

HOUSE BILL 789

Unofficial Copy
C8

1999 Regular Session
(9r1471)

ENROLLED BILL

-- *Ways and Means/Budget and Taxation* --

Introduced by **Delegates Rudolph, Taylor, Bozman, Riley, and Hecht**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Heritage Structure Rehabilitation Tax Credit - Mortgage Credit Certificates**

3 FOR the purpose of allowing a business entity or individual under certain
4 circumstances to elect to receive a historical rehabilitation mortgage credit
5 certificate in lieu of a certain tax credit allowed for certain expenses for the
6 rehabilitation of certain structures; providing that a certain mortgage credit
7 certificate may be transferred to a lending institution under certain
8 circumstances and may be used by the lending institution to claim a tax credit;
9 altering the definition of a qualified rehabilitation expenditure under the credit;
10 providing for the transfer of certain credits to purchasers for certified
11 rehabilitations completed by nonprofit corporations exempt from taxation;
12 authorizing the Director of the Maryland Historical Trust and the Maryland
13 Heritage Areas Authority to adopt certain regulations; defining certain terms;
14 providing for the application of this Act; and generally relating to the Heritage
15 Structure Rehabilitation Credit.

16 BY repealing and reenacting, with amendments,

1 Article 83B - Department of Housing and Community Development
2 Section 5-801
3 Annotated Code of Maryland
4 (1998 Replacement Volume)

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

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

8 5-801.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 AND IS EXPENDED IN THE REHABILITATION OF A STRUCTURE THAT BY THE END OF

1 THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION IS COMPLETED IS A
2 CERTIFIED HERITAGE STRUCTURE.

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

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

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

8 1. The adjusted basis of the structure; or

9 2. \$5,000.

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

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

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

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

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

23 (d) (1) If a certified heritage structure for which a certified rehabilitation
24 has been completed is sold or transferred, the amount of any credit unused at the time
25 of sale or transfer may be transferred to the individual or business entity to which the
26 building is sold or transferred.

27 (2) IF A CERTIFIED HERITAGE STRUCTURE FOR WHICH A CERTIFIED
28 REHABILITATION HAS BEEN COMPLETED BY A NONPROFIT CORPORATION EXEMPT
29 FROM TAXATION IS SOLD OR TRANSFERRED, THE FULL AMOUNT OF THE CREDIT TO
30 WHICH THE NONPROFIT CORPORATION WOULD BE ENTITLED IF TAXABLE MAY BE
31 TRANSFERRED TO THE PURCHASER OR TRANSFEREE AT THE TIME OF THE SALE OR
32 TRANSFER.

33 (E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
34 MEANINGS INDICATED.

35 (II) "HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE"
36 MEANS A CERTIFICATE ISSUED UNDER THIS SUBSECTION BY THE DIRECTOR TO A

1 BUSINESS ENTITY OR INDIVIDUAL THAT ELECTS TO RECEIVE THE CERTIFICATE IN
2 LIEU OF THE CREDIT ALLOWED UNDER THIS SECTION.

3 (III) "QUALIFIED PURCHASED HERITAGE STRUCTURE" MEANS A
4 CERTIFIED HERITAGE STRUCTURE:

5 1. FOR WHICH A CERTIFIED REHABILITATION HAS BEEN
6 COMPLETED AND AS TO WHICH ~~UNUSED CREDIT~~ THE FULL AMOUNT OF THE CREDIT
7 IS UNUSED AND COULD BE TRANSFERRED TO THE PURCHASER UNDER SUBSECTION
8 (D) OF THIS SECTION;

9 2. AS TO WHICH THE PURCHASER IS THE FIRST PURCHASER
10 OF THE CERTIFIED HERITAGE STRUCTURE AFTER THE COMPLETION OF THE
11 CERTIFIED REHABILITATION;

12 3. THAT WAS PURCHASED WITHIN 5 10 YEARS AFTER THE
13 COMPLETION OF THE CERTIFIED REHABILITATION; AND

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

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

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

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

22 2. FOR ANY OTHER CERTIFIED REHABILITATION, ON OR
23 BEFORE THE DATE THE CERTIFIED REHABILITATION IS COMPLETED.

24 (III) AN ELECTION MAY NOT BE MADE UNDER THIS SUBSECTION
25 FOR A CERTIFIED REHABILITATION OF A CERTIFIED HERITAGE STRUCTURE THAT
26 HAS BEEN SOLD OR TRANSFERRED IF THE SELLER OR TRANSFEROR OF THE
27 STRUCTURE HAS ~~USED~~ CLAIMED ANY PART PORTION OF THE CREDIT ALLOWED
28 UNDER THIS SECTION FOR THE CERTIFIED REHABILITATION.

29 (3) IF A BUSINESS ENTITY OR INDIVIDUAL MAKES AN ELECTION UNDER
30 THIS SUBSECTION, THE DIRECTOR SHALL ISSUE A HISTORIC REHABILITATION
31 MORTGAGE CREDIT CERTIFICATE TO THE BUSINESS ENTITY OR INDIVIDUAL IN A
32 FACE AMOUNT EQUAL TO THE TOTAL AMOUNT OF THE CREDIT THAT, BUT FOR THE
33 ELECTION UNDER THIS SUBSECTION, WOULD BE ALLOWABLE TO THE BUSINESS
34 ENTITY OR INDIVIDUAL WITH RESPECT TO THE CERTIFIED REHABILITATION.

35 (4) A BUSINESS ENTITY OR INDIVIDUAL MAY TRANSFER A HISTORIC
36 REHABILITATION MORTGAGE CREDIT CERTIFICATE TO A LENDING INSTITUTION
37 SUBJECT TO MARYLAND TAX, INCLUDING A NONDEPOSITORY INSTITUTION, IN
38 CONNECTION WITH A LOAN:

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

2 (II) THE PROCEEDS OF WHICH MAY NOT BE USED FOR ANY
3 PURPOSE OTHER THAN THE ACQUISITION OR REHABILITATION OF THE CERTIFIED
4 HERITAGE STRUCTURE.

5 (5) A LENDING INSTITUTION THAT ACCEPTS A HISTORIC
6 REHABILITATION MORTGAGE CREDIT CERTIFICATE FROM A BUSINESS ENTITY OR
7 INDIVIDUAL SHALL IN EXCHANGE PROVIDE THE BUSINESS ENTITY OR INDIVIDUAL
8 AN AMOUNT EQUAL TO THE FACE AMOUNT OF THE HISTORIC REHABILITATION
9 MORTGAGE CREDIT CERTIFICATE, DISCOUNTED BY THE AMOUNT BY WHICH THE
10 LENDING INSTITUTION'S FEDERAL INCOME TAX LIABILITY IS INCREASED AS A
11 RESULT OF ITS USE OF THE HISTORIC REHABILITATION MORTGAGE CREDIT
12 CERTIFICATE TO OFFSET STATE TAXES UNDER THIS SUBSECTION, TO BE ~~APPLIED~~
13 ALLOCATED, AT THE BORROWER'S ELECTION:

14 (I) TO REDUCE THE PRINCIPAL AMOUNT OR TO REDUCE THE
15 INTEREST RATE ON THE LOAN TO RESULT IN INTEREST PAYMENT REDUCTIONS
16 SUBSTANTIALLY EQUAL ON A PRESENT VALUE BASIS TO THE FACE AMOUNT OF THE
17 HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE, AS DISCOUNTED; OR

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

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

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

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

29 2. THE EXPIRATION OF THE 10TH TAXABLE YEAR AFTER THE
30 TAXABLE YEAR IN WHICH THE HISTORIC REHABILITATION MORTGAGE CREDIT
31 CERTIFICATE IS ISSUED.

32 (7) IF THE AMOUNT OF THE DISCOUNT RETAINED BY A LENDING
33 INSTITUTION EXCEEDS THE AMOUNT BY WHICH THE LENDING INSTITUTION'S
34 FEDERAL INCOME TAX IS INCREASED AS A RESULT OF ITS USE OF THE HISTORIC
35 REHABILITATION MORTGAGE CREDIT CERTIFICATE TO OFFSET STATE TAXES UNDER
36 THIS SUBSECTION, THE LENDING INSTITUTION SHALL REFUND THE EXCESS TO THE
37 BUSINESS ENTITY OR INDIVIDUAL ~~WITH INTEREST AT A RATE PRESCRIBED BY THE~~
38 ~~DIRECTOR~~ AND ANY INTEREST EARNED BY THE INSTITUTION ON THE EXCESS.

39 (8) A LENDING INSTITUTION THAT ACCEPTS A HISTORIC
40 REHABILITATION MORTGAGE CREDIT CERTIFICATE FROM A BUSINESS ENTITY OR

1 INDIVIDUAL UNDER THIS SUBSECTION SHALL BE ENTITLED TO RELY IN GOOD FAITH
2 ON THE INFORMATION CONTAINED IN AND USED IN CONNECTION WITH OBTAINING
3 THE CERTIFICATE BY THE BUSINESS ENTITY OR INDIVIDUAL INCLUDING, WITHOUT
4 LIMITATION, THE AMOUNT OF THE QUALIFIED REHABILITATION EXPENDITURES.

5 ~~(8)~~ (9) NOTWITHSTANDING ANY PROVISION IN THIS SUBSECTION, A
6 LENDING INSTITUTION IS NOT REQUIRED TO ACCEPT A HISTORIC REHABILITATION
7 MORTGAGE CREDIT CERTIFICATE FROM ANY BUSINESS ENTITY OR INDIVIDUAL.

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1999 and shall be applicable to all taxable years beginning after December
15 31, 1998.