

HOUSE BILL 759

Unofficial Copy
Q3

2002 Regular Session
(2r2031)

ENROLLED BILL
-- Ways and Means/Budget and Taxation --

Introduced by **Delegates Hixson, Howard, Healey, Bozman, and C. Davis**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 541

1 AN ACT concerning

2 **Maryland Heritage Structure Rehabilitation Tax Credit**

3 FOR the purpose of limiting the qualifying expenditures under the Maryland
4 Heritage Structure Rehabilitation Tax Credit allowed for a ~~commercial~~
5 rehabilitation to the amount of ~~proposed~~ *estimated* expenditures ~~approved as~~
6 ~~qualifying for purposes of the credit by the Director of the Maryland Historical~~
7 ~~Trust as stated in the application for approval of a plan of proposed~~
8 ~~rehabilitation; limiting the amount of State tax credit allowed for any~~
9 ~~rehabilitation; altering the calculation of the credit; providing that certain~~
10 ~~expenditures funded, financed, or otherwise reimbursed by certain State or local~~
11 ~~financial assistance do not qualify for the credit; limiting the credit allowed for~~
12 ~~certain rehabilitations to a certain amount; repealing certain provisions~~
13 ~~allowing the credit for certain rehabilitations in other states under certain~~
14 ~~circumstances; repealing certain provisions allowing the transfer of the credit~~
15 ~~under certain circumstances; repealing a provision making the credit refundable~~
16 ~~under certain circumstances; providing for the carry forward of certain unused~~
17 ~~credit amounts; allowing certain unused credit amounts to be transferred under~~

1 certain circumstances; making the credit refundable under certain
 2 circumstances for certain tax-exempt organizations and for certain
 3 rehabilitations; providing that for certain rehabilitations, the credit may not be
 4 claimed unless the proposed rehabilitation work and the amount of the proposed
 5 rehabilitation expenditures qualifying for purposes of the credit have been
 6 approved by the Director of the Maryland Historical Trust; limiting the amount
 7 of proposed rehabilitation expenditures that the Director may approve for
 8 purposes of the credit for any commercial project; limiting the aggregate amount
 9 of proposed rehabilitation expenditures that the Director may approve as
 10 qualifying for purposes of the credit in any calendar year; requiring that a
 11 certain portion of the aggregate credit available each year be allocated to certain
 12 projects; requiring the Director to approve proposed rehabilitation expenditures
 13 for purposes of the credit on a certain basis; altering certain reporting
 14 requirements under the credit; limiting the amount of the credit that may be
 15 claimed for any taxable year for certain rehabilitations to a certain amount;
 16 allowing certain excess credit to be carried forward and applied as a credit in
 17 future tax years, subject to a certain limitation; providing for the application of
 18 this Act; requiring the Comptroller to allow certain amended returns and to
 19 waive certain interest and penalty; providing for the allocation of the available
 20 credit for a certain calendar year under certain circumstances *providing for the*
 21 *termination of the credit as of a certain date; stating the intent of the General*
 22 *Assembly regarding the estimated rehabilitation expenditures for approved*
 23 *proposed commercial projects for the purposes of the credit for any calendar year;*
 24 *requiring the Department of Legislative Services to monitor the approval of*
 25 *proposed commercial rehabilitation projects for the purposes of the credit and to*
 26 *take certain actions relating to the credit under certain circumstances;* and
 27 generally relating to the Maryland Heritage Structure Rehabilitation Tax
 28 Credit.

29 BY repealing and reenacting, with amendments,
 30 Article 83B - Department of Housing and Community Development
 31 Section 5-801
 32 Annotated Code of Maryland
 33 (1998 Replacement Volume and 2001 Supplement)

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

36 **Article 83B - Department of Housing and Community Development**

37 5-801.

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

39 (2) "Business entity" means:

40 (i) A person conducting or operating a trade or business in the
 41 State; or

1 (ii) An organization operating in Maryland that is exempt from
2 taxation under § 501(c)(3) of the Internal Revenue Code.

3 (3) "Certified heritage area" has the meaning stated in § 13-1101(d) of
4 the Financial Institutions Article.

5 (4) (i) "Certified heritage structure" means a structure that is located
6 in the State and is:

7 1. Listed in the National Register of Historic Places;

8 2. Designated as a historic property under local law AND
9 DETERMINED BY THE DIRECTOR TO BE ELIGIBLE FOR LISTING ON THE NATIONAL
10 REGISTER OF HISTORIC PLACES;

11 3. A. Located in a historic district listed on the National
12 Register of Historic Places or in a local historic district THAT THE DIRECTOR
13 DETERMINES IS ELIGIBLE FOR LISTING ON THE NATIONAL REGISTER OF HISTORIC
14 PLACES; and

15 B. Certified by the Director ~~of the Maryland Historical Trust~~
16 as contributing to the significance of the district; or

17 4. Located in a certified heritage area and which has been
18 certified by the Maryland Heritage Areas Authority as contributing to the
19 significance of the certified heritage area.

20 (ii) "Certified heritage structure" does not include a structure that
21 is owned by the State, a political subdivision of the State, or the federal government,
22 ~~other than a structure located on the Hippodrome site, as defined in § 13-701 of the~~
23 ~~Financial Institutions Article.~~

24 (5) "Certified rehabilitation" means a completed rehabilitation of a
25 certified heritage structure which the Director certifies is substantial rehabilitation
26 in conformance with the rehabilitation standards of the United States Secretary of
27 the Interior.

28 (6) "COMMERCIAL REHABILITATION" MEANS A REHABILITATION OF A
29 STRUCTURE OTHER THAN A SINGLE-FAMILY, OWNER-OCCUPIED RESIDENCE.

30 [(6)] (7) "Director" means the Director of the Maryland Historical Trust.

31 [(7)] (8) "Local historic district" means a district that the governing body
32 of a county or municipal corporation, or the Mayor and City Council of Baltimore, has
33 designated under local law as historic.

34 [(8)] (9) "Qualified rehabilitation expenditure" means any amount that
35 [is]:

36 (I) IS properly chargeable to capital account [and is];

1 (II) IS expended in the rehabilitation of a structure that by the end
 2 of the taxable year in which the certified rehabilitation is completed is a certified
 3 heritage structure;

4 (III) ~~FOR A COMMERCIAL REHABILITATION, IS EXPENDED IN~~
 5 ~~COMPLIANCE WITH A PLAN OF PROPOSED EXPENDITURES REHABILITATION THAT~~
 6 ~~HAS BEEN APPROVED BY THE DIRECTOR IN ACCORDANCE WITH SUBSECTION (D) OF~~
 7 ~~THIS SECTION AND DOES NOT EXCEED THE MAXIMUM ESTIMATED AMOUNT OF~~
 8 ~~PROPOSED REHABILITATION EXPENDITURES APPROVED BY THE DIRECTOR AS~~
 9 ~~QUALIFYING FOR THE CREDIT STATED IN THE APPLICATION FOR APPROVAL OF THE~~
 10 ~~PLAN OF PROPOSED REHABILITATION; AND~~

11 (IV) ~~EXCEPT FOR A CREDIT TRANSFERRED BY THE MARYLAND~~
 12 ~~STADIUM AUTHORITY OR AN AUTHORITY AFFILIATE UNDER SUBSECTION (F) OF THIS~~
 13 ~~SECTION, IS NOT FUNDED, FINANCED, OR OTHERWISE REIMBURSED BY ANY:~~

14 1. STATE OR LOCAL GRANT ~~OR LOAN~~;

15 2. GRANT MADE FROM THE PROCEEDS OF TAX-EXEMPT
 16 BONDS ISSUED BY THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN
 17 INSTRUMENTALITY OF THE STATE OR OF A POLITICAL SUBDIVISION OF THE STATE;

18 3. STATE ~~OR LOCAL~~ TAX CREDIT OTHER THAN THE TAX
 19 CREDIT UNDER THIS SECTION; OR

20 4. OTHER FINANCIAL ASSISTANCE FROM THE STATE OR A
 21 POLITICAL SUBDIVISION OF THE STATE, OTHER THAN A LOAN THAT MUST BE REPAYED
 22 AT AN INTEREST RATE THAT IS GREATER THAN THE INTEREST RATE ON GENERAL
 23 OBLIGATION BONDS ISSUED BY THE STATE AT THE MOST RECENT BOND SALE PRIOR
 24 TO THE TIME THE LOAN IS MADE.

25 [(9)] (10) "Substantial rehabilitation" means rehabilitation of a structure
 26 for which the qualified rehabilitation expenditures, during the 24-month period
 27 selected by the taxpayer ending with or within the taxable year, exceed:

28 (i) For owner-occupied residential property, \$5,000; or

29 (ii) For all other property, the greater of:

30 1. The adjusted basis of the structure; or

31 2. \$5,000.

32 (b) (1) [Subject to subsection (e) of] EXCEPT AS OTHERWISE PROVIDED IN
 33 this section, for the taxable year in which a certified rehabilitation is completed, a
 34 business entity or an individual may claim a tax credit in an amount equal to ~~20%~~ 25%
 35 20% of the taxpayer's qualified rehabilitation expenditures for the rehabilitation.

1 (2) The State tax credit allowed under this section may be allocated
 2 among the partners, members, or shareholders of an entity in any manner agreed to
 3 by those persons in writing.

4 (3) (I) ~~FOR ANY COMMERCIAL REHABILITATION, THE STATE TAX~~
 5 ~~CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED \$1,000,000.~~

6 (H) ~~FOR PURPOSES OF THE LIMITATION UNDER SUBPARAGRAPH (I)~~
 7 ~~OF THIS PARAGRAPH, THE FOLLOWING SHALL BE TREATED AS A SINGLE~~
 8 ~~REHABILITATION:~~

9 1. ~~THE PHASED REHABILITATION OF THE SAME STRUCTURE~~
 10 ~~OR PROPERTY;~~

11 2. ~~THE SEPARATE REHABILITATION OF DIFFERENT~~
 12 ~~COMPONENTS OF THE SAME STRUCTURE OR PROPERTY; OR~~

13 3. ~~THE REHABILITATION OF MULTIPLE STRUCTURES THAT~~
 14 ~~ARE FUNCTIONALLY RELATED TO SERVE AN OVERALL PURPOSE, SUCH AS A MILL~~
 15 ~~COMPLEX, AN INDUSTRIAL COMPLEX, OR A RESIDENCE AND CARRIAGE HOUSE.~~

16 (3) (I) ~~FOR A ANY REHABILITATION OTHER THAN A COMMERCIAL~~
 17 ~~REHABILITATION, THE STATE TAX CREDIT ALLOWED UNDER THIS SECTION MAY NOT~~
 18 ~~EXCEED \$50,000 \$3,000,000.~~

19 (II) ~~FOR THE PURPOSES OF THE LIMITATION UNDER~~
 20 ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE FOLLOWING SHALL BE TREATED AS A~~
 21 ~~SINGLE REHABILITATION:~~

22 1. ~~THE PHASED REHABILITATION OF THE SAME STRUCTURE~~
 23 ~~OR PROPERTY;~~

24 2. ~~THE SEPARATE REHABILITATION OF DIFFERENT~~
 25 ~~COMPONENTS OF THE SAME STRUCTURE OR PROPERTY; OR~~

26 3. ~~THE REHABILITATION OF MULTIPLE STRUCTURES THAT~~
 27 ~~ARE FUNCTIONALLY RELATED TO SERVE AN OVERALL PURPOSE.~~

28 [(3)] (4) The same tax credit may not be applied more than once against
 29 different taxes.

30 (c) (1) ~~{[f] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,~~
 31 ~~IF~~ the credit allowed under this section in any taxable year exceeds the total tax
 32 otherwise payable by the business entity or the individual for that taxable year, the
 33 business entity or individual may {claim a refund in the amount of the excess.

34 (d) (1) ~~Except as provided in paragraph (2) of this subsection, a business~~
 35 ~~entity or individual that incurs qualified rehabilitation expenditures in the~~
 36 ~~rehabilitation of a certified historic structure in a state other than Maryland may~~
 37 ~~claim a tax credit to the same extent as provided under subsection (b) of this section~~

1 if the other state has in effect a reciprocal historic rehabilitation tax credit program
2 and agreement for taxpayers of that state who rehabilitate historic structures in
3 Maryland.

4 (2) A business entity or individual that qualifies for a tax credit under
5 this subsection may not claim a refund under subsection (e) of this section.

6 (3) If the credit allowed to a business entity or individual under this
7 subsection for any taxable year exceeds the total tax otherwise payable by the
8 business entity or the individual for that taxable year, the business entity or
9 individual may apply the excess as a credit for succeeding taxable years until the
10 earlier of:

11 (i) The full amount of the credit is used; or

12 (ii) The expiration of the tenth taxable year after the taxable year
13 in which the rehabilitation is completed.

14 (2) IF A CERTIFIED HERITAGE STRUCTURE FOR WHICH A CERTIFIED
15 REHABILITATION HAS BEEN COMPLETED IS SOLD OR TRANSFERRED, THE AMOUNT
16 OF ANY CREDIT UNUSED AT THE TIME OF SALE OR TRANSFER MAY BE TRANSFERRED
17 TO THE INDIVIDUAL OR BUSINESS ENTITY TO WHICH THE BUILDING IS SOLD OR
18 TRANSFERRED.

19 (3) (4) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR A
20 CERTIFIED REHABILITATION THAT IS NOT A COMMERCIAL REHABILITATION IN ANY
21 TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY AN INDIVIDUAL
22 FOR THAT TAXABLE YEAR, THE INDIVIDUAL MAY CLAIM A REFUND IN THE AMOUNT
23 OF THE EXCESS.

24 (H) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §
25 501(C)(3) OF THE INTERNAL REVENUE CODE MAY CLAIM A REFUND IN THE AMOUNT
26 BY WHICH THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS ANY STATE
27 INCOME TAX DUE ON UNRELATED BUSINESS TAXABLE INCOME AS PROVIDED UNDER
28 §§ 10-304 AND 10-812 OF THIS TITLE.

29 (D) (1) FOR A COMMERCIAL REHABILITATION, THE CREDIT UNDER THIS
30 SECTION MAY NOT BE CLAIMED UNLESS THE PROPOSED REHABILITATION WORK
31 AND THE AMOUNT OF THE PROPOSED REHABILITATION EXPENDITURES FOR THE
32 COMMERCIAL REHABILITATION MAXIMUM CREDIT FOR THE REHABILITATION HAVE
33 BEEN APPROVED BY THE DIRECTOR IN ACCORDANCE WITH THIS SUBSECTION
34 BEFORE THE EXPENDITURES ARE MADE.

35 (2) (1) IN ANY CALENDAR YEAR AFTER CALENDAR YEAR 2001:

36 (1) THE DIRECTOR MAY NOT APPROVE PROPOSED
37 REHABILITATION EXPENDITURES FOR ANY COMMERCIAL REHABILITATION IN AN
38 AMOUNT GREATER THAN THE AMOUNT OF EXPENDITURES THAT IF COMPLETED
39 WOULD RESULT IN A CREDIT OF \$1,000,000 FOR THAT COMMERCIAL REHABILITATION
40 UNDER THIS SECTION; AND

1 (H) ~~THE DIRECTOR MAY NOT APPROVE PROPOSED~~
 2 ~~REHABILITATION EXPENDITURES FOR COMMERCIAL PROJECTS IN THE AGGREGATE~~
 3 ~~IN AN AMOUNT GREATER THAN THE AMOUNT OF EXPENDITURES THAT IF~~
 4 ~~COMPLETED WOULD RESULT IN CREDITS TOTALING \$20,000,000 \$50,000,000 IN A~~
 5 ~~CALENDAR YEAR FOR ALL COMMERCIAL PROJECTS FOR WHICH PROPOSED~~
 6 ~~REHABILITATION EXPENDITURES ARE APPROVED IN THAT CALENDAR YEAR.~~

7 (H) ~~OF THE AVAILABLE CREDITS TO BE ALLOCATED EACH YEAR:~~

8 ~~1. \$30,000,000 SHALL BE ALLOCATED TO COMMERCIAL~~
 9 ~~REHABILITATIONS FOR WHICH THE MAXIMUM CREDIT DOES NOT EXCEED \$3,000,000;~~
 10 ~~AND~~

11 ~~2. \$20,000,000 SHALL BE ALLOCATED TO COMMERCIAL~~
 12 ~~REHABILITATIONS FOR WHICH THE MAXIMUM CREDIT IS GREATER THAN \$3,000,000.~~

13 (3) ~~IN EACH CALENDAR YEAR, SUBJECT TO PARAGRAPH (2)(H) OF THIS~~
 14 ~~SUBSECTION, THE DIRECTOR SHALL APPROVE PROPOSED REHABILITATION~~
 15 ~~EXPENDITURES ON A FIRST COME, FIRST SERVED BASIS.~~

16 (e) (D) (1) The Director and the Maryland Heritage Areas Authority may
 17 adopt regulations to establish procedures and standards for certifying heritage
 18 structures and rehabilitations under this section.

19 (2) The Director may not certify that a rehabilitation is a certified
 20 rehabilitation eligible for the tax credit under this section unless the individual or
 21 business entity seeking certification states under oath the amount of the individual's
 22 or business entity's qualified rehabilitation expenditures.

23 (f) (1) ~~In this subsection, "Authority affiliate" has the meaning stated in §~~
 24 ~~13-701(t) of the Financial Institutions Article.~~

25 (2) ~~As authorized under § 13-708 of the Financial Institutions Article,~~
 26 ~~the Maryland Stadium Authority or an Authority affiliate may transfer to any~~
 27 ~~business entity or individual any credit under this section for qualified rehabilitation~~
 28 ~~expenditures of the Maryland Stadium Authority or an Authority affiliate.~~

29 (3) ~~A business entity or individual to whom any credit is transferred by~~
 30 ~~the Maryland Stadium Authority or an Authority affiliate under this subsection may~~
 31 ~~claim a tax credit under this section in the full amount of the credit transferred.~~

32 (g) (E) (1) In this subsection, "disqualifying work" means work that:

33 (i) Is performed on a certified heritage structure for which a
 34 rehabilitation has been certified under this section; and

35 (ii) If performed as part of the rehabilitation certified under this
 36 section, would have made the rehabilitation ineligible for certification.

1 (2) Except as provided in paragraph (4) of this subsection, the credit
 2 allowed under this section shall be recaptured as provided in paragraph (3) of this
 3 subsection if, during the taxable year in which a certified rehabilitation is completed
 4 or any of the 4 taxable years succeeding the taxable year in which the certified
 5 rehabilitation is completed, any disqualifying work is performed on the certified
 6 heritage structure for which the certified rehabilitation has been completed.

7 (3) (i) 1. If the disqualifying work is performed during the taxable
 8 year in which the certified rehabilitation was completed, 100% of the credit shall be
 9 recaptured.

10 2. If the disqualifying work is performed during the first full
 11 year succeeding the taxable year in which the certified rehabilitation was completed,
 12 80% of the credit shall be recaptured.

13 3. If the disqualifying work is performed during the second
 14 full year succeeding the taxable year in which the certified rehabilitation was
 15 completed, 60% of the credit shall be recaptured.

16 4. If the disqualifying work is performed during the third full
 17 year succeeding the taxable year in which the certified rehabilitation was completed,
 18 40% of the credit shall be recaptured.

19 5. If the disqualifying work is performed during the fourth
 20 full year succeeding the taxable year in which the certified rehabilitation was
 21 completed, 20% of the credit shall be recaptured.

22 (ii) Except as provided under paragraph (4) of this subsection, the
 23 business entity or individual that claimed the credit shall pay the amount to be
 24 recaptured as determined under subparagraph (i) of this paragraph as taxes payable
 25 to the State for the taxable year in which the disqualifying work is performed.

26 (4) Recapture of the credit allowed under this section is not required if
 27 the business entity or individual that claimed the credit does not own an interest in
 28 the certified heritage structure when the disqualifying work is performed.

29 ~~(A)~~ (F) A refund payable under ~~subsection (c)~~ ~~SUBSECTION (C)(3)~~ of this
 30 section ~~is~~:

31 (1) Operates to reduce the income tax revenue from corporations if the
 32 person entitled to the refund is a corporation subject to the income tax under Title 10
 33 of the Tax - General Article;

34 (2) Operates to reduce insurance premium tax revenues if the person
 35 entitled to the refund is subject to taxation under Title 6 of the Insurance Article; and

36 (3) Operates ~~OPERATES~~ to reduce the income tax revenue from
 37 individuals ~~if~~ the person entitled to the refund is:

1 (i) An individual subject to the income tax under Title 10 of the Tax
2 - General Article; or

3 (ii) An organization exempt from taxation under § 501(c)(3) of the
4 Internal Revenue Code.

5 ~~(+)~~ (G) (1) On or before January 15, APRIL 15, JULY 15, AND OCTOBER 15 of
6 each year, the Director shall report to the Governor and, subject to § 2-1246 of the
7 State Government Article, to the General Assembly, on the credit allowed under this
8 section.

9 (2) The report required under paragraph (1) of this subsection shall
10 include FOR THE PRECEDING CALENDAR YEAR, QUARTER, FOR EACH COMMERCIAL
11 REHABILITATION THAT WAS COMPLETED DURING THE CALENDAR QUARTER AND
12 FOR EACH PROPOSED COMMERCIAL REHABILITATION THAT REMAINS INCOMPLETE
13 AS OF THE END OF THE CALENDAR QUARTER:

14 (I) THE NAME OF THE OWNER OR DEVELOPER THAT HAS APPLIED
15 FOR APPROVAL OF THE TAX CREDIT;

16 (II) THE NAME AND ADDRESS OF THE PROPOSED OR CERTIFIED
17 REHABILITATION AND THE COUNTY WHERE THE PROJECT IS LOCATED;

18 (III) THE DATES OF RECEIPT AND APPROVAL BY THE TRUST OF ALL
19 APPLICATIONS REGARDING THE PROJECT, INCLUDING APPLICATIONS FOR
20 CERTIFICATION THAT A STRUCTURE OR PROPERTY WILL QUALIFY AS A CERTIFIED
21 HERITAGE STRUCTURE, FOR APPROVAL OF THE PROPOSED REHABILITATION, AND
22 FOR CERTIFICATION OF THE COMPLETED REHABILITATION; AND

23 (IV) THE AMOUNT OF PROPOSED ESTIMATED REHABILITATION
24 EXPENDITURES FOR WHICH THE APPLICANT SOUGHT APPROVAL FOR PURPOSES OF
25 THE CREDIT AND THE MAXIMUM CREDIT APPROVED FOR THE PROJECT STATED IN
26 THE APPLICATION FOR APPROVAL OF THE PLAN OF PROPOSED REHABILITATION;
27 AND

28 (V) FOR PROJECTS COMPLETED DURING THE CALENDAR QUARTER,
29 THE FINAL QUALIFIED REHABILITATION COSTS FOR THE PROJECT AND THE
30 AMOUNT OF THE CREDIT FOR THE CERTIFIED REHABILITATION.

31 (3) THE REPORT REQUIRED ON JANUARY 15 OF EACH YEAR SHALL
32 SUMMARIZE FOR THE PRECEDING CALENDAR YEAR, for each category of certified
33 rehabilitations specified in paragraph ~~(3)~~ (4) of this subsection:

34 (i) The number of applicants [for certification of rehabilitations
35 during the preceding calendar year] FOR:

36 1. CERTIFICATION THAT A STRUCTURE OR PROPERTY WILL
37 QUALIFY AS A CERTIFIED HERITAGE STRUCTURE;

1 (II) THE DIRECTOR SHALL CONTINUE TO REPORT TO THE
2 GOVERNOR AND THE GENERAL ASSEMBLY AS REQUIRED UNDER SUBSECTION (G)
3 FOR AS LONG AS ANY REHABILITATION PROJECT FOR WHICH AN APPLICATION FOR
4 APPROVAL OF A PLAN OF PROPOSED REHABILITATION WAS RECEIVED BY THE
5 DIRECTOR ON OR BEFORE MAY 31, 2004 REMAINS INCOMPLETE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That:

7 (a) Except as otherwise provided in this section, this Act applies to all tax
8 credits under Article 83B, § 5-801 of the Code for any taxable year for which an
9 income tax return is required to be filed in any calendar year after 2001.

10 (b) Notwithstanding the limitation under Article 83B, § 5-801(b)(3) and (c)(1)
11 of the Code, but subject to subsection (c) of this section, with respect to any
12 rehabilitation project that received the approval of the Director of the Maryland
13 Historical Trust of the proposed rehabilitation work before February 1, 2002:

14 (1) The State tax credit allowed under Article 83B, § 5-801 of the Code
15 for a single certified rehabilitation may exceed \$1,000,000; and

16 (2) If the credit allowed in any taxable year exceeds the total tax
17 otherwise payable by the taxpayer for that taxable year, the taxpayer may claim a
18 refund in the amount of the excess.

19 (c) (1) With respect to any rehabilitation project that received the approval
20 of the Director of the Maryland Historical Trust of the proposed rehabilitation work
21 before February 1, 2002, the credit allowed for any taxable year for a single certified
22 rehabilitation may not exceed \$5,000,000 for any taxable year.

23 (2) If the credit otherwise allowable for a single certified rehabilitation
24 exceeds the limit under paragraph (1) of this subsection, the excess may be applied as
25 a credit against the State tax for succeeding taxable years until the full amount of the
26 excess is used.

27 (3) For each taxable year, the amount carried forward to the taxable year
28 under paragraph (2) of this subsection may not exceed the limitation under paragraph
29 (1) of this subsection.

30 (d) (1) Subject to paragraph (2) of this subsection, for any taxable year for
31 which a tax return is required to be filed in calendar year 2002, the Comptroller shall
32 allow amended returns to be filed and shall waive any interest or penalty imposed
33 relating to payment of tax for calendar year 2001 to the extent the Comptroller
34 determines that the interest or penalty would not have been incurred but for the
35 revisions under this Act.

36 (2) Paragraph (1) of this subsection does not apply to any interest or
37 penalty accruing on or after July 1, 2002 for any tax required to be paid for calendar
38 year 2001 that remains unpaid as of July 1, 2002.

1 (e) If the proposed rehabilitation expenditures for all commercial projects
2 approved by the Director of the Maryland Historical Trust in calendar year 2002
3 before February 1, 2002 in the aggregate are greater than the amount of expenditures
4 that if completed would result in credits totaling \$20,000,000, the Director shall
5 allocate the \$20,000,000 available credit among the projects for which the Director
6 approved proposed rehabilitation expenditures before February 1, 2002 on a prorated
7 basis.

8 ~~SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of~~
9 ~~this Act, this Act shall take effect June 1, 2002.~~

10 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
11 General Assembly that the total estimated rehabilitation expenditures for proposed
12 commercial rehabilitations for the purposes of the tax credit authorized under Article
13 83B, § 5-801 of the Code approved for any calendar year not exceed an amount of
14 expenditures that in the aggregate would result in tax credits of more than
15 \$50,000,000.

16 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
17 Legislative Services shall monitor the approval of proposed commercial rehabilitation
18 projects by the Maryland Historical Trust for the purposes of the tax credit authorized
19 under Article 83B, § 5-801 of the Code. If the total estimated rehabilitation
20 expenditures for proposed commercial rehabilitations approved in any calendar year
21 exceeds an amount that in the aggregate would result in more than \$50,000,000 in tax
22 credits, the Department of Legislative Services shall:

23 (1) Notify the President of the Senate, the Speaker of the House of Delegates, the
24 Senate Budget and Taxation Committee, and the House Committee on Ways and
25 Means;

26 (2) Make recommendations to the General Assembly to limit State revenue
27 losses under the heritage structure rehabilitation tax credit program, including options
28 to convert the program to a grant-based program; and

29 (3) Prepare legislation for introduction in the next legislative session of the
30 General Assembly to impose an aggregate cap on the annual approval of commercial
31 rehabilitation expenses that would ensure that the tax credits resulting from annual
32 approved commercial rehabilitations do not exceed \$50,000,000 in tax credits under
33 Article 83B, § 5-801 of the Code.

34 ~~SECTION 2. 4. AND BE IT FURTHER ENACTED, That, except as otherwise~~
35 ~~provided in this section, this Act shall take effect June 1, 2002, and shall be applicable~~
36 ~~to all taxable years beginning after December 31, 2001. For commercial rehabilitation~~
37 ~~projects that received the approval of that have submitted an application for approval~~
38 ~~of a plan of proposed rehabilitation by the Director of the Maryland Historical Trust~~
39 ~~on or before February 1, 2002 for the proposed rehabilitations, the provisions of~~
40 ~~Article 83B, § 5-801 of the Code in effect on May 31, 2002 shall apply to the certified~~
41 ~~heritage structure rehabilitation credit for the substantial rehabilitation project.~~

