

HOUSE BILL 1268

Q3
HB 1119/17 – W&M

8lr3339
CF SB 970

By: **Delegates Hixson, Ali, Ebersole, C. Howard, Jalisi, Luedtke, Turner, Walker, and ~~M. Washington~~ M. Washington, Afzali, Hornberger, Mosby, Tarlau, A. Washington, and Wilkins**

Introduced and read first time: February 9, 2018
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 13, 2018

CHAPTER _____

1 AN ACT concerning

2 **Income Tax Credit – Donations to Endowment Funds – Community Foundations**
3 **and Historically Black Colleges and Universities ~~Endow Maryland – Credit~~**
4 **Amounts**

5 FOR the purpose of altering the total amount of State income tax credits the Department
6 of Housing and Community Development is authorized to issue in a taxable year for
7 donations to certain qualified permanent endowment funds at certain community
8 foundations; allowing a credit against the State income tax for a certain amount of
9 donations to certain qualified permanent endowment funds at certain institutions of
10 higher education; providing for the carryforward of the credit; requiring the
11 Comptroller, on application of a taxpayer, to issue a tax credit certificate; requiring
12 the application to contain certain information; requiring the Comptroller to approve
13 applications on a first-come, first-served basis and in a timely manner; providing
14 that the total number of applications certified by the Comptroller may not exceed a
15 certain amount for each taxable year; providing that excess tax credits not certified
16 during a taxable year may be carried over and certified during the next taxable year;
17 requiring the Comptroller to adopt certain regulations; defining certain terms;
18 providing for the application of this Act; and generally relating to a State income tax
19 credit for certain donations to certain endowment funds.

20 BY repealing and reenacting, with amendments,
21 Article – Tax – General
22 Section 10–736

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 Annotated Code of Maryland
2 (2016 Replacement Volume and 2017 Supplement)

3 BY adding to
4 Article – Tax – General
5 Section 10–746
6 Annotated Code of Maryland
7 (2016 Replacement Volume and 2017 Supplement)

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

10 **Article – Tax – General**

11 10–736.

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

13 (2) “Department” means the Department of Housing and Community
14 Development.

15 (3) “Donation” means an irrevocable gift worth \$500 or more of:

16 (i) cash; or

17 (ii) publicly traded securities.

18 (4) “Eligible community foundation” means an organization that:

19 (i) is exempt from taxation under § 501(c)(3) of the Internal Revenue
20 Code;

21 (ii) is commonly known as a community trust, fund, endowment, or
22 foundation or by another similar name that conveys the concept of a capital or endowment
23 fund to support charitable activities in the community or area that it serves;

24 (iii) satisfies the public support test of § 170(b)(1)(A)(vi) of the
25 Internal Revenue Code and regulations adopted under that section; and

26 (iv) is in compliance with national standards for United States
27 community foundations established by the Community Foundations National Standards
28 Board within the Council on Foundations.

29 (5) “Qualified permanent endowment fund” means a fund that:

30 (i) is held in perpetuity by an eligible community foundation;

1 (ii) is used for the benefit of charitable causes in the State; and

2 (iii) has an annual spending rate of 5% or less calculated using a
3 12–quarter trailing average of the total amount of the fund.

4 (b) (1) Subject to the limitations of this section, for the taxable year in which
5 a taxpayer makes a donation to a qualified permanent endowment fund at an eligible
6 community foundation, the taxpayer may claim a credit against the State income tax in the
7 amount stated on the tax credit certificate issued under subsection (c) of this section.

8 (2) If the credit allowed under this section in any taxable year exceeds the
9 State income tax for that taxable year, any unused credit may be carried forward and
10 applied for succeeding taxable years until the earlier of:

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

12 (ii) the expiration of the fifth year after the taxable year for which
13 the credit was allowed.

14 (c) (1) On application by a taxpayer, the Department shall issue a credit
15 certificate in the amount of 25% of a proposed donation to a qualified permanent
16 endowment fund at an eligible community foundation that meets the requirements of this
17 section.

18 (2) The application shall contain:

19 (i) the names of the taxpayer, the eligible community foundation,
20 and the qualified permanent endowment fund to which the donation will be made;

21 (ii) the taxable year in which the donation will be made;

22 (iii) the amount of the donation; and

23 (iv) any other information that the Department requires.

24 (3) For any taxable year, the maximum amount of tax credit stated in the
25 tax credit certificate may not exceed \$50,000.

26 (4) The Department shall:

27 (i) reserve for each taxable year at least 10% of the available credits
28 for donations of \$30,000 or less; and

29 (ii) approve all applications that qualify for a tax credit certificate
30 under this subsection:

31 1. on a first–come, first–served basis; and

1 STATED ON THE TAX CREDIT CERTIFICATE ISSUED UNDER SUBSECTION (C) OF THIS
2 SECTION.

3 (2) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
4 YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, ANY UNUSED
5 CREDIT MAY BE CARRIED FORWARD AND APPLIED TO SUCCEEDING TAXABLE YEARS
6 UNTIL THE FULL AMOUNT OF THE CREDIT IS USED.

7 (C) (1) ON APPLICATION BY A TAXPAYER, THE COMPTROLLER SHALL
8 ISSUE A CREDIT CERTIFICATE IN THE AMOUNT OF 25% OF A PROPOSED DONATION
9 TO A QUALIFIED PERMANENT ENDOWMENT FUND AT AN INSTITUTION OF HIGHER
10 EDUCATION.

11 (2) THE APPLICATION SHALL CONTAIN:

12 (I) THE NAMES OF THE TAXPAYER, THE INSTITUTION OF
13 HIGHER EDUCATION, AND THE QUALIFIED PERMANENT ENDOWMENT FUND TO
14 WHICH THE DONATION WILL BE MADE;

15 (II) THE TAXABLE YEAR IN WHICH THE DONATION WILL BE
16 MADE;

17 (III) THE AMOUNT OF THE DONATION; AND

18 (IV) ANY OTHER INFORMATION THAT THE COMPTROLLER
19 REQUIRES.

20 (3) THE COMPTROLLER SHALL APPROVE ALL APPLICATIONS THAT
21 QUALIFY FOR A TAX CREDIT CERTIFICATE UNDER THIS SUBSECTION:

22 (I) ON A FIRST-COME, FIRST-SERVED BASIS; AND

23 (II) IN A TIMELY MANNER.

24 (4) (I) FOR EACH TAXABLE YEAR, THE TOTAL AMOUNT OF TAX
25 CREDIT CERTIFICATES CERTIFIED BY THE COMPTROLLER UNDER THIS SECTION
26 MAY NOT EXCEED \$250,000.

27 (II) IF THE AGGREGATE AMOUNT OF TAX CREDIT CERTIFICATES
28 CERTIFIED UNDER THIS SECTION DURING A TAXABLE YEAR TOTALS LESS THAN THE
29 AMOUNT AUTHORIZED UNDER THIS PARAGRAPH, ANY EXCESS AMOUNT MAY BE
30 CERTIFIED UNDER TAX CREDIT CERTIFICATES FOR THE NEXT TAXABLE YEAR.

1 **(D) THE COMPTROLLER SHALL ADOPT REGULATIONS TO CARRY OUT THE**
2 **PROVISIONS OF THIS SECTION, INCLUDING THE CRITERIA AND PROCEDURES FOR**
3 **APPLICATION FOR, APPROVAL OF, AND MONITORING ELIGIBILITY FOR THE TAX**
4 **CREDIT AUTHORIZED UNDER THIS SECTION.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2018, and shall be applicable to all taxable years beginning after December 31, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.