

Chapter 449

(House Bill 27)

AN ACT concerning

Historic Revitalization Tax Credit and Enterprise Zone Tax Credits – Funding and Extension Alterations and Eligibility

FOR the purpose of altering certain limitations on a certain credit against the State income tax for certain commercial rehabilitation projects; establishing the Small Commercial Project Trust Account within the Historic Revitalization Tax Credit Reserve Fund; requiring the Governor, in certain fiscal years, to include in the annual State budget an appropriation of at least a certain amount for the Reserve Fund and the Trust Account; altering the aggregate amount of initial tax credit certificates that may be issued for small commercial projects; extending for a certain number of years the termination date of the tax credit; altering eligibility for and the calculation of a certain credit against the property tax imposed on certain qualified property located in certain enterprise zones; and generally relating to the historic revitalization tax credit tax incentives for improvements to historic and enterprise zone properties.

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section ~~5A-303(d)~~, 5A-303(c)(2)(i), (d), (e), and (j)
 Annotated Code of Maryland
 (2021 Replacement Volume)

BY repealing and reenacting, without amendments,
 Article – Tax – Property
 Section 9-103(a)(1) and (6) and (b)(1)
 Annotated Code of Maryland
 (2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
 Article – Tax – Property
 Section 9-103(d) and (e)(1)
 Annotated Code of Maryland
 (2019 Replacement Volume and 2021 Supplement)

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

Article – State Finance and Procurement

5A-303.

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

1. A. [\$3,000,000] \$5,000,000 for any commercial rehabilitation other than a Level 1 or Level 2 opportunity zone project;

B. [\$3,150,000] \$5,250,000 for a Level 1 opportunity zone project; or

C. [\$3,300,000] \$5,500,000 for a Level 2 opportunity zone project; or

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

(d) (1) (I) In this subsection[,] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(II) “Reserve Fund” means the Historic Revitalization Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(III) **“TRUST ACCOUNT” MEANS THE SMALL COMMERCIAL PROJECT TRUST ACCOUNT ESTABLISHED UNDER PARAGRAPH (4) OF THIS SUBSECTION.**

(2) (i) There is a Historic Revitalization Tax Credit Reserve Fund that is a continuing, nonlapsing special fund that is not subject to § 7–302 of this article.

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

(iii) If the fees paid in any fiscal year are less than the directly related administrative costs of operating the Historic Revitalization Tax Credit Program, funds in the Reserve Fund shall be used for the directly related administrative costs of the Program.

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

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

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

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

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

4. For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than paragraph [(4)] (5) of this subsection, the maximum credit amounts in the aggregate for which the Director may issue initial credit certificates shall be reduced by the amount transferred.

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

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

(iv) 1. Subject to ~~[subsubparagraph 2]~~ ~~SUBSUBPARAGRAPHS 2 THROUGH 5~~ of this subparagraph, for each of fiscal years 2018 through [2024] **2031**, the Governor shall include in the budget bill an appropriation to the Reserve Fund.

2. For each of fiscal years 2023 ~~and 2024~~ **THROUGH 2031**, the Governor shall include in the budget bill an appropriation to the Reserve Fund of at least ~~\$12,000,000~~ **\$20,000,000**.

~~3. FOR EACH OF FISCAL YEARS 2025 AND 2026, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND OF AT LEAST \$24,000,000 \$16,000,000.~~

~~4. FOR EACH OF FISCAL YEARS 2027 THROUGH 2031, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND OF AT LEAST \$36,000,000 \$20,000,000.~~

~~5. 3. THE AMOUNTS AMOUNT DESCRIBED UNDER SUBSUBPARAGRAPHS 2 THROUGH 4 SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH SHALL BE IN ADDITION TO THE APPROPRIATIONS TO THE TRUST ACCOUNT REQUIRED UNDER PARAGRAPH (4) OF THIS SUBSECTION.~~

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

(vi) The Director may not issue an initial credit certificate for any fiscal year after fiscal year [2024] **2031**.

(4) (I) WITHIN THE RESERVE FUND, THERE IS A SMALL COMMERCIAL PROJECT TRUST ACCOUNT.

(II) 1. THE TRUST ACCOUNT IS ESTABLISHED FOR THE ISSUANCE OF TAX CREDIT CERTIFICATES FOR SMALL COMMERCIAL PROJECTS.

2. FUNDS IN THE TRUST ACCOUNT SHALL BE USED ONLY FOR TRANSFERS FROM THE RESERVE FUND TO THE GENERAL FUND IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION WITH RESPECT TO TAX CREDIT CERTIFICATES ISSUED FOR SMALL COMMERCIAL PROJECTS.

(III) THE TRUST ACCOUNT CONSISTS OF:

1. MONEY APPROPRIATED IN THE STATE BUDGET FOR THE TRUST ACCOUNT; AND

2. ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE TRUST ACCOUNT.

(IV) FOR EACH OF FISCAL YEARS 2024 THROUGH 2031, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE TRUST ACCOUNT OF AT LEAST ~~\$4,000,000~~ **\$2,000,000**.

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

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

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

B. the final certified credit amount for the project.

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

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

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

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

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

(3) (i) **[The] BEFORE FISCAL YEAR 2024, THE** Director may not issue an initial credit certificate under this subsection after the aggregate amount of initial credit certificates issued for small commercial projects totals \$5,000,000.

(ii) **[For] BEFORE FISCAL YEAR 2024, FOR** a targeted project, the Director may not issue an initial credit certificate under this subsection:

1. after the aggregate amount of initial credit certificates issued for agricultural structures totals \$1,000,000; or

2. after the aggregate amount of initial credit certificates issued for post-World War II structures totals \$1,000,000.

(III) BEGINNING FISCAL YEAR 2024 AND EACH FISCAL YEAR THEREAFTER, THE DIRECTOR MAY NOT ISSUE INITIAL CREDIT CERTIFICATES FOR SMALL COMMERCIAL PROJECTS UNDER THIS SUBSECTION FOR CREDIT AMOUNTS IN

THE AGGREGATE TOTALING MORE THAN THE AMOUNT OF FUNDS IN THE SMALL COMMERCIAL PROJECT TRUST ACCOUNT ESTABLISHED UNDER SUBSECTION (D)(4) OF THIS SECTION.

(j) (1) Subject to the provisions of this subsection, the provisions of this section and the tax credit authorized under this section shall terminate as of July 1, [2024] **2031**.

(2) On and after July 1, [2024] **2031**:

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

1. a rehabilitation project, other than a commercial rehabilitation, for which an application for approval of a plan of proposed rehabilitation was received by the Director on or before June 30, [2024] **2031**; or

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – Property

9–103.

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

(6) (i) “Qualified property” means real property that is:

1. not used for residential purposes;

2. used in a trade or business by a business entity that meets the requirements of § 5–707 of the Economic Development Article; and

3. located in an enterprise zone that is designated under Title 5, Subtitle 7 of the Economic Development Article.

(ii) “Qualified property” includes personal property on real property that is located in a focus area as defined in § 5–701 of the Economic Development Article.

(b) (1) The governing body of a county or of a municipal corporation shall grant a tax credit under this section against the property tax imposed on the eligible assessment of qualified property.

(d) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE appropriate governing body shall calculate the amount of the tax credit under this section equal to a percentage of the amount of property tax imposed on the eligible assessment of the qualified property, as follows:

(i) 80% in each of the 1st 5 taxable years following the calendar year in which the property initially becomes a qualified property;

(ii) 70% in the 6th taxable year;

(iii) 60% in the 7th taxable year;

(iv) 50% in the 8th taxable year;

(v) 40% in the 9th taxable year; and

(vi) 30% in the 10th taxable year.

(2) FOR NEWLY CONSTRUCTED QUALIFIED PROPERTY THAT PROVIDES BOTH OFFICE AND RETAIL SPACE AND BECAME ELIGIBLE FOR THE CREDIT UNDER THIS SECTION ON OR AFTER JANUARY 1, 2019, BUT BEFORE JANUARY 1, 2022, THE APPROPRIATE GOVERNING BODY SHALL CALCULATE THE AMOUNT OF THE TAX CREDIT UNDER THIS SECTION EQUAL TO A PERCENTAGE OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESSMENT OF THE QUALIFIED PROPERTY AS FOLLOWS:

(I) 80% IN EACH OF THE 1ST 8 TAXABLE YEARS FOLLOWING THE CALENDAR YEAR IN WHICH THE PROPERTY INITIALLY BECOMES A QUALIFIED PROPERTY;

(II) 70% IN THE 9TH TAXABLE YEAR;

(III) 60% IN THE 10TH TAXABLE YEAR;

(IV) 50% IN THE 11TH TAXABLE YEAR;

(V) 40% IN THE 12TH TAXABLE YEAR; AND

(VI) 30% IN THE 13TH TAXABLE YEAR.

[(2)] (3) The Department shall allocate the eligible assessment to the nonresidential part of the qualified property at the same percentage as the square footage of the nonresidential part is to the total square footage of the building.

[(3)] (4) For purposes of calculating the amount of the credit allowed under this section, the amount of property tax imposed on the eligible assessment shall be calculated without reduction for any credits allowed under this title.

[(4)] (5) For qualified property located in a focus area, the appropriate governing body shall calculate the amount of the tax credit under this section equal to 80% of the amount of property tax imposed on the eligible assessment of the qualified property:

(I) FOR NEWLY CONSTRUCTED QUALIFIED PROPERTY THAT PROVIDES BOTH OFFICE AND RETAIL SPACE AND BECAME ELIGIBLE FOR THE CREDIT UNDER THIS SECTION ON OR AFTER JANUARY 1, 2019, BUT BEFORE JANUARY 1, 2022, FOR EACH OF THE 13 TAXABLE YEARS FOLLOWING THE CALENDAR YEAR IN WHICH THE PROPERTY INITIALLY BECOMES A QUALIFIED PROPERTY; OR

(II) FOR ANY OTHER QUALIFIED PROPERTY, for each of the 10 taxable years following the calendar year in which the property initially becomes a qualified property.

(e) (1) A tax credit under this section is available to a qualified property for no more than 10 consecutive years OR, IN THE CASE OF NEWLY CONSTRUCTED QUALIFIED PROPERTY THAT PROVIDES BOTH OFFICE AND RETAIL SPACE AND BECAME ELIGIBLE FOR THE CREDIT UNDER THIS SECTION ON OR AFTER JANUARY 1, 2019, BUT BEFORE JANUARY 1, 2022, NO MORE THAN 13 CONSECUTIVE YEARS, beginning with:

(i) the taxable year following the calendar year in which the real property initially becomes a qualified property; or

(ii) the taxable year in which the real property initially becomes a qualified property, subject to the approval of the appropriate local governing body and the Secretary of Commerce.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be applicable to all taxable years beginning after December 31, 2021.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be applicable to all taxable years beginning after June 30, 2022.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2022.

Approved by the Governor, May 16, 2022.