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By: **Delegates Hixson, Bozman, C. Davis, Gordon, Healey, Howard,  
Marriott, and Patterson**

Introduced and read first time: February 6, 2006

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Qualified Maryland Housing Tax Credit**

3 FOR the purpose of allowing a credit against the State income tax for certain  
4 qualified Maryland housing in certain areas; providing for allocation of the  
5 aggregate available credit among qualified Maryland housing projects by the  
6 Secretary of Housing and Community Development; limiting the aggregate  
7 credit that may be allocated for any fiscal year; limiting the credit that may be  
8 allocated to a single project for any fiscal year; establishing the Qualified  
9 Maryland Housing Tax Credit Reserve Fund; authorizing the Governor to  
10 include certain appropriations to a certain fund in the annual budget bill;  
11 requiring the Comptroller to transfer certain amounts from a certain fund to the  
12 General Fund under certain circumstances; authorizing the Secretary to adopt  
13 certain regulations; requiring the Secretary to adopt certain regulations or  
14 policies; authorizing the Secretary in consultation with the Comptroller to adopt  
15 certain regulations providing for the recapture of the tax credit under certain  
16 circumstances; allowing unused credit to be carried over to certain taxable  
17 years; defining certain terms; providing for the application of this Act; and  
18 generally relating to a State tax credit for certain qualified Maryland housing.

19 BY adding to

20 Article - Housing and Community Development

21 Section 4-1801 through 4-1804 to be under the new subtitle "Subtitle 18.

22 Qualified Maryland Housing Tax Credit"

23 Annotated Code of Maryland

24 (2005 Volume)

25 BY adding to

26 Article - Tax - General

27 Section 10-726

28 Annotated Code of Maryland

29 (2004 Replacement Volume and 2005 Supplement)

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

3 **Article - Housing and Community Development**

4 SUBTITLE 18. QUALIFIED MARYLAND HOUSING TAX CREDIT.

5 4-1801.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

8 (B) "COMMUNITY REVITALIZATION AREA" MEANS:

9 (1) A CERTIFIED HERITAGE AREA WITHIN A COUNTY DESIGNATED  
10 GROWTH AREA, AS DESIGNATED UNDER TITLE 13, SUBTITLE 11 OF THE FINANCIAL  
11 INSTITUTIONS ARTICLE;

12 (2) A COMMUNITY LEGACY AREA, AS DEFINED IN § 6-201 OF THIS  
13 ARTICLE;

14 (3) A DESIGNATED NEIGHBORHOOD, AS DEFINED IN § 6-301 OF THIS  
15 ARTICLE;

16 (4) A FEDERAL EMPOWERMENT ZONE, AS DEFINED IN 26 U.S.C. § 1391 ET  
17 SEQ.;

18 (5) A FEDERAL OR MARYLAND ENTERPRISE ZONE, AS DEFINED IN  
19 ARTICLE 83A, § 5-401(F) OF THE CODE;

20 (6) A HOTSPOT COMMUNITY, AS DESIGNATED BY THE GOVERNOR'S  
21 OFFICE OF CRIME CONTROL AND PREVENTION;

22 (7) A MAIN STREET MARYLAND COMMUNITY, AS DESIGNATED BY THE  
23 DEPARTMENT;

24 (8) A RURAL VILLAGE, AS DEFINED IN § 5-7B-01(F) OF THE STATE  
25 FINANCE AND PROCUREMENT ARTICLE, AND DESIGNATED IN A COUNTY  
26 COMPREHENSIVE PLAN AS OF JULY 1, 1998; OR

27 (9) ANY OTHER AREA DESIGNATED AS A COMMUNITY REVITALIZATION  
28 AREA BY THE SECRETARY.

29 (C) "FEDERAL LOW-INCOME HOUSING TAX CREDIT" MEANS THE FEDERAL  
30 TAX CREDIT AS PROVIDED IN § 42 OF THE INTERNAL REVENUE CODE.

31 (D) "QUALIFIED MARYLAND HOUSING PROJECT" MEANS:

32 (1) A QUALIFIED LOW-INCOME HOUSING PROJECT, AS DEFINED IN  
33 § 42(G) OF THE INTERNAL REVENUE CODE, THAT IS LOCATED IN A COMMUNITY

1 REVITALIZATION AREA AND THAT QUALIFIES FOR AN ALLOCATION OF THE FEDERAL  
2 LOW-INCOME HOUSING TAX CREDIT; OR

3 (2) A HOUSING PROJECT IN A COMMUNITY REVITALIZATION AREA THAT  
4 MEETS REQUIREMENTS FOR ELIGIBILITY FOR THE STATE TAX CREDIT AS SPECIFIED  
5 IN REGULATIONS THAT THE SECRETARY ADOPTS UNDER § 4-1803 OF THIS SUBTITLE.

6 (E) "STATE TAX CREDIT" MEANS THE INCOME TAX CREDIT ALLOWED UNDER §  
7 10-726 OF THE TAX - GENERAL ARTICLE.

8 4-1802.

9 (A) (1) THE OWNER OF A QUALIFIED MARYLAND HOUSING PROJECT OR THE  
10 DEVELOPER OF A PROPOSED PROJECT THAT WILL BECOME A QUALIFIED MARYLAND  
11 HOUSING PROJECT MAY APPLY TO THE SECRETARY FOR ALLOCATION TO THE  
12 PROJECT OF A PORTION OF THE STATE TAX CREDIT.

13 (2) THE STATE TAX CREDIT MAY BE ALLOCATED TO A QUALIFIED  
14 MARYLAND HOUSING PROJECT WHETHER OR NOT A FEDERAL LOW-INCOME  
15 HOUSING TAX CREDIT IS ALLOCATED TO THE QUALIFIED MARYLAND HOUSING  
16 PROJECT.

17 (3) ALL OR ANY PORTION OF THE STATE TAX CREDIT ALLOCATED  
18 UNDER THIS SUBTITLE MAY BE ALLOCATED TO AN OWNER OF A QUALIFIED  
19 MARYLAND HOUSING PROJECT, WHETHER OR NOT THE OWNER IS ALLOCATED A  
20 PORTION OF ANY FEDERAL INCOME HOUSING TAX CREDIT ALLOCATED TO THE  
21 QUALIFIED MARYLAND HOUSING PROJECT.

22 (B) AN APPLICATION UNDER THIS SECTION SHALL BE IN THE FORM AND  
23 MANNER AND CONTAIN ANY INFORMATION THAT THE SECRETARY REQUIRES BY  
24 REGULATION.

25 (C) (1) THE SECRETARY MAY REQUIRE THAT THE OWNER OF A QUALIFIED  
26 MARYLAND HOUSING PROJECT, AS A CONDITION TO RECEIVING AN ALLOCATION OF  
27 THE STATE TAX CREDIT, ENTER INTO A WRITTEN REGULATORY AGREEMENT WITH  
28 THE SECRETARY UNDER TERMS AND CONDITIONS SET BY THE SECRETARY,  
29 REGARDING THE USE OF THE PROJECT.

30 (2) THE SECRETARY MAY REQUIRE THAT ANY AGREEMENT REQUIRED  
31 BY THE SECRETARY UNDER THIS SUBSECTION BE FILED IN THE OFFICIAL LAND  
32 RECORDS OF THE COUNTY WHERE THE PROJECT IS LOCATED.

33 (3) THE SECRETARY AND ANY LOCAL AGENCY OR AUTHORITY  
34 DESIGNATED BY THE SECRETARY MAY ENFORCE AN AGREEMENT REQUIRED BY THE  
35 SECRETARY UNDER THIS SECTION IN THE EVENT THE OWNER FAILS TO SATISFY ANY  
36 OF THE REQUIREMENTS OF THE AGREEMENT.

37 (D) THE SECRETARY MAY ADOPT ANY REGULATIONS NECESSARY TO  
38 ADMINISTER THE PROVISIONS OF THIS SUBTITLE.

1 (E) (1) THE SECRETARY SHALL ADOPT REGULATIONS OR POLICIES  
2 ESTABLISHING CRITERIA BY WHICH THE STATE TAX CREDIT WILL BE ALLOCATED  
3 AMONG PROJECTS, INCLUDING ANY CRITERIA FOR ELIGIBILITY FOR THE STATE TAX  
4 CREDIT FOR PROJECTS THAT DO NOT QUALIFY FOR THE FEDERAL LOW-INCOME  
5 HOUSING TAX CREDIT.

6 (2) UNDER THE REGULATIONS THAT THE SECRETARY ADOPTS UNDER  
7 PARAGRAPH (1) OF THIS SUBSECTION, A PROJECT THAT DOES NOT QUALIFY FOR THE  
8 FEDERAL LOW-INCOME HOUSING TAX CREDIT MAY BE ELIGIBLE FOR THE STATE TAX  
9 CREDIT UNDER THIS SUBTITLE IF THE PROJECT WILL PROVIDE IN WHOLE OR IN  
10 PART HOUSING FOR FAMILIES OF LOW INCOMES, AS DETERMINED UNDER  
11 PARAGRAPH (3) OF THIS SUBSECTION.

12 (3) FOR PURPOSES OF THIS SUBSECTION, A PROJECT WILL BE  
13 CONSIDERED TO PROVIDE IN WHOLE OR IN PART HOUSING FOR FAMILIES OF LOW  
14 INCOMES IF:

15 (I) AT LEAST 20% OF THE RESIDENTIAL UNITS ARE OCCUPIED BY  
16 INDIVIDUALS OR FAMILIES WHOSE INCOME IS 50% OR LESS OF AREA MEDIAN  
17 INCOME; OR

18 (II) AT LEAST 40% OF THE RESIDENTIAL UNITS ARE OCCUPIED BY  
19 INDIVIDUALS OR FAMILIES WHOSE INCOME IS 60% OR LESS OF AREA MEDIAN  
20 INCOME.

21 (F) ANY PROJECT THAT RECEIVES AN ALLOCATION OF A PORTION OF THE  
22 STATE TAX CREDIT SHALL BE RESTRICTED IN OCCUPANCY AS SPECIFIED IN THE  
23 REGULATIONS ADOPTED BY THE SECRETARY UNDER SUBSECTION (A) OF THIS  
24 SECTION FOR A PERIOD OF AT LEAST 4 YEARS COMMENCING WITH THE FIRST  
25 TAXABLE YEAR IN WHICH A STATE TAX CREDIT IS CLAIMED BY THE OWNER.

26 14-1803.

27 (A) (1) THE MAXIMUM AGGREGATE AVAILABLE STATE TAX CREDIT THAT  
28 MAY BE ALLOCATED FOR EACH FISCAL YEAR EQUALS THE LESSER OF:

29 (I) THE AMOUNT APPROPRIATED TO THE QUALIFIED MARYLAND  
30 HOUSING TAX CREDIT RESERVE FUND FOR THAT FISCAL YEAR IN THE STATE  
31 BUDGET AS APPROVED BY THE GENERAL ASSEMBLY; OR

32 (II) \$3,000,000.

33 (2) THE SECRETARY MAY ALLOCATE THE AGGREGATE AVAILABLE  
34 STATE TAX CREDIT FOR A FISCAL YEAR AMONG PROJECTS TO BE QUALIFIED  
35 MARYLAND HOUSING PROJECTS TO BE PLACED IN SERVICE DURING OR AFTER THAT  
36 FISCAL YEAR.

37 (3) THE SECRETARY MAY NOT ALLOCATE MORE THAN \$250,000 OF THE  
38 AVAILABLE STATE TAX CREDIT TO ANY SINGLE QUALIFIED MARYLAND HOUSING  
39 PROJECT FOR ANY FISCAL YEAR.

1 (4) ANY PORTION OF THE AGGREGATE AVAILABLE STATE TAX CREDIT  
2 FOR ANY FISCAL YEAR THAT IS NOT ALLOCATED BY THE SECRETARY IN THAT FISCAL  
3 YEAR MAY BE CARRIED OVER AND ALLOCATED FOR ANY SUBSEQUENT FISCAL YEAR.

4 (B) (1) IN THIS SUBSECTION, "RESERVE FUND" MEANS THE QUALIFIED  
5 MARYLAND HOUSING TAX CREDIT RESERVE FUND ESTABLISHED UNDER PARAGRAPH  
6 (2) OF THIS SUBSECTION.

7 (2) (I) THERE IS A QUALIFIED MARYLAND HOUSING TAX CREDIT  
8 RESERVE FUND WHICH IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT  
9 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

10 (II) THE MONEY IN THE RESERVE FUND SHALL BE INVESTED AND  
11 REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE  
12 CREDITED TO THE GENERAL FUND.

13 (3) (I) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS  
14 SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE SECRETARY MAY NOT ALLOCATE TAX  
15 CREDITS UNDER THIS SUBTITLE IN THE AGGREGATE TOTALING MORE THAN THE  
16 AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN THE  
17 STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

18 2. IF THE AGGREGATE CREDIT AMOUNTS ALLOCATED IN A  
19 FISCAL YEAR TOTAL LESS THAN THE AMOUNT APPROPRIATED TO THE RESERVE  
20 FUND FOR THAT FISCAL YEAR, ANY EXCESS AMOUNT SHALL REMAIN IN THE  
21 RESERVE FUND AND MAY BE ALLOCATED FOR THE NEXT FISCAL YEAR.

22 3. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED  
23 FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW  
24 OTHER THAN UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE MAXIMUM CREDIT  
25 AMOUNTS IN THE AGGREGATE THAT THE SECRETARY MAY ALLOCATE SHALL BE  
26 REDUCED BY THE AMOUNT TRANSFERRED.

27 (II) FOR EACH FISCAL YEAR, THE GOVERNOR MAY INCLUDE IN THE  
28 BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND.

29 (III) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE STATE  
30 FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN  
31 APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY  
32 THE GENERAL ASSEMBLY.

33 (4) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY  
34 APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.

35 (II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR  
36 QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH  
37 QUALIFIED MARYLAND HOUSING PROJECT FOR WHICH A FINAL CREDIT  
38 CERTIFICATE WAS ISSUED DURING THE QUARTER:



1 (3) "QUALIFIED MARYLAND HOUSING PROJECT" HAS THE MEANING  
2 STATED IN § 4-1801 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

3 (4) "SECRETARY" MEANS THE SECRETARY OF HOUSING AND  
4 COMMUNITY DEVELOPMENT.

5 (B) AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE  
6 STATE INCOME TAX IN THE AMOUNT DETERMINED UNDER SUBSECTION (C) OF THIS  
7 SECTION FOR A QUALIFIED MARYLAND HOUSING PROJECT.

8 (C) (1) SUBJECT TO THE LIMITATION UNDER PARAGRAPH (3) OF THIS  
9 SUBSECTION, THE CREDIT UNDER THIS SECTION EQUALS THE SUM OF:

10 (I) THE AMOUNT DETERMINED UNDER PARAGRAPH (2) OF THIS  
11 SUBSECTION FOR EACH QUALIFIED MARYLAND HOUSING PROJECT; AND

12 (II) ANY CREDIT CARRIED OVER FROM ANOTHER TAXABLE YEAR  
13 UNDER SUBSECTION (D) OF THIS SECTION.

14 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
15 PARAGRAPH, THE AMOUNT ALLOWED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION  
16 FOR EACH QUALIFIED MARYLAND HOUSING PROJECT EQUALS THE AMOUNT STATED  
17 IN THE FINAL CREDIT CERTIFICATE ISSUED BY THE SECRETARY UNDER TITLE 4,  
18 SUBTITLE 18 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

19 (II) THE CREDIT AMOUNT ALLOWED FOR A PROJECT UNDER  
20 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE CLAIMED IN FULL:

21 1. IN THE CASE OF A PROJECT THAT HAS RECEIVED AN  
22 ALLOCATION OF THE FEDERAL LOW-INCOME HOUSING TAX CREDIT, FOR THE FIRST  
23 TAXABLE YEAR FOR WHICH THE FEDERAL LOW-INCOME HOUSING TAX CREDIT MAY  
24 BE CLAIMED; OR

25 2. IN THE CASE OF A PROJECT THAT HAS NOT RECEIVED AN  
26 ALLOCATION OF THE FEDERAL LOW-INCOME HOUSING TAX CREDIT, FOR THE FIRST  
27 TAXABLE YEAR THE PROJECT IS PLACED IN SERVICE, WITHIN THE MEANING OF § 42  
28 OF THE INTERNAL REVENUE CODE.

29 (3) FOR EACH TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS  
30 SECTION MAY NOT EXCEED THE STATE INCOME TAX THAT WOULD OTHERWISE BE  
31 IMPOSED FOR THAT TAXABLE YEAR, DETERMINED BEFORE THE APPLICATION OF  
32 THE CREDITS ALLOWED UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS  
33 SUBTITLE, BUT AFTER THE APPLICATION OF ANY OTHER CREDITS ALLOWED UNDER  
34 THIS SUBTITLE.

35 (D) IF, AS A RESULT OF THE LIMITATION UNDER SUBSECTION (C)(3) OF THIS  
36 SECTION, A PORTION OF THE CREDIT OTHERWISE ALLOWABLE IS UNUSED FOR THE  
37 TAXABLE YEAR, UNTIL THE FULL AMOUNT OF THE UNUSED CREDIT IS USED THE  
38 INDIVIDUAL OR CORPORATION MAY APPLY THE UNUSED CREDIT AS A CREDIT  
39 AGAINST THE STATE INCOME TAX FOR:

1 (1) THE TAXABLE YEAR PRECEDING THE TAXABLE YEAR FOR WHICH  
2 THE CREDIT IS ALLOWED UNDER SUBSECTION (C)(2)(II) OF THIS SECTION; AND

3 (2) UP TO 5 TAXABLE YEARS FOLLOWING THE TAXABLE YEAR FOR  
4 WHICH THE CREDIT IS ALLOWED UNDER SUBSECTION (C)(2)(II) OF THIS SECTION.

5 (E) AN INDIVIDUAL OR CORPORATION CLAIMING THE STATE TAX CREDIT FOR  
6 A QUALIFIED MARYLAND HOUSING PROJECT SHALL SUBMIT WITH THE INDIVIDUAL'S  
7 OR CORPORATION'S INCOME TAX RETURN A COPY OF THE FINAL CREDIT  
8 CERTIFICATE FOR THE PROJECT ISSUED BY THE SECRETARY UNDER TITLE 4,  
9 SUBTITLE 18 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

10 (F) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER, MAY  
11 ADOPT REGULATIONS PROVIDING FOR THE RECAPTURE OF THE STATE TAX CREDITS  
12 ALLOWED UNDER THIS SECTION FOR A QUALIFIED MARYLAND HOUSING PROJECT  
13 THAT FAILS TO CONTINUE TO MEET THE REQUIREMENTS OF TITLE 4, SUBTITLE 18 OF  
14 THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

15 (G) AN INDIVIDUAL OR CORPORATION MAY NOT CLAIM THE CREDIT ALLOWED  
16 UNDER THIS SECTION FOR A PROJECT FOR ANY TAXABLE YEAR IN WHICH THE  
17 OWNER OF THE PROJECT IS IN DEFAULT UNDER ANY REGULATORY AGREEMENT  
18 REQUIRED WITH RESPECT TO THE PROJECT UNDER ARTICLE 83B, § 2-1602 OF THE  
19 CODE.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2006, and shall be applicable to all taxable years beginning after December  
22 31, 2006.