

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 959
Ways and Means

(Delegates Haddaway and Eckardt)

**Heritage Structure Rehabilitation Tax Credits - Qualified Rehabilitation
Expenditure - Preapproval**

This bill exempts any certified residential or commercial rehabilitation project with a Heritage Structure Rehabilitation tax credit of less than \$500,000 from the existing requirement that only those rehabilitation expenditures approved by the Maryland Historical Trust qualify for the Heritage Structure Rehabilitation tax credit.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Potential significant decrease in general fund revenues in FY 2009 through 2011. No effect on expenditures.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Subject to the limitations below, individuals or businesses who rehabilitate certified historic structures can claim a refundable income tax credit equal to 20% of qualified rehabilitation expenditures. Qualified rehabilitation expenditures must be (1) properly chargeable to a capital account; (2) expended in the rehabilitation of a structure that by the end of the calendar year in which the certified rehabilitation is completed is a certified heritage structure; (3) expended in compliance with a plan of

proposed rehabilitation approved by MHT; and (4) not funded, financed, or otherwise reimbursed by specified State or local monies. The rehabilitation must be more than \$5,000 for owner-occupied residential property and the greater of \$5,000 or the adjusted basis of the structure for commercial projects.

The amount of the credit for any commercial project may not exceed \$3 million or the amount specified under the initial credit certificate issued by MHT upon initial approval of the project. For owner-occupied residential property, the credit may not exceed \$50,000. For any fiscal year, MHT cannot approve more commercial credits than the amount of money in the Heritage Structure Credit Reserve Fund, which includes any money appropriated to the fund and any unexpended money from previous fiscal years.

The program terminates July 1, 2010.

Background: Established in 1996, the Heritage Structure Rehabilitation Tax Credit Program provides, subject to certain limitations, a credit for 20% of the qualified expenditures for rehabilitating a certified historic structure. Over time, the credit has become one of the State's most important economic development tools.

In 2004, the General Assembly substantially altered the tax credit program, including converting the commercial credit part of the program from a traditional tax credit program to a tax credit program that is subject to an annual budgetary appropriation with an aggregate limit. Individuals seeking to claim the credit for the rehabilitation of commercial property are subject to a competitive ranking process.

Chapter 566 of 2007 extended the program's termination date through fiscal 2010 for both commercial and owner-occupied residential property rehabilitations. Chapter 566 required the Governor to include, in the annual budget bill, an appropriation to the Heritage Structure Credit Reserve Fund. A maximum of 75% of total commercial credits issued in a fiscal year may be allocated for commercial projects located in one county or Baltimore City.

Exhibit 1 lists the amount of money appropriated to the reserve fund in fiscal 2006 through 2008, additional amounts that could be awarded from previous fiscal years, and total amount of commercial credits awarded by MHT.

Exhibit 1
Total Commercial Credits Appropriated and Awarded
Fiscal 2006-2008

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>
Appropriation	\$20,000,000	\$30,000,000	\$15,000,000
Board of Public Works Action	<u>0</u>	<u>0</u>	<u>(300,000)</u>
Net Allocation to Reserve Fund	\$20,000,000	\$30,000,000	\$14,700,000
Available from Previous Years	\$0	\$328,744	\$9,939,939
Total Available for Allocation	\$20,000,000	\$30,328,744	\$24,639,939
Total Allocated	\$19,671,256	\$20,388,805	\$24,678,195

The proposed fiscal 2009 State budget includes a \$14.7 million appropriation to the reserve fund. In calendar 2006, 252 individuals claimed a total of \$4.4 million in residential credits.

State Fiscal Effect: The bill allows certified projects with less than a \$500,000 tax credit to include rehabilitation expenditures that are not approved by MHT to qualify for the credit beginning July 1, 2008. Under current law, projects must receive approval of a proposed rehabilitation in order to qualify for the credit. Rehabilitation expenditures for work that is undertaken prior to MHT's approval are ineligible for the credit. The proposed change by the bill would allow projects that have undertaken or completed rehabilitation work to qualify for the credit if the credit is less than \$500,000, resulting in additional revenue losses to the State. This provision would not affect the total cost of the commercial rehabilitation program. MHT cannot approve more credits than the total amount available in the reserve fund.

There is no aggregate cap on the amount of residential credits that can be claimed. For any residential rehabilitation, however, the maximum amount of the credit may not exceed \$50,000. MHT advises that it receives numerous calls from individuals and accountants seeking to claim the credit for residential projects that have already been completed. The amount of general fund revenue loss in fiscal 2009 through 2011 cannot be reliably predicted but is likely to be significant. Based on the average residential credit claimed in 2006, if an additional 50 projects claimed the credit, annual general fund revenue losses would total \$872,300.

MHT advises that the bill would create an additional workload on the agency due to the additional difficulty associated with certifying historic preservation after the work has been completed. MHT would likely be involved in numerous additional appeals, but this workload can be handled within existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Legislative Services

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