

SENATE BILL 902

Q3, Q4, Q7

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CF HB 919

By: **Senator Smith**

Introduced and read first time: February 3, 2020

Assigned to: Budget and Taxation

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.

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.