

SENATE BILL 473

Q3, C2
SB 638/10 – B&T

11r2096
CF HB 632

By: **Senators Madaleno, Currie, Forehand, Jones–Rodwell, Montgomery, and Rosapepe**

Introduced and read first time: February 4, 2011

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: April 6, 2011

CHAPTER _____

1 AN ACT concerning

2 **Earned Income Credit Information Act**

3 FOR the purpose of requiring the Comptroller to publish certain information relating
4 to eligibility for the State earned income tax credit; requiring the Comptroller to
5 prepare and ~~make available~~ mail to all employers ~~of in~~ the State a certain
6 notice; requiring an employer to provide certain notification to an employee who
7 may be eligible for the State earned income tax credit; providing that an
8 employee may not pursue a private cause of action against an employer for the
9 employer's failure to provide certain notice; providing for the effective date of
10 this Act; and generally relating to employee notification of the State earned
11 income tax credit.

12 BY repealing and reenacting, without amendments,

13 Article – Tax – General
14 Section 10–905(a), (b), and (f)
15 Annotated Code of Maryland
16 (2010 Replacement Volume)

17 BY adding to

18 Article – Tax – General
19 Section 10–913
20 Annotated Code of Maryland
21 (2010 Replacement Volume)

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

3 **Article – Tax – General**

4 10–905.

5 (a) In this Part II of this subtitle the following words have the meanings
6 indicated.

7 (b) (1) “Employer” has the meaning stated in § 3401 of the Internal
8 Revenue Code.

9 (2) “Employer” includes:

10 (i) the federal government;

11 (ii) the State;

12 (iii) a county, municipal corporation, political subdivision, or
13 instrumentality of the State;

14 (iv) another state to the extent that functions of its government
15 are carried on or performed in this State; and

16 (v) if the employer is a corporation:

17 1. any officer of the corporation who exercises direct
18 control over its fiscal management; and

19 2. any agent of the corporation who has a duty to
20 withhold income tax from wages.

21 (f) (1) Except as provided in paragraph (2) of this subsection, “wages”
22 means salary, wages, or compensation for personal services of any kind as defined in
23 §§ 3401 and 3402(o)(2)(A) of the Internal Revenue Code.

24 (2) “Wages” includes remuneration paid for services described in §
25 3401(a)(5) and (6) of the Internal Revenue Code.

26 **10–913.**

27 **(A) (1) ON OR BEFORE JANUARY 1 OF EACH CALENDAR YEAR, THE**
28 **COMPTROLLER SHALL PUBLISH THE MAXIMUM INCOME ELIGIBILITY FOR THE**
29 **EARNED INCOME TAX CREDIT UNDER § 10–704 OF THIS TITLE FOR THE**
30 **CALENDAR YEAR.**

1 **(2) THE COMPTROLLER SHALL PREPARE A NOTICE THAT MEETS**
2 **THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION AND ~~MAKE MAIL~~ MAIL THE**
3 **NOTICE ~~AVAILABLE~~ TO ALL EMPLOYERS IN THE STATE.**

4 **(B) (1) ON OR BEFORE DECEMBER 31 OF EACH CALENDAR YEAR, AN**
5 **EMPLOYER SHALL PROVIDE ELECTRONIC OR WRITTEN NOTICE TO AN**
6 **EMPLOYEE WHO MAY BE ELIGIBLE FOR THE EARNED INCOME TAX CREDIT**
7 **UNDER § 10-704 OF THIS TITLE THAT:**

8 **(I) THE EMPLOYEE MAY BE ELIGIBLE FOR THE FEDERAL**
9 **EARNED INCOME TAX CREDIT UNDER § 32 OF THE INTERNAL REVENUE CODE;**
10 **AND**

11 **(II) THE EMPLOYEE MAY BE ELIGIBLE FOR THE EARNED**
12 **INCOME TAX CREDIT UNDER § 10-704 OF THIS TITLE;**

13 ~~**(III) THE EMPLOYEE MUST FILE AN INCOME TAX RETURN TO**~~
14 ~~**RECEIVE THE EARNED INCOME TAX CREDIT EVEN IF THE EMPLOYEE DOES NOT**~~
15 ~~**OWE ANY TAXES; AND**~~

16 ~~**(IV) A PORTION OF THE EARNED INCOME TAX CREDIT MAY**~~
17 ~~**BE REFUNDABLE.**~~

18 **(2) AN EMPLOYER MAY PROVIDE THE NOTICE REQUIRED UNDER**
19 **THIS SUBSECTION TO:**

20 **(I) ALL EMPLOYEES; OR**

21 **(II) EMPLOYEES WITH WAGES THAT ARE LESS THAN OR**
22 **EQUAL TO THE MAXIMUM INCOME ELIGIBILITY PUBLISHED UNDER SUBSECTION**
23 **(A) OF THIS SECTION.**

24 **(C) AN EMPLOYEE MAY NOT PURSUE A PRIVATE CAUSE OF ACTION**
25 **AGAINST AN EMPLOYER FOR THE EMPLOYER'S FAILURE TO PROVIDE THE**
26 **NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 January 1, 2012.