

HOUSE BILL 1196

Q1

11r0152

By: **Chair, Ways and Means Committee (By Request – Departmental – Planning)**

Introduced and read first time: February 17, 2011

Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means, February 28, 2011

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2011

CHAPTER _____

1 AN ACT concerning

2 **Sustainable Communities Tax Credit Program**

3 FOR the purpose of altering the application of certain provisions relating to
4 calculation of the amount of the Sustainable Communities tax credit that may
5 be claimed under certain circumstances; ~~authorizing the allocation of the tax~~
6 ~~credit in a certain manner~~; altering a certain fee; authorizing the use of a
7 certain reserve fund for certain purposes under certain circumstances; requiring
8 the Director of the Maryland Historical Trust to reserve a certain amount in a
9 certain reserve fund to be used for a certain purpose; requiring additional
10 reporting; ~~providing for the application of this Act~~; and generally relating to the
11 Sustainable Communities Tax Credit Program.

12 BY repealing and reenacting, without amendments,
13 Article – State Finance and Procurement
14 Section 5A–303(a)(6) and (18)
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2010 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – State Finance and Procurement
19 Section 5A–303(b)(6), (c)(1), (d), and (h)(1)
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2010 Supplement)

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 ~~BY adding to~~
2 ~~Article State Finance and Procurement~~
3 ~~Section 5A-303(e)(5)~~
4 ~~Annotated Code of Maryland~~
5 ~~(2009 Replacement Volume and 2010 Supplement)~~

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

8 **Article – State Finance and Procurement**

9 5A-303.

10 (a) (6) “Commercial rehabilitation” means a rehabilitation of a structure
11 other than a single-family, owner-occupied residence.

12 (18) (i) “Single-family, owner-occupied residence” means a
13 structure or a portion of a structure occupied by the owner and the owner’s immediate
14 family as their primary or secondary residence.

15 (ii) “Single-family, owner-occupied residence” includes a
16 residential unit in a cooperative project owned by or leased to a cooperative housing
17 corporation, as defined in § 5-6B-01 of the Corporations and Associations Article, and
18 leased for exclusive occupancy to, and occupied by, a member of the corporation and
19 the member’s immediate family under a proprietary lease.

20 (b) (6) (i) The Director shall adopt regulations to charge a reasonable
21 fee to certify historic structures and rehabilitations under this section.

22 (ii) The Director shall set the level of the fee so that the
23 projected proceeds from the fee will cover the costs to the Trust of administering the
24 credit under this section and the federal historic tax credit.

25 (iii) The fee charged may not exceed [1%] **3%** of the amount of
26 the initial credit certificate issued for a commercial rehabilitation project or the
27 amount of the credit for which a single-family, owner-occupied rehabilitation would
28 be eligible based on the greater of the estimated or final qualified rehabilitation
29 expenditures for the rehabilitation.

30 (iv) If the fee charged for a commercial rehabilitation is not
31 received by the Trust within 120 days after the Trust sends notice that the fee is due,
32 the initial credit certificate for the rehabilitation shall expire.

33 (v) The proceeds from the fee shall be deposited in a special
34 fund, to be used only for the purposes of paying the costs of administering the credit
35 under this section and the federal historic tax credit.

1 (vi) Any unused balance of the fund at the end of each fiscal year
2 shall be transferred to the Reserve Fund established under subsection (d) of this
3 section and shall increase the amount of the initial credit certificates that the Trust
4 may issue for the following fiscal year.

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

9 (ii) **[An] FOR COMMERCIAL REHABILITATIONS, AN** individual
10 or business entity may claim a tax credit in an amount equal to 25% of the individual's
11 or business entity's qualified rehabilitation expenditures if the certified rehabilitation
12 is a certified historic structure and a high performance building.

13 (iii) **[An] FOR COMMERCIAL REHABILITATIONS, AN** individual
14 or business entity may claim a tax credit in an amount equal to 10% of the individual's
15 or business entity's qualified rehabilitation expenditures if the certified rehabilitation
16 is a qualified rehabilitated structure.

17 ~~(5) THE STATE CREDIT ALLOWED UNDER THIS SECTION MAY BE~~
18 ~~ALLOCATED AMONG THE PARTNERS, MEMBERS, OR SHAREHOLDERS OF AN~~
19 ~~ENTITY IN ANY MANNER AGREED TO BY THOSE PERSONS IN WRITING.~~

20 (d) (1) In this subsection, "Reserve Fund" means the Sustainable
21 Communities Tax Credit Reserve Fund established under paragraph (2) of this
22 subsection.

23 (2) (i) There is a Sustainable Communities Tax Credit Reserve
24 Fund that is a continuing, nonlapsing special fund that is not subject to § 7-302 of this
25 article.

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

28 **(III) IF THE FEES PAID IN ANY FISCAL YEAR ARE LESS THAN**
29 **THE DIRECTLY RELATED ADMINISTRATIVE COSTS OF OPERATING THE**
30 **SUSTAINABLE COMMUNITIES TAX CREDIT PROGRAM, FUNDS IN THE RESERVE**
31 **FUND SHALL BE USED FOR THE DIRECTLY RELATED ADMINISTRATIVE COSTS OF**
32 **THE PROGRAM.**

33 (3) (i) Subject to the provisions of this subsection, the Director
34 shall issue an initial credit certificate for each commercial rehabilitation for which a
35 plan of proposed rehabilitation is approved.

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

4 (iii) 1. Except as otherwise provided in this subparagraph
5 and in subsection (b)(6)(vi) of this section, for any fiscal year, the Director may not
6 issue initial credit certificates for credit amounts in the aggregate totaling more than
7 the amount appropriated to the Reserve Fund for that fiscal year in the State budget
8 as approved by the General Assembly.

9 2. If the aggregate credit amounts under initial credit
10 certificates issued in a fiscal year total less than the amount appropriated to the
11 Reserve Fund for that fiscal year as a result of the limitation under subsection (b)(5)(i)
12 of this section, any excess amount may be issued under initial credit certificates for
13 projects in a county or Baltimore City in the same fiscal year, without regard to the
14 limitation under subsection (b)(5)(i) of this section.

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

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

24 **5. IN EACH FISCAL YEAR, THE DIRECTOR SHALL**
25 **ESTIMATE THE AMOUNT OF FEES TO BE COLLECTED BASED ON THE AMOUNT**
26 **APPROPRIATED TO THE RESERVE FUND AND RESERVE THE DIFFERENCE**
27 **BETWEEN THE ESTIMATED FEES AND ESTIMATED DIRECTLY RELATED**
28 **ADMINISTRATIVE COSTS OF THE PROGRAM TO BE USED TO ADMINISTER THE**
29 **PROGRAM.**

30 **6. IF THE RESERVATION OF FUNDS TO ADMINISTER**
31 **THE PROGRAM UNDER SUBSUBPARAGRAPH 5 OF THIS SUBPARAGRAPH IS NOT**
32 **NECESSARY TO COVER THE DIRECTLY RELATED ADMINISTRATIVE COSTS OF THE**
33 **PROGRAM, ANY EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND**
34 **MAY BE ISSUED UNDER INITIAL CREDIT CERTIFICATES FOR THE NEXT FISCAL**
35 **YEAR.**

36 (iv) For each of fiscal years 2011, 2012, 2013, and 2014, the
37 Governor shall include in the budget bill an appropriation to the Reserve Fund.

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

4 (vi) The Director may not issue an initial credit certificate for
5 any fiscal year after fiscal year 2014.

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

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

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

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

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

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

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

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

28 (i) the initial credit certificates awarded for commercial
29 rehabilitations under this section for that fiscal year;

30 (ii) the tax credits awarded for certified rehabilitations
31 completed in the preceding fiscal year; [and]

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

34 1. a Main Street Maryland community;

- 1 2. beginning in fiscal 2012, a sustainable community;
- 2 3. a local historic district; or
- 3 4. a national register district; AND

4 (IV) THE ESTIMATED AMOUNT OF DIRECTLY RELATED
 5 ADMINISTRATIVE COSTS RESERVED IN THE RESERVE FUND, THE ESTIMATED
 6 AMOUNT OF FEES TO BE COLLECTED, THE ACTUAL DIRECTLY RELATED
 7 ADMINISTRATIVE COSTS, AND THE ACTUAL AMOUNT OF FEES COLLECTED.

8 ~~SECTION 2. AND BE IT FURTHER ENACTED, That § 5A-303(e)(5) of the~~
 9 ~~State Finance and Procurement Article, as enacted by this Act, shall be construed to~~
 10 ~~apply retroactively and shall be applied to and interpreted to affect any commercial~~
 11 ~~rehabilitation project for which an application of a plan of proposed rehabilitation is~~
 12 ~~approved by the Director of the Maryland Historical Trust on or after January 1, 2005.~~

13 SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
 14 effect July 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.