

HOUSE BILL 1199

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1998 Regular Session  
8r1778  
CF 8r1789

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By: **Delegates Bonsack and Taylor**  
Introduced and read first time: February 13, 1998  
Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Heritage Structure Rehabilitation Credit**

3 FOR the purpose of altering the calculation of a certain credit allowed against certain  
4 State taxes for certain expenses for the rehabilitation of certain structures;  
5 allowing a business entity or individual under certain circumstances to elect to  
6 receive in lieu of the tax credit a certain mortgage credit certificate that may be  
7 transferred to a lending institution under certain circumstances and may be  
8 used by the lending institution to claim a tax credit; authorizing the Director of  
9 the Maryland Historic Trust and the Maryland Heritage Areas Authority to  
10 adopt certain regulations; defining certain terms; providing for the application  
11 of this Act; and generally relating to the Heritage Structure Rehabilitation  
12 Credit.

13 BY repealing and reenacting, with amendments,  
14 Article 83B - Department of Housing and Community Development  
15 Section 5-801  
16 Annotated Code of Maryland  
17 (1995 Replacement Volume and 1997 Supplement)

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

20 **Article 83B - Department of Housing and Community Development**

21 5-801.

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

23 (2) "Business entity" means a person conducting or operating a trade or  
24 business in the State.

25 (3) "Certified heritage area" has the meaning stated in § 13-1101(d) of  
26 the Financial Institutions Article.

27 (4) "Certified heritage structure" means a structure that is:

- (i) Listed in the National Register of Historic Places;
- (ii) Designated as a historic property under local law;
- (iii) 1. Located in a historic district listed on the National Register of Historic Places or in a local historic district; and
2. Certified by the Director of the Maryland Historical Trust as contributing to the significance of the district; or
- (iv) Located in a certified heritage area and which has been certified by the Maryland Heritage Areas Authority as contributing to the significance of the certified heritage area.

(5) "Certified rehabilitation" means rehabilitation of a certified heritage structure which the Director certifies is substantial rehabilitation in conformance with the rehabilitation standards of the United States Secretary of the Interior.

(6) "Director" means the Director of the Maryland Historical Trust.

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

(8) "Qualified rehabilitation expenditure" means any amount expended in the rehabilitation of a structure that is properly chargeable to capital account.

(9) "Substantial rehabilitation" means rehabilitation of a structure for which the qualified rehabilitation expenditures, during the 24-month period selected by the taxpayer ending with or within the taxable year, exceed:

- (i) For owner-occupied residential property, \$5,000; or
- (ii) For all other property, the greater of:
1. The adjusted basis of the structure; or
2. \$5,000.

(b) (1) Subject to subsection (c) of this section, for the taxable year in which a certified rehabilitation is completed, a business entity or an individual may claim a tax credit in an amount equal to [15%] 25% of the taxpayer's qualified rehabilitation expenditures for the rehabilitation.

(2) The same tax credit may not be applied more than once against different taxes.

(c) If the credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the business entity or the individual for that taxable year, the business entity or individual may apply the excess as a credit for succeeding years until the earlier of:

1           (1)       The full amount of the excess is used; or

2           (2)       The expiration of the tenth taxable year after the taxable year in  
3 which the certified rehabilitation is completed.

4       (d)       If a certified heritage structure for which a certified rehabilitation has  
5 been completed is sold or transferred, the amount of any credit unused at the time of  
6 sale or transfer may be transferred to the individual or business entity to which the  
7 building is sold or transferred.

8       (E)       (1)       (I)       IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE  
9 MEANINGS INDICATED.

10                       (II)       "HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE"  
11 MEANS A CERTIFICATE ISSUED UNDER THIS SUBSECTION BY THE DIRECTOR TO A  
12 BUSINESS ENTITY OR AN INDIVIDUAL THAT ELECTS TO RECEIVE THE CERTIFICATE  
13 IN LIEU OF THE CREDIT ALLOWED UNDER THIS SECTION.

14                       (III)       "QUALIFIED PURCHASED HERITAGE STRUCTURE" MEANS A  
15 CERTIFIED HERITAGE STRUCTURE:

16                               1.       FOR WHICH A CERTIFIED REHABILITATION HAS BEEN  
17 COMPLETED AND AS TO WHICH UNUSED CREDIT COULD BE TRANSFERRED TO THE  
18 PURCHASER UNDER SUBSECTION (D) OF THIS SECTION;

19                               2.       AS TO WHICH THE PURCHASER IS THE FIRST PURCHASER  
20 OF THE CERTIFIED HERITAGE STRUCTURE AFTER THE COMPLETION OF THE  
21 CERTIFIED REHABILITATION;

22                               3.       THAT WAS PURCHASED WITHIN 5 YEARS AFTER THE  
23 COMPLETION OF THE CERTIFIED REHABILITATION; AND

24                               4.       ALL OR A PART OF WHICH WITHIN A REASONABLE PERIOD  
25 WILL BE THE PRINCIPAL RESIDENCE OF THE PURCHASER.

26       (2)       (I)       A BUSINESS ENTITY OR AN INDIVIDUAL MAY ELECT TO  
27 RECEIVE A HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE IN LIEU OF  
28 THE CREDIT OTHERWISE ALLOWABLE UNDER THIS SECTION.

29                       (II)       AN ELECTION UNDER THIS SUBSECTION SHALL BE MADE:

30                               1.       FOR A QUALIFIED PURCHASED HERITAGE STRUCTURE,  
31 ON OR BEFORE THE DATE OF THE PURCHASE; AND

32                               2.       FOR ANY OTHER CERTIFIED REHABILITATION, ON OR  
33 BEFORE THE DATE THE CERTIFIED REHABILITATION IS COMPLETED.

34       (3)       IF A BUSINESS ENTITY OR INDIVIDUAL MAKES AN ELECTION UNDER  
35 THIS SUBSECTION, THE DIRECTOR SHALL ISSUE A HISTORIC REHABILITATION  
36 MORTGAGE CREDIT CERTIFICATE TO THE BUSINESS ENTITY OR INDIVIDUAL IN A

1 FACE AMOUNT EQUAL TO THE TOTAL AMOUNT OF THE CREDIT THAT BUT FOR THE  
2 ELECTION UNDER THIS SUBSECTION WOULD BE ALLOWABLE TO THE BUSINESS  
3 ENTITY OR INDIVIDUAL WITH RESPECT TO THE CERTIFIED REHABILITATION.

4 (4) A BUSINESS ENTITY OR INDIVIDUAL MAY TRANSFER A HISTORIC  
5 REHABILITATION MORTGAGE CREDIT CERTIFICATE TO A LENDING INSTITUTION,  
6 INCLUDING A NONDEPOSITORY INSTITUTION, IN CONNECTION WITH A LOAN:

7 (I) THAT IS SECURED BY CERTIFIED HERITAGE STRUCTURE; AND

8 (II) THE PROCEEDS OF WHICH MAY NOT BE USED FOR ANY  
9 PURPOSE OTHER THAN THE ACQUISITION OR REHABILITATION OF THE CERTIFIED  
10 HERITAGE STRUCTURE.

11 (5) A LENDING INSTITUTION THAT ACCEPTS A HISTORIC  
12 REHABILITATION MORTGAGE CREDIT CERTIFICATE FROM A BUSINESS ENTITY OR  
13 INDIVIDUAL SHALL IN EXCHANGE PROVIDE THE BUSINESS ENTITY OR INDIVIDUAL  
14 AN AMOUNT EQUAL TO THE FACE AMOUNT OF THE HISTORIC REHABILITATION  
15 MORTGAGE CREDIT CERTIFICATE, DISCOUNTED BY THE AMOUNT BY WHICH THE  
16 LENDING INSTITUTION'S FEDERAL INCOME TAX LIABILITY IS INCREASED AS A  
17 RESULT OF ITS USE OF THE HISTORIC REHABILITATION MORTGAGE CREDIT  
18 CERTIFICATE TO OFFSET STATE TAXES UNDER THIS SUBSECTION, TO BE APPLIED:

19 (I) TO REDUCE THE INTEREST RATE ON THE LOAN TO RESULT IN  
20 INTEREST PAYMENT REDUCTIONS SUBSTANTIALLY EQUAL ON A PRESENT VALUE  
21 BASIS TO THE FACE AMOUNT OF THE HISTORIC REHABILITATION MORTGAGE CREDIT  
22 CERTIFICATE, AS DISCOUNTED; OR

23 (II) TO REDUCE THE BUSINESS ENTITY'S OR INDIVIDUAL'S COST OF  
24 PURCHASING THE CERTIFIED HERITAGE STRUCTURE BY AN AMOUNT EQUAL TO THE  
25 FACE AMOUNT OF THE CERTIFICATE, AS DISCOUNTED.

26 (6) (I) A LENDING INSTITUTION MAY CLAIM A TAX CREDIT UNDER  
27 THIS SECTION IN AN AMOUNT EQUAL TO THE FACE AMOUNT SPECIFIED IN A  
28 HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.

29 (II) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY  
30 TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE LENDING  
31 INSTITUTION FOR THAT TAXABLE YEAR, THE LENDING INSTITUTION MAY APPLY THE  
32 EXCESS AS A CREDIT FOR SUCCEEDING YEARS UNTIL THE EARLIER OF:

33 1. THE FULL AMOUNT OF THE EXCESS IS USED; OR

34 2. THE EXPIRATION OF THE TENTH TAXABLE YEAR AFTER  
35 THE TAXABLE YEAR IN WHICH THE HISTORIC REHABILITATION MORTGAGE CREDIT  
36 CERTIFICATE IS ISSUED.

37 (7) IF THE AMOUNT OF THE DISCOUNT RETAINED BY A LENDING  
38 INSTITUTION EXCEEDS THE AMOUNT BY WHICH THE LENDING INSTITUTION'S  
39 FEDERAL INCOME TAX IS INCREASED AS A RESULT OF ITS USE OF THE HISTORIC

1 REHABILITATION MORTGAGE CREDIT CERTIFICATE TO OFFSET STATE TAXES UNDER  
2 THIS SUBSECTION, THE LENDING INSTITUTION SHALL REFUND THE EXCESS TO THE  
3 BUSINESS ENTITY OR INDIVIDUAL WITH INTEREST AT A RATE PRESCRIBED BY THE  
4 DIRECTOR.

5 [(e)] (F) The Director and the Maryland Heritage Areas Authority may adopt  
6 regulations to establish procedures and standards for certifying heritage structures  
7 and rehabilitations under this section AND FOR ISSUANCE AND USE OF HISTORIC  
8 REHABILITATION MORTGAGE CREDIT CERTIFICATES UNDER SUBSECTION (E) OF  
9 THIS SECTION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 July 1, 1998 and shall be applicable to all taxable years beginning after December 31,  
12 1998.