

# HOUSE BILL 510

Q7, C8

4lr0127

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By: **Chair, Ways and Means Committee (By Request – Departmental – Planning)**

Introduced and read first time: January 29, 2014

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2014

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

1 AN ACT concerning

2 **Sustainable Communities Tax Credit Program – Extension and Alteration**

3 FOR the purpose of extending and altering the Sustainable Communities Tax Credit  
4 Program; providing for a certain tax credit for rehabilitation of certain small  
5 commercial properties under certain circumstances; prohibiting the Director of  
6 the Maryland Historical Trust from issuing tax credit certificates for small  
7 commercial properties under certain circumstances; repealing a certain tax  
8 credit for certain rehabilitations; requiring the Director of the Maryland  
9 Historical Trust to adopt certain regulations, which shall include certain fees;  
10 altering the time period in which the Trust must receive a certain fee;  
11 prohibiting the Trust from accepting an application for a commercial  
12 rehabilitation project under certain circumstances; altering a certain limit on  
13 the award of initial credit certificates for commercial rehabilitation projects in a  
14 single jurisdiction; altering a certain tax credit for high performance buildings;  
15 ~~requiring the amount of a certain tax credit to remain in the Sustainable~~  
16 ~~Communities Tax Credit Reserve Fund under certain circumstances; requiring~~  
17 ~~the Governor to include an appropriation to a certain reserve fund for certain~~  
18 ~~fiscal years; extending through a certain fiscal year certain authority for the~~  
19 ~~Director to issue certain initial credit certificates; providing for the expiration of~~  
20 ~~certain tax credits or the revocation of certain credits under certain~~  
21 ~~circumstances; requiring the Director to notify certain persons on or before a~~  
22 ~~certain date; requiring the Director to provide a certain report to the~~  
23 ~~Comptroller; requiring the Maryland Historical Trust to develop certain~~  
24 outreach programs related to the tax credit; altering, adding, and repealing

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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.



1 certain defined terms; making certain technical changes; and generally relating  
2 to the Sustainable Communities Tax Credit Program.

3 BY repealing and reenacting, with amendments,  
4 Article – State Finance and Procurement  
5 Section 5A–303  
6 Annotated Code of Maryland  
7 (2009 Replacement Volume and 2013 Supplement)

8 BY repealing and reenacting, with amendments,  
9 Chapter 76 of the Acts of the General Assembly of 2004, as amended by Chapter  
10 425 of the Acts of the General Assembly of 2013  
11 Section 2 1.(h)

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

14 **Article – State Finance and Procurement**

15 5A–303.

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

17 (2) “Business entity” means:

18 (i) a person conducting or operating a trade or business in the  
19 State; or

20 (ii) an organization operating in Maryland that is exempt from  
21 taxation under § 501(c)(3) of the Internal Revenue Code.

22 (3) “Certified heritage area” has the meaning stated in § 13–1101 of  
23 the Financial Institutions Article.

24 (4) (i) “Certified historic structure” means a structure that is  
25 located in the State and is:

26 1. listed in the National Register of Historic Places;

27 2. designated as a historic property under local law and  
28 determined by the Director to be eligible for listing on the National Register of Historic  
29 Places;

30 3. A. located in a historic district listed on the  
31 National Register of Historic Places or in a local historic district that the Director  
32 determines is eligible for listing on the National Register of Historic Places; and

1 B. certified by the Director as contributing to the  
2 significance of the district; or

3 4. located in a certified heritage area and certified by the  
4 Maryland Heritage Areas Authority as contributing to the significance of the certified  
5 heritage area.

6 (ii) “Certified historic structure” does not include a structure  
7 that is owned by the State, a political subdivision of the State, or the federal  
8 government.

9 (5) “Certified rehabilitation” means a completed rehabilitation of[:

10 (i)] a certified historic structure that the Director certifies is a  
11 substantial rehabilitation in conformance with the rehabilitation standards of the  
12 United States Secretary of the Interior[; or

13 (ii) a qualified rehabilitated structure].

14 (6) (I) “Commercial rehabilitation” means a rehabilitation of a  
15 structure other than a single-family, owner-occupied residence.

16 (II) “COMMERCIAL REHABILITATION” DOES NOT INCLUDE A  
17 SMALL COMMERCIAL PROJECT.

18 (7) “Director” means the Director of the Maryland Historical Trust.

19 (8) “Financial assistance” means action by the State or a State unit to  
20 award grants, loans, loan guarantees, or insurance to a public or private entity to  
21 finance, wholly or partly, a project that involves or may result in building construction,  
22 building alteration, or land disturbance.

23 (9) “High performance building” means a building that:

24 (i) meets or exceeds the current version of the U.S. Green  
25 Building Council’s LEED (Leadership in Energy and Environmental Design) green  
26 building rating system gold rating; or

27 (ii) achieves at least a comparable numeric rating according to a  
28 nationally recognized, accepted, and appropriate numeric sustainable development  
29 rating system, guideline, or standard approved by the Secretaries of Budget and  
30 Management and General Services under § 3-602.1 of this article.

31 (10) (i) “Historic property” means a district, site, building,  
32 structure, monument, or object significant to:

1 1. the prehistory or history of the State; or

2 2. the upland or underwater archeology, architecture,  
3 engineering, or culture of the State.

4 (ii) “Historic property” includes related artifacts, records, and  
5 remains.

6 (11) “Local historic district” means a district that the governing body of  
7 a county or municipal corporation, or the Mayor and City Council of Baltimore, has  
8 designated under local law as historic.

9 (12) [“Main Street Maryland community” means:

10 (i) a commercial area in a local jurisdiction designated by the  
11 Secretary of Housing and Community Development as a Main Street Maryland  
12 community under the Main Street Maryland Program on or before January 1, 2010; or

13 (ii) a commercial area in Baltimore City designated as a Main  
14 Street by the Mayor of Baltimore City on or before January 1, 2010.

15 (13) “Main Street Maryland Program” means the Maryland Main Street  
16 designation program for local jurisdictions established in the Code of Maryland  
17 Regulations (COMAR).

18 (14)] “National register structure” means a structure that is:

19 (i) listed on the National Register of Historic Places; or

20 (ii) located in a historic district listed on the National Register  
21 of Historic Places and certified by the Director as contributing to the significance of  
22 the district.

23 [(15)] (13) “Political subdivision” means a county or municipal  
24 corporation of the State.

25 [(16) (i) “Qualified rehabilitated structure” means a building, other  
26 than a single-family, owner-occupied residence, that:

27 1. A. is located in a Main Street Maryland  
28 community; or

29 B. beginning in fiscal 2012, is located in a Main Street  
30 Maryland community or a sustainable community;

31 2. will be substantially rehabilitated; and



1 leased for exclusive occupancy to, and occupied by, a member of the corporation and  
2 the member's immediate family under a proprietary lease.

3 **(16) (I) "SMALL COMMERCIAL PROJECT" MEANS A**  
4 **REHABILITATION OF A STRUCTURE PRIMARILY USED FOR COMMERCIAL,**  
5 **INCOME-PRODUCING PURPOSES IF:**

6 **1. THE QUALIFIED REHABILITATION EXPENDITURES**  
7 **DO NOT EXCEED \$500,000; AND**

8 **2. THE STRUCTURE IS LOCATED IN A SUSTAINABLE**  
9 **COMMUNITY.**

10 **(II) "SMALL COMMERCIAL PROJECT" INCLUDES A**  
11 **STRUCTURE THAT IS USED FOR BOTH COMMERCIAL AND RESIDENTIAL RENTAL**  
12 **PURPOSES.**

13 **(III) "SMALL COMMERCIAL PROJECT" DOES NOT INCLUDE A**  
14 **STRUCTURE THAT IS USED SOLELY FOR RESIDENTIAL PURPOSES.**

15 ~~[(19)]~~ **(17)** "Smart Growth Subcabinet" means the Smart Growth  
16 Subcabinet established under Title 9, Subtitle 14 of the State Government Article.

17 ~~[(20)]~~ **(18)** "State unit" has the meaning stated in § 11-101 of the State  
18 Government Article.

19 ~~[(21)]~~ **(19)** "Substantial rehabilitation" means rehabilitation of a  
20 structure for which the qualified rehabilitation expenditures, during the 24-month  
21 period selected by the individual or business entity ending with or within the taxable  
22 year, exceed:

23 (i) for single-family, owner-occupied residential property,  
24 \$5,000; **OR**

25 (ii) [for a qualified rehabilitated structure located in a Main  
26 Street Maryland community, the greater of:

27 1. 50% of the adjusted basis of the structure; or

28 2. \$25,000; or

29 (iii) for all other property, the greater of:

30 1. the adjusted basis of the structure; or



1 4. [beginning in fiscal 2012, are located in sustainable  
2 communities;

3 5.] are located in areas where the political subdivision  
4 has implemented regulatory streamlining or other development incentives that foster  
5 redevelopment and revitalization in priority funding areas, as defined in Title 5,  
6 Subtitle 7B of this article, and the appropriate local governing body or the planning  
7 board or commission, if designated by the local governing body, has certified to the  
8 Smart Growth Subcabinet those regulatory streamlining or other development  
9 incentives; AND

10 [6.] 5. include affordable and workforce housing options[;  
11 and

12 7. are qualified rehabilitated structures more than 50  
13 years old];

14 (v) for commercial rehabilitations, determine whether the  
15 certified rehabilitation is a high performance building;

16 (vi) for commercial rehabilitations, establish a required external  
17 marker or, at a minimum, an internal marker for the rehabilitation [projects]  
18 **PROJECT** that identifies that the rehabilitation was funded by Maryland sustainable  
19 communities tax credits; [and]

20 (vii) as provided in paragraph [(6)] (7) of this subsection, charge  
21 [a] reasonable [fee] **FEES** to certify historic structures and [qualified rehabilitated  
22 structures] **REHABILITATIONS** under this subtitle;

23 **(VIII) FOR COMMERCIAL REHABILITATIONS, REQUIRE**  
24 **DOCUMENTATION THAT THE APPLICANT HAS OWNERSHIP OR SITE CONTROL OF**  
25 **THE STRUCTURE IN ORDER TO DEMONSTRATE THE ABILITY TO MEET THE**  
26 **REQUIREMENT TO BEGIN WORK AS REQUIRED UNDER SUBSECTION (C)(3)(I)1 OF**  
27 **THIS SECTION;**

28 **(IX) FOR COMMERCIAL REHABILITATIONS, PROVIDE A TIME**  
29 **LIMIT FOR APPROVAL OF THE ADDITIONAL TAX CREDIT FOR HIGH**  
30 **PERFORMANCE BUILDINGS PROVIDED FOR IN SUBSECTION (C)(1)(II) OF THIS**  
31 **SECTION; AND**

32 **(X) FOR SMALL COMMERCIAL ~~PROJECTS~~, PROJECTS:**

33 **1. ESTABLISH CONDITIONS REGARDING THE**  
34 **PERCENTAGE OF THE STRUCTURE THAT MAY BE USED FOR RESIDENTIAL**

1 RENTAL PURPOSES IF THE STRUCTURE IS USED FOR BOTH COMMERCIAL AND  
2 RESIDENTIAL RENTAL PURPOSES; AND

3 **2. SPECIFY CRITERIA AND PROCEDURES FOR THE**  
4 **ISSUANCE OF INITIAL CREDIT CERTIFICATES UNDER SUBSECTION (E) OF THIS**  
5 **SECTION.**

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

10 (3) Each year, the Director may accept applications for approval of  
11 plans of proposed commercial rehabilitations and for the award of initial credit  
12 certificates for the fiscal year that begins July 1 of that year.

13 (4) (I) ~~A~~ **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS**  
14 **SECTION, A SMALL COMMERCIAL PROJECT SHALL BE TREATED AS A**  
15 **SINGLE-FAMILY, OWNER-OCCUPIED RESIDENTIAL PROPERTY, INCLUDING THE**  
16 **LIMITATION ON THE AMOUNT OF THE TAX CREDIT PROVIDED IN SUBSECTION**  
17 **(C)(2)(II) OF THIS SECTION.**

18 (II) **A SMALL COMMERCIAL PROJECT IS SUBJECT TO THE**  
19 **CREDIT RECAPTURE PROVISION IN SUBSECTION ~~(E)~~ (F) OF THIS SECTION.**

20 [(4)] (5) (i) For commercial rehabilitations, the Director may not  
21 accept an application for approval of plans of proposed rehabilitation if:

22 1. any substantial part of the proposed rehabilitation  
23 work has begun; or

24 2. the applicant for a commercial rehabilitation has  
25 previously submitted three or more applications for commercial rehabilitations with  
26 total proposed rehabilitations exceeding \$500,000 in that year.

27 (ii) For commercial rehabilitations, the Director may accept an  
28 application for approval of plans of a proposed rehabilitation for which a substantial  
29 part of the proposed rehabilitation work has begun if the rehabilitation work has been  
30 approved under the federal historic tax credit.

31 [(5) (i)] (6) Except as provided in subsection (d)(3)(iii) of this  
32 section, not more than ~~75%~~ **60%** of the total credit amounts under initial credit  
33 certificates issued for any fiscal year may be issued for projects in a single county or  
34 Baltimore City.

1                    [(ii) Not more than 10% of the total credit amounts under initial  
2 credit certificates issued for any fiscal year may be issued for projects that are  
3 qualified rehabilitated structures.]

4                    **[(6)] (7)**     (i)     The Director shall adopt regulations to charge [a]  
5 reasonable [fee] FEES to certify historic structures and rehabilitations under this  
6 section **WHICH SHALL INCLUDE:**

7                    **1.     A MINIMUM FEE FOR THE SECOND PHASE OF THE**  
8 **APPLICATION PROCESS;**

9                    **2.     FOR A COMMERCIAL REHABILITATION PROJECT, A**  
10 **FINAL FEE THAT MAY NOT EXCEED 3% OF THE AMOUNT OF THE ISSUED INITIAL**  
11 **CREDIT CERTIFICATE; AND**

12                    **3.     FOR ANY OTHER REHABILITATION PROJECT, A**  
13 **FINAL FEE THAT MAY NOT EXCEED 3% OF THE AMOUNT OF THE CREDIT FOR**  
14 **WHICH THE REHABILITATION WOULD BE ELIGIBLE BASED ON THE GREATER OF**  
15 **THE ESTIMATED OR FINAL QUALIFIED REHABILITATION EXPENDITURES FOR**  
16 **THE REHABILITATION.**

17                    (ii)     The Director shall set the level of the [fee] FEES so that the  
18 projected proceeds from the [fee] FEES will cover the costs to the Trust of  
19 administering the credit under this section and the federal historic tax credit.

20                    [(iii) The fee charged may not exceed 3% of the amount of the  
21 initial credit certificate issued for a commercial rehabilitation project or the amount of  
22 the credit for which a single-family, owner-occupied rehabilitation would be eligible  
23 based on the greater of the estimated or final qualified rehabilitation expenditures for  
24 the rehabilitation.]

25                    [(iv)] **(III)**     If [the] A fee charged for a commercial rehabilitation  
26 is not received by the Trust within [120] **90** days after the Trust sends notice that the  
27 fee is due, the initial credit certificate for the rehabilitation shall expire.

28                    **(IV)     FOR     COMMERCIAL     REHABILITATIONS,     IF     AN**  
29 **APPLICANT'S INITIAL CREDIT CERTIFICATE EXPIRED FOR FAILURE TO PAY A**  
30 **FEE AS REQUIRED IN THIS PARAGRAPH, THE TRUST MAY NOT ACCEPT AN**  
31 **APPLICATION FROM THE APPLICANT FOR A COMMERCIAL REHABILITATION**  
32 **DURING THE 3 FISCAL YEARS FOLLOWING THE FISCAL YEAR IN WHICH THE**  
33 **CERTIFICATE EXPIRED.**

34                    (v)     The proceeds from the [fee] FEES shall be deposited in a  
35 special fund, to be used only for the purposes of paying the costs of administering the  
36 credit under this section and the federal historic tax credit.

1 (vi) Any unused balance of the fund at the end of each fiscal year  
2 shall be transferred to the Reserve Fund established under subsection (d) of this  
3 section and shall increase the amount of the initial credit certificates that the Trust  
4 may issue for the following fiscal year.

5 [(7) For a building to be a qualified rehabilitated structure, after the  
6 rehabilitation process:

7 (i) 50% or more of the existing external walls of the building  
8 must be retained in place as external walls;

9 (ii) 75% or more of the existing external walls of the building  
10 must be retained in place as internal or external walls; and

11 (iii) 75% or more of the internal structural framework of the  
12 building must be retained in place.]

13 (c) (1) (i) Except as otherwise provided in this section, for the taxable  
14 year in which a certified rehabilitation is completed, an individual or business entity  
15 may claim a tax credit in an amount equal to 20% of the individual's or business  
16 entity's qualified rehabilitation expenditures for the rehabilitation.

17 (ii) For A commercial [rehabilitations] **REHABILITATION**, an  
18 individual or business entity may claim [a] **AN ADDITIONAL** tax credit in an amount  
19 equal to [25%] **5%** of the individual's or business entity's qualified rehabilitation  
20 expenditures if the certified rehabilitation is a certified historic structure and a high  
21 performance building.

22 [(iii) For commercial rehabilitations, an individual or business  
23 entity may claim a tax credit in an amount equal to 10% of the individual's or business  
24 entity's qualified rehabilitation expenditures if the certified rehabilitation is a  
25 qualified rehabilitated structure.]

26 (2) (i) For any commercial rehabilitation, the State tax credit  
27 allowed under this section may not exceed the lesser of:

28 1. \$3,000,000; or

29 2. the maximum amount specified under the initial  
30 credit certificate issued for the rehabilitation.

31 (ii) For a rehabilitation other than a commercial rehabilitation,  
32 the State tax credit allowed under this section may not exceed \$50,000.

1 (iii) For the purposes of the limitation under subparagraph (i) of  
2 this paragraph, the following shall be treated as a single commercial rehabilitation:

3 1. the phased rehabilitation of the same structure or  
4 property;

5 2. the separate rehabilitation of different components of  
6 the same structure or property; or

7 3. the rehabilitation of multiple structures that are  
8 functionally related to serve an overall purpose.

9 (3) (i) Subject to subparagraph (ii) of this paragraph, the initial  
10 credit certificate for a proposed commercial rehabilitation shall expire and the credit  
11 under this section may not be claimed if:

12 1. within 18 months after the initial credit certificate  
13 was issued, the applicant has not notified the Trust, in writing, that the commercial  
14 rehabilitation has begun; ~~or~~

15 2. the commercial rehabilitation is not completed within  
16 30 months after the initial credit certificate was issued; OR

17 **3. THE APPLICANT DOES NOT SUBMIT TO THE TRUST**  
18 **A REQUEST FOR FINAL CERTIFICATION OF THE COMMERCIAL REHABILITATION**  
19 **WITHIN 12 MONTHS AFTER:**

20 **A. THE 30-MONTH EXPIRATION DATE UNDER**  
21 **SUBPARAGRAPH (I)2 OF THIS PARAGRAPH; OR**

22 **B. THE DATE TO WHICH THE DIRECTOR POSTPONED**  
23 **THE EXPIRATION DATE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.**

24 (ii) For reasonable cause, the Director may postpone:

25 **1. the 30-month expiration date UNDER**  
26 **SUBPARAGRAPH (I)2 OF THIS PARAGRAPH** for an initial credit certificate for a  
27 commercial rehabilitation; OR

28 **2. IF THE COMMERCIAL REHABILITATION WAS**  
29 **COMPLETED PRIOR TO THE EXPIRATION OF THE INITIAL CREDIT CERTIFICATE,**  
30 **THE DEADLINE UNDER SUBPARAGRAPH (I)3 OF THIS PARAGRAPH FOR**  
31 **SUBMISSION OF A REQUEST FOR FINAL CERTIFICATION.**

32 (4) If the tax credit allowed under this section in any taxable year  
33 exceeds the total tax otherwise payable by the business entity or the individual for

1 that taxable year, the individual or business entity may claim a refund in the amount  
2 of the excess.

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

6 (d) (1) In this subsection, "Reserve Fund" means the Sustainable  
7 Communities Tax Credit Reserve Fund established under paragraph (2) of this  
8 subsection.

9 (2) (i) There is a Sustainable Communities Tax Credit Reserve  
10 Fund that is a continuing, nonlapsing special fund that is not subject to § 7-302 of this  
11 article.

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

14 (iii) If the fees paid in any fiscal year are less than the directly  
15 related administrative costs of operating the Sustainable Communities Tax Credit  
16 Program, funds in the Reserve Fund shall be used for the directly related  
17 administrative costs of the Program.

18 (3) (i) Subject to the provisions of this subsection, the Director  
19 shall issue an initial credit certificate for each commercial rehabilitation for which a  
20 plan of proposed rehabilitation is approved.

21 (ii) An initial credit certificate issued under this subsection  
22 shall state the maximum amount of credit under this section for which the commercial  
23 rehabilitation may qualify.

24 (iii) 1. Except as otherwise provided in this subparagraph  
25 and in subsection [(b)(6)(vi)] **(B)(7)(VI)** of this section, for any fiscal year, the Director  
26 may not issue initial credit certificates for credit amounts in the aggregate totaling  
27 more than the amount appropriated to the Reserve Fund for that fiscal year in the  
28 State budget as approved by the General Assembly.

29 2. If the aggregate credit amounts under initial credit  
30 certificates issued in a fiscal year total less than the amount appropriated to the  
31 Reserve Fund for that fiscal year as a result of the limitation under subsection  
32 [(b)(5)(i)] **(B)(6)** of this section, any excess amount may be issued under initial credit  
33 certificates for projects in a county or Baltimore City in the same fiscal year, without  
34 regard to the limitation under subsection [(b)(5)(i)] **(B)(6)** of this section.

35 3. Subject to subparagraph 2 of this subparagraph, if  
36 the aggregate credit amounts under initial credit certificates issued in a fiscal year  
37 total less than the amount appropriated to the Reserve Fund for that fiscal year, any

1 excess amount shall remain in the Reserve Fund and may be issued under initial  
2 credit certificates for the next fiscal year.

3 4. For any fiscal year, if funds are transferred from the  
4 Reserve Fund under the authority of any provision of law other than paragraph (4) of  
5 this subsection, the maximum credit amounts in the aggregate for which the Director  
6 may issue initial credit certificates shall be reduced by the amount transferred.

7 5. In each fiscal year, the Director shall estimate the  
8 amount of fees to be collected based on the amount appropriated to the Reserve Fund  
9 and reserve the difference between the estimated fees and estimated directly related  
10 administrative costs of the Program to be used to administer the Program.

11 6. If the reservation of funds to administer the Program  
12 under subparagraph 5 of this subparagraph is not necessary to cover the directly  
13 related administrative costs of the Program, any excess amount shall remain in the  
14 Reserve Fund and may be issued under initial credit certificates for the next fiscal  
15 year.

16 ~~7. IF AN INITIAL CREDIT CERTIFICATE EXPIRES AS~~  
17 ~~PROVIDED FOR UNDER SUBSECTION (C)(3) OF THIS SECTION, THE AMOUNT OF~~  
18 ~~THE CREDIT CERTIFICATE SHALL REMAIN IN THE RESERVE FUND AND MAY BE~~  
19 ~~ISSUED UNDER OTHER INITIAL CREDIT CERTIFICATES.~~

20 (iv) For each of fiscal years [2011, 2012, 2013, and 2014] **2015,**  
21 **2016, 2017, 2018, AND 2019** ~~AND 2017~~, the Governor shall include in the budget bill  
22 an appropriation to the Reserve Fund.

23 (v) Notwithstanding the provisions of § 7-213 of this article, the  
24 Governor may not reduce an appropriation to the Reserve Fund in the State budget as  
25 approved by the General Assembly.

26 (vi) The Director may not issue an initial credit certificate for  
27 any fiscal year after fiscal year [2014] **2019 2017**.

28 (4) (i) Except as provided in this paragraph, money appropriated to  
29 the Reserve Fund shall remain in the Fund.

30 (ii) 1. Within 15 days after the end of each calendar quarter,  
31 the Trust shall notify the Comptroller as to each commercial rehabilitation completed  
32 and certified during the quarter:

33 A. the maximum credit amount stated in the initial  
34 credit certificate for the project; and

35 B. the final certified credit amount for the project.

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

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

8                   2.     ~~{On} EXCEPT AS PROVIDED IN PARAGRAPH~~  
9 ~~(3)(III)7 OF THIS SUBSECTION, ON~~ notification that the initial credit certificate for a  
10 project has expired under subsection (c)(3) of this section, the Comptroller shall  
11 transfer an amount equal to the maximum credit amount stated in the initial credit  
12 certificate for the project from the Reserve Fund to the General Fund.

13                   ~~(5) (I) THIS PARAGRAPH APPLIES TO A COMMERCIAL~~  
14 ~~REHABILITATION FOR WHICH AN APPLICATION FOR A PLAN OF PROPOSED~~  
15 ~~REHABILITATION HAS BEEN APPROVED BY THE DIRECTOR ON OR AFTER JULY~~  
16 ~~1, 2006, AND ON OR BEFORE JUNE 30, 2014.~~

17                   ~~(II) AFTER THE EXPIRATION DATE OF AN INITIAL CREDIT~~  
18 ~~CERTIFICATE PROVIDED TO AN APPLICANT THAT RECEIVED APPROVAL FOR A~~  
19 ~~PLAN OF PROPOSED COMMERCIAL REHABILITATION, THE DIRECTOR SHALL~~  
20 ~~NOTIFY THE APPLICANT, IN WRITING, THAT THE INITIAL CREDIT CERTIFICATE~~  
21 ~~WILL BE REVOKED FOR THE APPROVED REHABILITATION IF THE APPLICANT~~  
22 ~~DOES NOT SUBMIT A REQUEST FOR FINAL CERTIFICATION OF THE~~  
23 ~~REHABILITATION WITHIN 12 MONTHS OF THE EXPIRATION DATE OF THE INITIAL~~  
24 ~~CREDIT CERTIFICATE.~~

25                   ~~(III) AN INITIAL CREDIT CERTIFICATE IS REVOKED IF,~~  
26 ~~WITHIN 6 MONTHS OF THE DATE OF THE WRITTEN NOTIFICATION UNDER~~  
27 ~~SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN APPLICANT DOES NOT PROVIDE~~  
28 ~~TO THE DIRECTOR, IN WRITING, THE FOLLOWING:~~

29                   ~~1.     DOCUMENTATION ESTABLISHING THAT THE~~  
30 ~~REHABILITATION WAS COMPLETED PRIOR TO THE EXPIRATION DATE OF THE~~  
31 ~~INITIAL TAX CREDIT CERTIFICATION; AND~~

32                   ~~2.     NOTIFICATION THAT THE APPLICANT IS IN THE~~  
33 ~~PROCESS OF PREPARING THE FINAL CERTIFICATION.~~

34                   ~~(IV) THE DIRECTOR SHALL REPORT TO THE COMPTROLLER,~~  
35 ~~IN ACCORDANCE WITH SUBSECTION (II) OF THIS SECTION, ON THE NUMBER AND~~

~~1 AMOUNT OF INITIAL CREDIT CERTIFICATES THAT HAVE BEEN REVOKED IN  
2 ACCORDANCE WITH THIS PARAGRAPH.~~

3 (E) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE  
4 DIRECTOR SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR EACH APPROVED  
5 SMALL COMMERCIAL PROJECT ON A FIRST-COME, FIRST-SERVED BASIS.

6 (2) AN INITIAL CREDIT CERTIFICATE ISSUED UNDER THIS  
7 SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH  
8 THE APPLICANT IS ELIGIBLE.

9 (3) THE DIRECTOR MAY NOT ISSUE AN INITIAL CREDIT  
10 CERTIFICATE UNDER THIS SUBSECTION:

11 (I) PRIOR TO JANUARY 1, 2015; OR

12 (II) AFTER THE AGGREGATE AMOUNT OF INITIAL CREDIT  
13 CERTIFICATES ISSUED FOR SMALL COMMERCIAL PROJECTS TOTALS \$4,000,000.

14 ~~(F)~~ (F) (1) (i) In this subsection the following words have the meanings  
15 indicated.

16 (ii) 1. “Dispose of” means to transfer legal title or, in the  
17 case of a leasehold, the leasehold interest.

18 2. “Dispose of” includes to sell in a sale-and-leaseback  
19 transaction, to transfer on the foreclosure of a security interest, or to transfer by gift.

20 3. “Dispose of” does not include to transfer title or the  
21 leasehold interest to a creditor on creation of a security interest.

22 (iii) “Disqualifying work” means work that:

23 1. is performed on a certified rehabilitation; and

24 2. if performed as part of the rehabilitation certified  
25 under this section, would have made the rehabilitation ineligible for certification.

26 (2) The credit allowed under this section shall be recaptured as  
27 provided in paragraph (3) of this subsection if, during the taxable year in which a  
28 certified rehabilitation is completed or any of the 4 taxable years succeeding the  
29 taxable year in which the certified rehabilitation is completed:

30 (i) any disqualifying work is performed on the certified  
31 rehabilitation; or

1 (ii) for a commercial rehabilitation, the certified rehabilitation is  
2 complete and has been disposed of.

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

6 2. If the disqualifying work is performed or the certified  
7 rehabilitation is disposed of during the first full year succeeding the taxable year in  
8 which the certified rehabilitation was completed, 80% of the credit shall be recaptured.

9 3. If the disqualifying work is performed or the certified  
10 rehabilitation is disposed of during the second full year succeeding the taxable year in  
11 which the certified rehabilitation was completed, 60% of the credit shall be recaptured.

12 4. If the disqualifying work is performed or the certified  
13 rehabilitation is disposed of during the third full year succeeding the taxable year in  
14 which the certified rehabilitation was completed, 40% of the credit shall be recaptured.

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

18 (ii) The individual or business entity that claimed the tax credit  
19 shall pay the amount to be recaptured as determined under subparagraph (i) of this  
20 paragraph as taxes payable to the State for the taxable year in which the disqualifying  
21 work is performed or the certified rehabilitation is disposed of.

22 ~~(G)~~ (1) The Comptroller may determine, under the process for return  
23 examination and audit under §§ 13–301 and 13–302 of the Tax – General Article:

24 (i) the amount of rehabilitation expenditures used in  
25 calculating the credit;

26 (ii) whether such expenditures are qualified rehabilitation  
27 expenditures under this section; and

28 (iii) whether the credit is allowable as claimed.

29 (2) The authority of the Comptroller to examine and audit a tax return  
30 does not limit the authority of the Director to determine whether a rehabilitation  
31 qualifies as a certified rehabilitation or whether a certificate of certified rehabilitation  
32 has been properly issued.

33 (3) The Comptroller may adopt regulations to require that an entity  
34 other than a corporation claim the tax credit on the tax return filed by that entity.

1           (4) (i) Except as otherwise provided in this paragraph, the credit  
2 under this section may be claimed for the year a certified rehabilitation is completed,  
3 only if the Director has, by the time the return is filed, issued a certificate of  
4 completion for the certified rehabilitation.

5                   (ii) A taxpayer claiming the credit may amend a return for the  
6 year the certified rehabilitation was completed to account for a certificate issued  
7 subsequent to the filing of the original return.

8                   (iii) An amended return shall be filed within the period allowed  
9 under the Tax – General Article for filing refund claims.

10                   (iv) The provisions of this paragraph do not extend the period in  
11 which a certified rehabilitation must be completed to be eligible for a tax credit under  
12 this section.

13                   (v) An amended return may account for an amended  
14 certification issued by the Director for a certified rehabilitation.

15           ~~(g)~~ **(H)** A refund payable under subsection (c) of this section:

16                   (1) operates to reduce the income tax revenue from corporations if the  
17 person entitled to the refund is a corporation subject to the income tax under Title 10  
18 of the Tax – General Article;

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

21                   (3) operates to reduce the income tax revenue from individuals if the  
22 person entitled to the refund is:

23                           (i) an individual subject to the income tax under Title 10 of the  
24 Tax – General Article; or

25                           (ii) an organization exempt from taxation under § 501(c)(3) of  
26 the Internal Revenue Code.

27           ~~(h)~~ **(I)** (1) On or before December 15 of each fiscal year, the Director shall  
28 report to the Governor and, subject to § 2–1246 of the State Government Article, to the  
29 General Assembly, on:

30                           (i) the initial credit certificates awarded for commercial  
31 rehabilitations **AND SMALL COMMERCIAL PROJECTS** under this section for that  
32 fiscal year;

33                           (ii) the tax credits awarded for certified rehabilitations  
34 completed in the preceding fiscal year;

1 (iii) whether the tax credits awarded for certified rehabilitations  
2 completed in the preceding fiscal year were located in:

- 3 1. [a Main Street Maryland community;
- 4 2. beginning in fiscal 2012, a sustainable community;
- 5 3.] a local historic district; or
- 6 [4.] 2. a national register district; and

7 (iv) the estimated amount of directly related administrative  
8 costs reserved in the Reserve Fund, the estimated amount of fees to be collected, the  
9 actual directly related administrative costs, and the actual amount of fees collected.

10 (2) The report required under paragraph (1) of this subsection shall  
11 include for each initial credit certificate awarded for the fiscal year for a commercial  
12 rehabilitation:

13 (i) the name of the owner or developer of the commercial  
14 rehabilitation;

15 (ii) the name and address of the proposed or certified  
16 rehabilitation and the county where the project is located;

17 (iii) the dates of receipt and approval by the Director of all  
18 applications regarding the project, including applications:

19 1. for certification that a structure or property will  
20 qualify as a certified historic structure [or a qualified rehabilitated structure]; and

21 2. for approval of the proposed rehabilitation; and

22 (iv) the maximum amount of the credit stated in the initial  
23 credit certificate for the project and the estimated rehabilitation expenditures stated  
24 in the application for approval of the plan of proposed rehabilitation.

25 (3) The report required under paragraph (1) of this subsection shall  
26 include for each certified commercial rehabilitation completed during the preceding  
27 fiscal year:

28 (i) the name of the owner or developer of the commercial  
29 rehabilitation;

30 (ii) the name and address of the certified rehabilitation and the  
31 county where the project is located;

1 (iii) the dates of receipt and approval by the Director of all  
2 applications regarding the project; and

3 (iv) 1. the maximum amount of the credit stated in the  
4 initial credit certificate for the project and the estimated rehabilitation expenditures  
5 stated in the application for approval of the plan of proposed rehabilitation; and

6 2. the actual qualified rehabilitation expenditures and  
7 the final amount of the credit for which the project qualified.

8 (4) The report required under paragraph (1) of this subsection shall  
9 summarize for each category of certified rehabilitations:

10 (i) the total number of applicants for:

11 1. certification that a structure or property will qualify  
12 as a certified historic structure [or a qualified rehabilitated structure];

13 2. approval of plans of proposed rehabilitations; or

14 3. certification of the completed rehabilitations;

15 (ii) the number of proposed projects for which plans of proposed  
16 rehabilitation were approved; and

17 (iii) the total estimated rehabilitation expenditures stated in  
18 approved applications for approval of plans of proposed rehabilitation and the total  
19 qualified rehabilitation expenditures for completed rehabilitations certified.

20 (5) The information required under paragraph (4) of this subsection  
21 shall be provided in the aggregate and separately for each of the following categories of  
22 certified rehabilitations:

23 (i) owner-occupied single family residential structures; [and]

24 **(II) SMALL COMMERCIAL PROJECTS; AND**

25 **[(ii)] (III) commercial rehabilitations.**

26 ~~(J)~~ **(J)** (1) Subject to the provisions of this subsection, the provisions of this  
27 section and the tax credit authorized under this section shall terminate as of July 1,  
28 [2014] ~~2019~~ 2017.

29 (2) On and after July 1, [2014] ~~2019~~ 2017:

1 (i) the tax credit authorized under this section may be claimed  
2 for:

3 1. a rehabilitation project, other than a commercial  
4 rehabilitation, for which an application for approval of a plan of proposed  
5 rehabilitation was received by the Director on or before June 30, [2014] ~~2019~~ 2017; or

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

8 (ii) the Director shall continue to report to the Governor and the  
9 General Assembly as required under subsection ~~(h)~~ **(I)** of this section for as long as any  
10 rehabilitation project for which the tax credit may be claimed remains incomplete.

11 **Chapter 76 of the Acts of 2004, as amended by Chapter 425 of the Acts of 2013**

12 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–801 of  
13 Article 83B – Department of Housing and Community Development of the Annotated  
14 Code of Maryland be repealed and reenacted, with amendments, and transferred to  
15 the Session Laws, to read as follows:

16 1.

17 (h) (1) Subject to the provisions of this subsection, the provisions of this  
18 section and the tax credit authorized under this section shall terminate as of July 1,  
19 2004.

20 (2) On or after July 1, 2004, the tax credit authorized under this  
21 section may be claimed for:

22 (i) a project for rehabilitation of a single-family,  
23 owner-occupied residence for which an application for approval of a plan of proposed  
24 rehabilitation was received by the Director on or before June 30, 2004; or

25 (ii) subject to paragraph (3) of this subsection, a commercial  
26 rehabilitation project for which an application of a plan of proposed rehabilitation has  
27 been approved by the Director on or before June 30, 2004.

28 (3) The tax credit authorized under this section for a commercial  
29 rehabilitation project expires on [July 1, 2014] **JANUARY 1, 2015**, unless, on or before  
30 [June 30, 2014] **DECEMBER 31, 2014**, the applicant demonstrates to the Director  
31 that the commercial rehabilitation project:

32 **(I)** has a valid, unexpired building permit for the rehabilitation  
33 project; **AND**

1                   **(II) CONSTRUCTION ON THE PROJECT BEGAN WITHIN 3**  
2 **MONTHS OF THE DATE OF ISSUANCE OF THE BUILDING PERMIT.**

3                   (4) The Director shall notify, in writing, the owner or developer that  
4 received approval of a plan of proposed rehabilitation for a commercial rehabilitation  
5 project of the requirements of this subsection.

6                   (5) On or before [August 1, 2014] **JANUARY 30, 2015**, the Director  
7 shall report to the Comptroller the number of tax credits and the amount of the tax  
8 credits that have expired in accordance with this subsection.

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

10                  (a) The Maryland Historical Trust shall develop programs, including  
11 Web-based tools, to:

12                   (1) increase participation in the residential and commercial tax credit  
13 programs in jurisdictions that have been historically underrepresented in the award of  
14 tax credits; and

15                   (2) educate small businesses with eligible historic structures on the  
16 availability of the small commercial project tax credit.

17                  (b) The Department of Planning and the Trust shall consult with local  
18 planning officials in jurisdictions that have been historically underrepresented in the  
19 award of tax credits prior to developing programs under subsection (a) of this section  
20 on more effective outreach mechanisms for properties eligible for the tax credit.

21                  SECTION 3. AND BE IT FURTHER ENACTED, That:

22                  (a) This section applies to an approved commercial rehabilitation for which:

23                   (1) an initial credit certificate was issued by the Maryland Historical  
24 Trust on or after July 1, 2006, but on or before June 30, 2014; and

25                   (2) the applicant does not submit to the Trust within 12 months of the  
26 expiration date of the initial credit certificate a request for final certification of the  
27 rehabilitation.

28                  (b) The Director of the Maryland Historical Trust shall notify the applicant,  
29 in writing, that the initial credit certificate will be revoked if within 6 months of the  
30 date of the Director's written notice the applicant does not provide to the Director:

31                   (1) documentation establishing that the rehabilitation was completed  
32 prior to the expiration date of the initial credit certificate; and

1           (2) written notification that the applicant intends to submit to the  
2 Trust a request for final certification within 12 months of the date of the Director’s  
3 written notice.

4           (c) An initial credit certificate shall be revoked and the credit may not be  
5 claimed if the applicant does not:

6                 (1) respond as requested to a written notice sent to the applicant  
7 under subsection (b) of this section; or

8                 (2) submit to the Trust a request for final certification of the  
9 rehabilitation within 12 months of the date of the written notice.

10           (d) The Director shall report to the Comptroller on the number and amount  
11 of initial credit certificates that have been revoked in accordance with this section.

12           SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
13 effect ~~July~~ June 1, 2014.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.