
By: **Delegates Bonsack and Taylor**
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Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

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.

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

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

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

6 (i) Listed in the National Register of Historic Places;

7 (ii) Designated as a historic property under local law;

8 (iii) 1. Located in a historic district listed on the National
9 Register of Historic Places or in a local historic district; and

10 2. Certified by the Director of the Maryland Historical Trust
11 as contributing to the significance of the district; or

12 (iv) Located in a certified heritage area and which has been
13 certified by the Maryland Heritage Areas Authority as contributing to the
14 significance of the certified heritage area.

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

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

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

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

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

27 (i) For owner-occupied residential property, \$5,000; or

28 (ii) For all other property, the greater of:

29 1. The adjusted basis of the structure; or

30 2. \$5,000.

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

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

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

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

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

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

14 (E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
15 MEANINGS INDICATED.

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

20 (III) "QUALIFIED PURCHASED HERITAGE STRUCTURE" MEANS A
21 CERTIFIED HERITAGE STRUCTURE:

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

25 2. AS TO WHICH THE PURCHASER IS THE FIRST PURCHASER
26 OF THE CERTIFIED HERITAGE STRUCTURE AFTER THE COMPLETION OF THE
27 CERTIFIED REHABILITATION;

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

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

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

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

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

3 2. FOR ANY OTHER CERTIFIED REHABILITATION, ON OR
4 BEFORE THE DATE THE CERTIFIED REHABILITATION IS COMPLETED.

5 (3) IF A BUSINESS ENTITY OR INDIVIDUAL MAKES AN ELECTION UNDER
6 THIS SUBSECTION, THE DIRECTOR SHALL ISSUE A HISTORIC REHABILITATION
7 MORTGAGE CREDIT CERTIFICATE TO THE BUSINESS ENTITY OR INDIVIDUAL IN A
8 FACE AMOUNT EQUAL TO THE TOTAL AMOUNT OF THE CREDIT THAT BUT FOR THE
9 ELECTION UNDER THIS SUBSECTION WOULD BE ALLOWABLE TO THE BUSINESS
10 ENTITY OR INDIVIDUAL WITH RESPECT TO THE CERTIFIED REHABILITATION.

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

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

15 (II) THE PROCEEDS OF WHICH MAY NOT BE USED FOR ANY
16 PURPOSE OTHER THAN THE ACQUISITION OR REHABILITATION OF THE CERTIFIED
17 HERITAGE STRUCTURE.

18 (5) A LENDING INSTITUTION THAT ACCEPTS A HISTORIC
19 REHABILITATION MORTGAGE CREDIT CERTIFICATE FROM A BUSINESS ENTITY OR
20 INDIVIDUAL SHALL IN EXCHANGE PROVIDE THE BUSINESS ENTITY OR INDIVIDUAL
21 AN AMOUNT EQUAL TO THE FACE AMOUNT OF THE HISTORIC REHABILITATION
22 MORTGAGE CREDIT CERTIFICATE, DISCOUNTED BY THE AMOUNT BY WHICH THE
23 LENDING INSTITUTION'S FEDERAL INCOME TAX LIABILITY IS INCREASED AS A
24 RESULT OF ITS USE OF THE HISTORIC REHABILITATION MORTGAGE CREDIT
25 CERTIFICATE TO OFFSET STATE TAXES UNDER THIS SUBSECTION, TO BE APPLIED:

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

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

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

36 (II) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY
37 TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE LENDING
38 INSTITUTION FOR THAT TAXABLE YEAR, THE LENDING INSTITUTION MAY APPLY THE
39 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
- 3 THE TAXABLE YEAR IN WHICH THE HISTORIC REHABILITATION MORTGAGE CREDIT
- 4 CERTIFICATE IS ISSUED.

5 (7) IF THE AMOUNT OF THE DISCOUNT RETAINED BY A LENDING

6 INSTITUTION EXCEEDS THE AMOUNT BY WHICH THE LENDING INSTITUTION'S

7 FEDERAL INCOME TAX IS INCREASED AS A RESULT OF ITS USE OF THE HISTORIC

8 REHABILITATION MORTGAGE CREDIT CERTIFICATE TO OFFSET STATE TAXES UNDER

9 THIS SUBSECTION, THE LENDING INSTITUTION SHALL REFUND THE EXCESS TO THE

10 BUSINESS ENTITY OR INDIVIDUAL WITH INTEREST AT A RATE PRESCRIBED BY THE

11 DIRECTOR.

12 (8) NOTWITHSTANDING ANY PROVISION IN THIS SUBSECTION, A

13 LENDING INSTITUTION IS NOT REQUIRED TO ACCEPT A HISTORIC REHABILITATION

14 MORTGAGE CREDIT CERTIFICATE FROM ANY BUSINESS ENTITY OR INDIVIDUAL.

15 [(e)] (F) The Director and the Maryland Heritage Areas Authority may adopt

16 regulations to establish procedures and standards for certifying heritage structures

17 and rehabilitations under this section AND FOR ISSUANCE AND USE OF HISTORIC

18 REHABILITATION MORTGAGE CREDIT CERTIFICATES UNDER SUBSECTION (E) OF

19 THIS SECTION.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

21 July 1, 1998 and shall be applicable to all taxable years beginning after December 31,

22 1998.