

SENATE BILL 425

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

Introduced and read first time: February 2, 2023

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Historic Trust – Historic Preservation Partnership Program and**
3 **Fund – Established**

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

14 BY repealing

15 Article – State Finance and Procurement
16 Section 5A–327
17 Annotated Code of Maryland
18 (2021 Replacement Volume and 2022 Supplement)

19 BY adding to

20 Article – State Finance and Procurement
21 Section 5A–327
22 Annotated Code of Maryland
23 (2021 Replacement Volume and 2022 Supplement)

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

26 **Article – State Finance and Procurement**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 [5A-327.

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

3 (2) "MHT Loan Fund" means the Historic Preservation Loan Fund of the
4 Trust.

5 (3) "MHT Loan Program" means the Historic Preservation Loan Program
6 of the Trust.

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

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

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

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

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

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

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

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

21 (i) the Trust's authorized purposes; or

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

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

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

26 (ii) provide short-term financing for costs, including preparation
27 costs, directly related to work that the Trust or the State Historic Preservation Officer
28 requires or recommends to be undertaken before a construction project financed with
29 federal or State money is begun or continued.

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

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

5 (f) The MHT Loan Fund consists of:

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

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

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

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

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

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

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

19 (2) The regulations shall include:

20 (i) application procedures;

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

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

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

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

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

29 2. any proposed contribution by the appropriate political
30 subdivision to the project;

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

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

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

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

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

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

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

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

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

27 (2) A person who violates this subsection is guilty of a misdemeanor and
28 on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding
29 \$5,000 or both.]

30 **5A-327.**

31 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
32 **INDICATED.**

33 (2) **“PARTNERSHIP FUND” MEANS THE HISTORIC PRESERVATION**
34 **PARTNERSHIP FUND OF THE TRUST.**

1 **(3) “PARTNERSHIP PROGRAM” MEANS THE HISTORIC**
2 **PRESERVATION PARTNERSHIP PROGRAM OF THE TRUST.**

3 **(4) “QUALIFIED COOPERATING NONPROFIT ORGANIZATION” MEANS**
4 **A NONPROFIT ORGANIZATION IN GOOD STANDING WITH THE STATE DEPARTMENT**
5 **OF ASSESSMENTS AND TAXATION THAT:**

6 **(I) IS BASED IN THE STATE;**

7 **(II) OPERATES STATEWIDE; AND**

8 **(III) HAS DEMONSTRATED EXPERIENCE:**

9 **1. REHABILITATING HISTORIC STRUCTURES;**

10 **2. MANAGING PRESERVATION FUNDS; AND**

11 **3. HOLDING PRESERVATION EASEMENTS.**

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

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

18 **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
19 **QUALIFIED COOPERATING NONPROFIT ORGANIZATION MAY USE FUNDS PROVIDED**
20 **BY THE TRUST:**

21 **(I) TO PAY FOR THE QUALIFIED COOPERATING NONPROFIT**
22 **ORGANIZATION TO ACQUIRE HISTORIC PROPERTIES OR INTERESTS IN HISTORIC**
23 **PROPERTIES FOR RESALE OR LEASE;**

24 **(II) TO PAY COSTS, INCLUDING PREPARATION AND**
25 **ADMINISTRATIVE COSTS, TO RESTORE OR REHABILITATE HISTORIC PROPERTIES**
26 **OWNED BY THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION FOR RESALE**
27 **OR LEASE;**

28 **(III) TO MAKE LOANS TO OTHER NONPROFIT ORGANIZATIONS,**
29 **POLITICAL SUBDIVISIONS, AND BUSINESS ENTITIES TO ACQUIRE, REHABILITATE,**
30 **RESTORE, OR REFINANCE HISTORIC PROPERTIES;**

1 (IV) TO MAKE LOANS TO INDIVIDUALS TO REHABILITATE OR
2 RESTORE HISTORIC PROPERTIES RECOGNIZED BY THE NATIONAL PARK SERVICE AS
3 NATIONAL HISTORIC LANDMARKS; OR

4 (V) FOR NECESSARY ADMINISTRATIVE AND PROGRAMMATIC
5 EXPENSES ASSOCIATED WITH CARRYING OUT THE GOALS OF THE PARTNERSHIP
6 PROGRAM.

7 (2) (I) THE TRUST SHALL DEVELOP A COMPETITIVE PROCESS FOR
8 MAKING AWARDS OF FINANCIAL ASSISTANCE UNDER THE PARTNERSHIP PROGRAM.

9 (II) THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION
10 SHALL AWARD FINANCIAL ASSISTANCE UNDER THE PARTNERSHIP PROGRAM IN A
11 MANNER CONSISTENT WITH THE PROCESS DEVELOPED BY THE TRUST IN
12 SUBPARAGRAPH (I) OF THIS PARAGRAPH.

13 (D) (1) THERE IS A PARTNERSHIP FUND.

14 (2) THE PURPOSE OF THE PARTNERSHIP FUND IS TO PROVIDE FUNDS
15 IN THE FORM OF A GRANT OR COOPERATIVE AGREEMENT TO A QUALIFIED
16 COOPERATING NONPROFIT ORGANIZATION TO ADMINISTER THE PARTNERSHIP
17 PROGRAM.

18 (3) THE TRUST SHALL ADMINISTER THE PARTNERSHIP FUND.

19 (4) (I) THE PARTNERSHIP FUND IS A SPECIAL, NONLAPSING FUND
20 THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT
21 ARTICLE.

22 (II) THE STATE TREASURER SHALL HOLD THE FUND
23 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

24 (5) THE PARTNERSHIP FUND CONSISTS OF:

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

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

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

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

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

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

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

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

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

22 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
23 PARAGRAPH, THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION SHALL
24 MAINTAIN A SEPARATE INTERNAL ACCOUNT FOR FUNDS PROVIDED FROM THE
25 PARTNERSHIP FUND.

26 (II) SUBJECT TO THE APPROVAL OF THE QUALIFIED
27 COOPERATING NONPROFIT ORGANIZATION'S INVESTMENT POLICY BY THE BOARD
28 OF DIRECTORS OF THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION,
29 FUNDS MAY BE COMMINGLED WITH OTHER FUNDS OF THE ORGANIZATION IF THE
30 FUNDS CAN BE ACCOUNTED FOR INDEPENDENTLY OF OTHER FUNDS.

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

1 **(F) THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION SELECTED**
2 **TO ADMINISTER THE PARTNERSHIP PROGRAM, IN COORDINATION WITH THE**
3 **DIRECTOR, SHALL ADOPT APPROPRIATE GUIDELINES TO CARRY OUT THE**
4 **PURPOSES OF THE PARTNERSHIP PROGRAM.**

5 **(G) THE QUALIFIED COOPERATING NONPROFIT ORGANIZATION SHALL**
6 **MAKE THE FOLLOWING INFORMATION AVAILABLE ON ITS WEBSITE:**

7 **(1) THE GUIDELINES ESTABLISHED UNDER SUBSECTION (F) OF THIS**
8 **SECTION;**

9 **(2) THE AVAILABILITY OF PARTNERSHIP PROGRAM FUNDS; AND**

10 **(3) INFORMATION ON PROJECTS RECEIVING FINANCIAL ASSISTANCE**
11 **FROM THE PARTNERSHIP FUND.**

12 **(H) (1) ON OR BEFORE JUNE 30 EACH YEAR, THE QUALIFIED**
13 **COOPERATING NONPROFIT ORGANIZATION SHALL PROVIDE AN ANNUAL REPORT TO**
14 **THE TRUST OUTLINING THE USE, ACCOUNTING, AND SUCCESS OF THE**
15 **PARTNERSHIP FUND.**

16 **(2) THE ANNUAL FINANCIAL REVIEW OR AUDIT OF THE**
17 **ORGANIZATION SHALL BE PROVIDED AT THE REQUEST OF THE TRUST TO CONFIRM**
18 **THE INTENDED USE OF THE PARTNERSHIP FUND.**

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

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

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

31 (b) On or before July 31, 2023, all funds remaining in the Historic Preservation
32 Loan Fund established under § 5A–327 of the State Finance and Procurement Article shall
33 be transferred to the Historic Preservation Partnership Fund established under § 5A–327
34 of the State Finance and Procurement Article, as enacted by Section 1 of this Act, and shall

1 be used only in accordance with the provisions of § 5A–327 of the State Finance and
2 Procurement Article, as enacted by Section 1 of this Act.

3 (c) After July 31, 2023, the Historic Preservation Loan Fund established under §
4 5A–327 of the State Finance and Procurement Article shall be dissolved and no new
5 appropriations shall be made to the Historic Preservation Loan Fund.

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2023.