

HOUSE BILL 759

Q3

0lr1487

By: **Delegates McIntosh, Anderson, and Boyce**

Introduced and read first time: January 31, 2020

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Historic Revitalization Tax Credit – Expansion – Rehabilitations of Common**
3 **Elements of Condominiums**

4 FOR the purpose of altering the definition of “small commercial project” under the historic
5 revitalization tax credit program to include the rehabilitation of certain
6 condominiums if the rehabilitations target only certain common elements of the
7 condominiums; requiring the Director of the Maryland Historical Trust, in
8 consultation with the Smart Growth Subcabinet, to adopt certain regulations;
9 defining and altering certain terms; providing for the application of this Act; and
10 generally relating to the historic revitalization tax credit.

11 BY repealing and reenacting, with amendments,
12 Article – State Finance and Procurement
13 Section 5A–303(a) and (b)(1)(xi)
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – State Finance and Procurement
18 Section 5A–303(b)(4), (c)(1)(i), (2)(ii), and (4), and (e)
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2019 Supplement)

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

23 **Article – State Finance and Procurement**

24 5A–303.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) “Affordable housing” means a project or undertaking that has received
2 an allocation of federal low-income housing tax credits by the Department of Housing and
3 Community Development.

4 (3) “Agricultural structure” means a certified historic structure that is used
5 or was used as an agricultural facility or for purposes related to agriculture.

6 (4) (I) “Business entity” means:

7 [(i)] 1. a person conducting or operating a trade or business in the
8 State; or

9 [(ii)] 2. an organization operating in Maryland that is exempt
10 from taxation under § 501(c)(3) of the Internal Revenue Code.

11 (II) **“BUSINESS ENTITY” INCLUDES THE GOVERNING BODY OF A**
12 **CONDOMINIUM.**

13 (5) “Certified heritage area” has the meaning stated in § 13-1101 of the
14 Financial Institutions Article.

15 (6) (i) “Certified historic structure” means a structure that is located in
16 the State and is:

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

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

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

24 B. certified by the Director as contributing to the significance
25 of the district; or

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

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

31 (7) “Certified rehabilitation” means a completed rehabilitation of a
32 certified historic structure that the Director certifies is a substantial rehabilitation in

1 conformance with the rehabilitation standards of the United States Secretary of the
2 Interior.

3 (8) (i) “Commercial rehabilitation” means a rehabilitation of a
4 structure other than a single-family, owner-occupied residence.

5 (ii) “Commercial rehabilitation” does not include a small commercial
6 project.

7 **(9) “COMMON ELEMENTS” HAS THE MEANING STATED IN § 11-101 OF**
8 **THE REAL PROPERTY ARTICLE.**

9 **(10) “CONDOMINIUM” HAS THE MEANING STATED IN § 11-101 OF THE**
10 **REAL PROPERTY ARTICLE.**

11 **[(9)] (11) “Director” means the Director of the Maryland Historical Trust.**

12 **[(10)] (12) “Financial assistance” means action by the State or a State unit**
13 **to award grants, loans, loan guarantees, or insurance to a public or private entity to finance,**
14 **wholly or partly, a project that involves or may result in building construction, building**
15 **alteration, or land disturbance.**

16 **(13) “GOVERNING BODY”, UNLESS THE CONTEXT REQUIRES**
17 **OTHERWISE, HAS THE MEANING STATED IN § 11-101 OF THE REAL PROPERTY**
18 **ARTICLE.**

19 **[(11)] (14) “High performance building” means a building that:**

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

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

27 **[(12)] (15) (i) “Historic property” means a district, site, building,**
28 **structure, monument, or object significant to:**

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

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

32 (ii) “Historic property” includes related artifacts, records, and

1 remains.

2 **[(13)] (16)** “Level 1 opportunity zone project” means a small commercial
3 project or commercial rehabilitation completed by a qualified opportunity zone business if
4 the following information is provided to the Director:

5 (i) the date of the qualified opportunity fund’s investment in the
6 opportunity zone project and the amount of the investment;

7 (ii) the total project or business investment, including any leverage;

8 (iii) the address and census tract of the qualified opportunity zone
9 business and the qualified opportunity fund;

10 (iv) the North American Industrial Classification System Code for
11 the qualified opportunity zone business;

12 (v) an impact report, including both qualitative and quantitative
13 data on the qualified opportunity fund’s investment in the opportunity zone project and its
14 progress; and

15 (vi) any other information requested by the Director.

16 **[(14)] (17)** “Level 2 opportunity zone project” means a small commercial
17 project or commercial rehabilitation completed by a qualified opportunity zone business if:

18 (i) the requirements for a Level 1 opportunity zone project are met;

19 (ii) 1. accountability to residents of the communities in the
20 qualified opportunity zone is maintained through their representation on any governing
21 board or any advisory board of the qualified opportunity zone business; or

22 2. a community benefits agreement is negotiated and agreed
23 to by community groups or strategic industry partnerships, as defined under § 11–701 of
24 the Labor and Employment Article, in the opportunity zone and the qualified opportunity
25 zone business that specifies a range of community benefits that the business agrees to
26 provide as part of the development project; and

27 (iii) 1. for an opportunity zone project located entirely within a
28 municipal corporation, the municipal corporation, by resolution or by letter, delivered to
29 the Director by the municipal corporation’s authorized designee, approves the provision
30 within the municipal corporation of the enhanced tax credits under this section; or

31 2. for an opportunity zone project that is not located entirely
32 within a municipal corporation, the county, by resolution or by letter, delivered to the
33 Director by the county’s authorized designee, approves the provision within the county of
34 the enhanced tax credits under this section.

1 **[(15)] (18)** “Local historic district” means a district that the governing body
2 of a county or municipal corporation, or the Mayor and City Council of Baltimore, has
3 designated under local law as historic.

4 **[(16)] (19)** “National register structure” means a structure that is:

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

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

9 **[(17)] (20)** “Opportunity zone project” means a certified rehabilitation
10 within a geographical area designated and in effect as a qualified opportunity zone in the
11 State under § 1400Z–1 of the Internal Revenue Code.

12 **[(18)] (21)** “Political subdivision” means a county or municipal corporation
13 of the State.

14 **[(19)] (22)** “Post–World War II structure” means a certified historic
15 structure that was built after December 31, 1944, but before January 1, 1970.

16 **[(20)] (23)** “Qualified opportunity fund” has the meaning stated in § 6–1001
17 of the Economic Development Article.

18 **[(21)] (24)** “Qualified opportunity zone” has the meaning stated in § 6–1001
19 of the Economic Development Article.

20 **[(22)] (25)** “Qualified opportunity zone business” has the meaning stated in
21 § 6–1001 of the Economic Development Article.

22 **[(23)] (26)** “Qualified rehabilitation expenditure” means any amount that:

23 (i) is properly chargeable to a capital account;

24 (ii) is expended in the rehabilitation of a structure that by the end of
25 the calendar year in which the certified rehabilitation is completed is a certified historic
26 structure;

27 (iii) is expended in compliance with a plan of proposed rehabilitation
28 that has been approved by the Director; and

29 (iv) is not funded, financed, or otherwise reimbursed by any:

30 1. State or local grant;

1 2. grant made from the proceeds of tax-exempt bonds issued
2 by the State, a political subdivision of the State, or an instrumentality of the State or of a
3 political subdivision of the State;

4 3. State tax credit other than the tax credit under this
5 section; or

6 4. other financial assistance from the State or a political
7 subdivision of the State, other than a loan that must be repaid at an interest rate that is
8 greater than the interest rate on general obligation bonds issued by the State at the most
9 recent bond sale prior to the time the loan is made.

10 [(24)] (27) (i) “Single-family, owner-occupied residence” means a
11 structure or a portion of a structure occupied by the owner and the owner’s immediate
12 family as their primary or secondary residence.

13 (ii) “Single-family, owner-occupied residence” includes:

14 1. a residential unit in a cooperative project owned by or
15 leased to a cooperative housing corporation, as defined in § 5-6B-01 of the Corporations
16 and Associations Article, and leased for exclusive occupancy to, and occupied by, a member
17 of the corporation and the member’s immediate family under a proprietary lease; or

18 2. a small commercial project.

19 [(25)] (28) “Small commercial project” means a rehabilitation of a structure
20 if:

21 (i) the qualified rehabilitation expenditures do not exceed \$500,000;
22 and

23 (ii) 1. the structure is primarily used for commercial,
24 income-producing purposes;

25 2. the structure:

26 A. is a residential unit in a consecutive series of similar
27 residential units that are arranged in a row, side by side; and

28 B. is sold as part of a development project for exclusive
29 occupancy to, and occupied by, the resident; [or]

30 3. the structure is a targeted project; **OR**

31 4. **THE STRUCTURE IS A CONDOMINIUM AND THE**

1 **REHABILITATION TARGETS ONLY THE COMMON ELEMENTS OF THE CONDOMINIUM.**

2 **[(26)] (29)** “Smart Growth Subcabinet” means the Smart Growth
3 Subcabinet established under Title 9, Subtitle 14 of the State Government Article.

4 **[(27)] (30)** “State unit” has the meaning stated in § 11–101 of the State
5 Government Article.

6 **[(28)] (31)** “Substantial rehabilitation” means rehabilitation of a structure
7 for which the qualified rehabilitation expenditures, during the 24–month period selected
8 by the individual or business entity ending with or within the taxable year, exceed:

9 (i) for single–family, owner–occupied residential property, \$5,000;
10 or

11 (ii) for all other property, the greater of:

12 1. the adjusted basis of the structure; or

13 2. \$25,000.

14 **[(29)] (32)** “Targeted project” means a rehabilitation of:

15 (i) an agricultural structure; or

16 (ii) a post–World War II structure.

17 (b) (1) The Director, in consultation with the Smart Growth Subcabinet, shall
18 adopt regulations to:

19 (xi) for small commercial projects:

20 1. establish conditions regarding the percentage of the
21 structure that may be used for residential rental purposes if the structure is used for both
22 commercial and residential rental purposes;

23 **2. ESTABLISH APPLICATION PROCEDURES FOR**
24 **GOVERNING BODIES OF CONDOMINIUMS AND CONDITIONS REGARDING THE**
25 **REHABILITATION OF COMMON ELEMENTS OF CONDOMINIUMS;**

26 **[2.] 3.** specify criteria for determining whether a certified historic
27 structure is:

28 A. an agricultural structure; or

29 B. a post–World War II structure; and

1 [3.] 4. specify criteria and procedures for the issuance of initial
2 credit certificates under subsection (e) of this section; and

3 (4) (i) Except as provided in subsection (e) of this section, a small
4 commercial project shall be treated as a single-family, owner-occupied residential
5 property, including the limitation on the amount of the tax credit provided in subsection
6 (c)(2)(ii) of this section.

7 (ii) A small commercial project is subject to the credit recapture
8 provision in subsection (f) of this section.

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

13 (2) (ii) For a rehabilitation other than a commercial rehabilitation, the
14 State tax credit allowed under this section may not exceed:

15 1. \$50,000 for a rehabilitation other than a Level 1 or Level
16 2 opportunity zone project;

17 2. \$55,000 for a Level 1 opportunity zone project; or

18 3. \$60,000 for a Level 2 opportunity zone project.

19 (4) If the tax credit allowed under this section in any taxable year exceeds
20 the total tax otherwise payable by the business entity or the individual for that taxable
21 year, the individual or business entity may claim a refund in the amount of the excess.

22 (e) (1) Subject to the provisions of this subsection, the Director shall issue an
23 initial credit certificate for each approved small commercial project on a first-come,
24 first-served basis.

25 (2) An initial credit certificate issued under this subsection shall state the
26 maximum amount of tax credit for which the applicant is eligible.

27 (3) (i) The Director may not issue an initial credit certificate under this
28 subsection after the aggregate amount of initial credit certificates issued for small
29 commercial projects totals \$4,000,000.

30 (ii) For a targeted project, the Director may not issue an initial credit
31 certificate under this subsection:

32 1. after the aggregate amount of initial credit certificates
33 issued for agricultural structures totals \$1,000,000; or

1 2. after the aggregate amount of initial credit certificates
2 issued for post–World War II structures totals \$1,000,000.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.