED~~
23 ~~COOPERATING NONPROFIT ORGANIZATION SHALL PROVIDE AN ANNUAL REPORT TO~~
24 ~~THE TRUST OUTLINING THE USE, ACCOUNTING, AND SUCCESS OF THE~~
25 ~~PARTNERSHIP FUND~~ ALL FUNDS RECEIVED.

26 (2) THE ANNUAL FINANCIAL REVIEW OR AUDIT OF THE
27 ORGANIZATION SHALL BE PROVIDED AT THE REQUEST OF THE TRUST TO CONFIRM
28 THE INTENDED USE OF THE ~~PARTNERSHIP FUND~~ TRANSFERRED FUNDS.

29 ~~SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other~~
30 ~~provision of law, on or before July 31, 2023, the Governor shall transfer the funds~~
31 ~~appropriated in fiscal year 2024 for the Historic Preservation Loan Program established~~
32 ~~under § 5A-327 of the State Finance and Procurement Article to the Historic Preservation~~
33 ~~Partnership Program established under § 5A-327 of the State Finance and Procurement~~
34 ~~Article, as enacted by Section 1 of this Act.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

~~(a) After June 30, 2023, the State Treasurer shall credit any funds received for the benefit of the Historic Preservation Loan Fund established under § 5A-327 of the State Finance and Procurement Article to the Historic Preservation Partnership Fund established under § 5A-327 of the State Finance and Procurement Article, as enacted by Section 1 of this Act.~~

~~(b) On or before July 31, 2023, all funds remaining in the Historic Preservation Loan Fund established under § 5A-327 of the State Finance and Procurement Article shall be transferred to the Historic Preservation Partnership Fund established under § 5A-327 of the State Finance and Procurement Article, as enacted by Section 1 of this Act, and shall be used only in accordance with the provisions of § 5A-327 of the State Finance and Procurement Article, as enacted by Section 1 of this Act.~~

~~(c) After July 31, 2023, the Historic Preservation Loan Fund established under § 5A-327 of the State Finance and Procurement Article shall be dissolved and no new appropriations shall be made to the Historic Preservation Loan Fund.~~

~~SECTION 4. 2.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.