

# HOUSE BILL 862

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CF SB 978

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By: **Delegates Smith, Buckel, and Lierman**

Introduced and read first time: February 3, 2020

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Historic Revitalization Tax Credit – Transferability, ~~Funding, and Extension~~**  
3 **(Historic Revitalization Tax Credit Improvement Act of 2020)**

4 FOR the purpose of making a certain tax credit for commercial rehabilitations under the  
5 historic revitalization tax credit program transferable and refundable under certain  
6 circumstances; requiring the Director of the Maryland Historical Trust, in  
7 consultation with the Smart Growth Subcabinet, to adopt certain regulations;  
8 ~~requiring the Governor, in certain fiscal years, to include in the annual State budget~~  
9 ~~an appropriation of at least a certain amount for the tax credit reserve fund;~~  
10 ~~extending for a certain number of years the termination date of the tax credit;~~  
11 providing for the application of this Act; and generally relating to the historic  
12 revitalization tax credit.

13 BY adding to

14 Article – State Finance and Procurement  
15 Section 5A–303(b)(1)(xi) and (c)(6)  
16 Annotated Code of Maryland  
17 (2015 Replacement Volume and 2019 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – State Finance and Procurement  
20 Section 5A–303(b)(1)(xi) and (xii), ~~(d), and (j)~~  
21 Annotated Code of Maryland  
22 (2015 Replacement Volume and 2019 Supplement)

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### 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.



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.

(b) (1) The Director, in consultation with the Smart Growth Subcabinet, shall adopt regulations to:

**(XI) FOR COMMERCIAL REHABILITATIONS, ESTABLISH PROCEDURES FOR THE TRANSFER OF THE TAX CREDIT UNDER SUBSECTION (C)(6) OF THIS SECTION;**

~~[(xi)]~~ **(XII)** for small commercial projects:

1. establish conditions regarding the percentage of the structure that may be used for residential rental purposes if the structure is used for both commercial and residential rental purposes;

2. specify criteria for determining whether a certified historic structure is:

A. an agricultural structure; or

B. a post-World War II structure; and

3. specify criteria and procedures for the issuance of initial credit certificates under subsection (e) of this section; and

~~[(xii)]~~ **(XIII)** specify criteria and procedures for approval of enhanced benefits under this section for Level 1 and Level 2 opportunity zone projects.

**(c) (6) (I) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DIRECTOR UNDER THIS SECTION, THE AMOUNT OF THE STATE TAX CREDIT ALLOWED BUT NOT USED FOR COMMERCIAL REHABILITATIONS UNDER THIS SECTION MAY BE TRANSFERRED IN WHOLE OR IN PART TO ANY INDIVIDUAL OR BUSINESS ENTITY.**

**(II) 1. FOR THE TAXABLE YEAR OF ANY TRANSFER UNDER THIS PARAGRAPH, THE TRANSFEREE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY APPLY THE TAX CREDIT AGAINST THE TOTAL TAX OTHERWISE PAYABLE BY THE TRANSFEREE IN THAT TAXABLE YEAR.**

**2. IF THE TAX CREDIT EXCEEDS THE STATE INCOME TAX OF THE TRANSFEREE IN ANY TAXABLE YEAR, THE TRANSFEREE:**

1                   A.     MAY CLAIM A REFUND IN THE AMOUNT OF THE  
2 EXCESS; OR

3                   B.     MAY TRANSFER THE REMAINDER OF THE TAX CREDIT  
4 TO ANY INDIVIDUAL OR BUSINESS ENTITY.

5           ~~(d) (1) In this subsection, "Reserve Fund" means the Historic Revitalization~~  
6 ~~Tax Credit Reserve Fund established under paragraph (2) of this subsection.~~

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

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

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

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

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

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

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

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

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~~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) 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. [For] SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, FOR each of fiscal years 2018 through [2024] 2028, the Governor shall include in the budget bill an appropriation to the Reserve Fund.~~

~~2. THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND OF AT LEAST THE FOLLOWING AMOUNTS:~~

~~A. FOR FISCAL YEAR 2022, \$15,000,000;~~

~~B. FOR FISCAL YEAR 2023, \$20,000,000;~~

~~C. FOR FISCAL YEAR 2024, \$25,000,000; AND~~

~~D. FOR FISCAL YEAR 2025, \$30,000,000.~~

~~(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] 2028.~~

~~(4) (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.~~

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

3                   B. ~~the final certified credit amount for the project.~~

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

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

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

15                   ~~(j) (1) Subject to the provisions of this subsection, the provisions of this section~~  
16 ~~and the tax credit authorized under this section shall terminate as of July 1, [2024] 2028.~~

17                   ~~(2) On and after July 1, [2024] 2028:~~

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

19                   ~~1. a rehabilitation project, other than a commercial~~  
20 ~~rehabilitation, for which an application for approval of a plan of proposed rehabilitation~~  
21 ~~was received by the Director on or before June 30, [2024] 2028; or~~

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

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

27                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
28 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.