

# SENATE BILL 902

Q3, Q4, Q7

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CF HB 919

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By: **Senator Smith**

Introduced and read first time: February 3, 2020

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Coal – Tax Credits and Exemption – Repeal**

3 FOR the purpose of repealing a certain credit against the public service company franchise  
4 tax for the purchase of Maryland–mined coal during a certain year; repealing a  
5 certain credit against the State income tax that certain cogenerators or electricity  
6 suppliers may claim for the purchase of Maryland–mined coal during a certain  
7 taxable year; repealing an exemption to the sales and use tax for the sale of coal used  
8 in certain residential properties; providing for the application of a certain provision  
9 of this Act; and generally relating to tax credits and exemptions for coal.

10 BY repealing and reenacting, with amendments,  
11 Article – Tax – General  
12 Section 8–406 and 11–207(a)(3)  
13 Annotated Code of Maryland  
14 (2016 Replacement Volume and 2019 Supplement)

15 BY repealing  
16 Article – Tax – General  
17 Section 10–704.1  
18 Annotated Code of Maryland  
19 (2016 Replacement Volume and 2019 Supplement)

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

22 **Article – Tax – General**

23 8–406.

24 (a) A public service company may claim a credit against the public service  
25 company franchise tax equal to the estimated tax paid under § 8–405(b) of this subtitle.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           [(b) (1) (i) Subject to the limitations of this subsection, a public service  
2 company, including any multijurisdictional public service company, may claim a credit  
3 against the public service company franchise tax in the amount of \$3 for each ton of  
4 Maryland–mined coal that the public service company purchased in the calendar year.

5                           (ii) The credit under this subsection may not be claimed for  
6 Maryland–mined coal purchased in a calendar year beginning after December 31, 2020.

7           (2) (i) This paragraph applies only to credits claimed under this  
8 subsection for calendar years beginning on or after January 1, 2007.

9                           (ii) The amount claimed as a credit under this subsection may not  
10 exceed the amount approved by the Department under this paragraph.

11                           (iii) By January 15 of the calendar year following the end of the  
12 calendar year in which the Maryland–mined coal was purchased, a public service company,  
13 or a cogenerator or electricity supplier as defined in § 10–704.1 of this article, shall submit  
14 an application to the Department for approval of the credit allowed under this paragraph.

15                           (iv) Subject to subparagraph (vi) of this paragraph, the total amount  
16 of credits approved by the Department under this paragraph for any calendar year may not  
17 exceed:

18   1.     \$4,500,000 for a calendar year beginning after December  
19 31, 2008, but before January 1, 2013;

20   2.     \$6,000,000 for a calendar year beginning after December  
21 31, 2012, but before January 1, 2015; or

22   3.     \$3,000,000 for a calendar year beginning after December  
23 31, 2014, but before January 1, 2021.

24                           (v) Subject to subparagraph (vi) of this paragraph, if the total  
25 amount of credits applied for in any calendar year under this paragraph exceeds the  
26 maximum specified under subparagraph (iv) of this paragraph, the Department shall  
27 approve a credit under this paragraph for each applicant in an amount equal to the product  
28 of multiplying the credit applied for by the applicant times a fraction:

29   1.     the numerator of which is the maximum specified under  
30 subparagraph (iv) of this paragraph; and

31   2.     the denominator of which is the total of all credits applied  
32 for by all applicants under this paragraph for the calendar year.

33                           (vi) 1. Of the total credits approved for any calendar year  
34 beginning after December 31, 2006, but before January 1, 2021, the Department shall

1 reserve \$2,250,000 of the credits for purchases of Maryland–mined coal that will be used  
2 by a facility in Maryland.

3                   2.     If the total amount of credits applied for by all applicants  
4 for any calendar year for the purchase of Maryland–mined coal that will be used in  
5 Maryland exceeds \$2,250,000, the Department shall approve a credit under this paragraph  
6 for each applicant in an amount equal to the product of multiplying the credit applied for  
7 by the applicant times a fraction:

8                   A.     the numerator of which is \$2,250,000; and

9                   B.     the denominator of which is the total of all credits applied  
10 for by all applicants under this paragraph for the calendar year for the purchase of  
11 Maryland–mined coal that will be used in Maryland.

12                   (vii)   On or before February 15 of the calendar year following the end  
13 of the calendar year in which the Maryland–mined coal was purchased, the Department  
14 shall certify to each applicant claiming a credit the amount of the tax credits approved by  
15 the Department for that applicant under this paragraph.]

16           [(c)] (B)     (1)   To prevent actual multiple taxation of the sale of interstate long  
17 distance telecommunications service, a long distance telecommunications company, upon  
18 proof that it has paid a properly due excise, sales and use, or gross receipts tax in another  
19 state on a sale the gross receipts from which are subject to taxation under this subtitle,  
20 shall be allowed a credit against the public service company franchise tax for the amount  
21 paid.

22                   (2)   The credit permitted under this subsection may not exceed the tax  
23 imposed under this subtitle.

24 [10–704.1.

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

26                   (2)   “Cogenerator” means a qualifying cogenerator or qualifying small  
27 power producer as determined by the Federal Energy Regulatory Commission under the  
28 Public Utility Regulatory Policies Act of 1978.

29                   (3)   “Electricity supplier” has the meaning stated in § 1–101 of the Public  
30 Utilities Article.

31           (b)     This section does not apply to:

32                   (1)   a cogenerator or electricity supplier that is subject to the public service  
33 company franchise tax; or

34                   (2)   an electricity supplier that, before July 1, 1999, was not an electric

1 company as defined in § 1–101 of the Public Utilities Article as in effect on June 30, 1999,  
2 unless the electricity supplier is an affiliate of such an electric company.

3 (c) Subject to the limitations in § 8–406(b)(2) of this article, a cogenerator or  
4 electricity supplier may claim a credit against the State income tax in the amount of \$3 for  
5 each ton of Maryland–mined coal that the cogenerator or electricity supplier purchased in  
6 the taxable year.

7 (d) (1) A cogenerator or electricity supplier may only apply the credit against  
8 the State income tax for the taxable year in which the credit was earned.

9 (2) The amount of the credit may not exceed the State income tax for that  
10 taxable year.

11 (3) The total amount of credits approved under this section shall be subject  
12 to the limitations in § 8–406(b)(2)(iv), (v), and (vi) of this article.

13 (e) A cogenerator or electricity supplier shall submit an application in accordance  
14 with § 8–406(b)(2)(iii) of this article in order to claim the credit available under this  
15 section.]

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
17 as follows:

18 **Article – Tax – General**

19 11–207.

20 (a) The sales and use tax does not apply to:

21 (3) a sale of [coal,] firewood, heating oil, or propane gas or similar liquefied  
22 gas for use in residential property that contains not more than 4 units, cooperative housing,  
23 condominiums, or other similar residential living arrangements;

24 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act applies  
25 to all taxable years beginning after December 31, 2019.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
27 1, 2020.