

HOUSE BILL 789

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C8

1999 Regular Session
9r1471
CF 9r1470

By: **Delegates Rudolph, Taylor, Bozman, Riley, and Hecht**

Introduced and read first time: February 12, 1999

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 26, 1999

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,
17 Article 83B - Department of Housing and Community Development
18 Section 5-801
19 Annotated Code of Maryland
20 (1998 Replacement Volume)

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

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

2 5-801.

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

4 (2) "Business entity" means a person conducting or operating a trade or
5 business in the State.6 (3) "Certified heritage area" has the meaning stated in § 13-1101(d) of
7 the Financial Institutions Article.

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

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

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

11 (iii) 1. Located in a historic district listed on the National
12 Register of Historic Places or in a local historic district; and13 2. Certified by the Director of the Maryland Historical Trust
14 as contributing to the significance of the district; or15 (iv) Located in a certified heritage area and which has been
16 certified by the Maryland Heritage Areas Authority as contributing to the
17 significance of the certified heritage area.18 (5) "Certified rehabilitation" means rehabilitation of a certified heritage
19 structure which the Director certifies is substantial rehabilitation in conformance
20 with the rehabilitation standards of the United States Secretary of the Interior.

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

22 (7) "Local historic district" means a district that the governing body of a
23 county or municipal corporation, or the Mayor and City Council of Baltimore, has
24 designated under local law as historic.25 (8) "Qualified rehabilitation expenditure" means any amount [expended
26 in the rehabilitation of a structure] that is properly chargeable to capital account
27 AND IS EXPENDED IN THE REHABILITATION OF A STRUCTURE THAT BY THE END OF
28 THE YEAR IN WHICH THE CERTIFIED REHABILITATION IS COMPLETED IS A
29 CERTIFIED HERITAGE STRUCTURE.30 (9) "Substantial rehabilitation" means rehabilitation of a structure for
31 which the qualified rehabilitation expenditures, during the 24-month period selected
32 by the taxpayer ending with or within the taxable year, exceed:

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

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

1 1. The adjusted basis of the structure; or

2 2. \$5,000.

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

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

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

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

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

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

20 (2) IF A CERTIFIED HERITAGE STRUCTURE FOR WHICH A
21 REHABILITATION HAS BEEN COMPLETED BY A NONPROFIT CORPORATION EXEMPT
22 FROM TAXATION IS SOLD OR TRANSFERRED, THE FULL AMOUNT OF THE CREDIT TO
23 WHICH THE NONPROFIT CORPORATION WOULD BE ENTITLED IF TAXABLE MAY BE
24 TRANSFERRED TO THE PURCHASER OR TRANSFEREE AT THE TIME OF THE SALE OR
25 TRANSFER.

26 (E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
27 MEANINGS INDICATED.

28 (II) "HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE"
29 MEANS A CERTIFICATE ISSUED UNDER THIS SUBSECTION BY THE DIRECTOR TO A
30 BUSINESS ENTITY OR INDIVIDUAL THAT ELECTS TO RECEIVE THE CERTIFICATE IN
31 LIEU OF THE CREDIT ALLOWED UNDER THIS SECTION.

32 (III) "QUALIFIED PURCHASED HERITAGE STRUCTURE" MEANS A
33 CERTIFIED HERITAGE STRUCTURE:

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

1 LENDING INSTITUTION'S FEDERAL INCOME TAX LIABILITY IS INCREASED AS A
2 RESULT OF ITS USE OF THE HISTORIC REHABILITATION MORTGAGE CREDIT
3 CERTIFICATE TO OFFSET STATE TAXES UNDER THIS SUBSECTION, TO BE APPLIED:

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

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

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

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

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

19 2. THE EXPIRATION OF THE 10TH TAXABLE YEAR AFTER THE
20 TAXABLE YEAR IN WHICH THE HISTORIC REHABILITATION MORTGAGE CREDIT
21 CERTIFICATE IS ISSUED.

22 (7) IF THE AMOUNT OF THE DISCOUNT RETAINED BY A LENDING
23 INSTITUTION EXCEEDS THE AMOUNT BY WHICH THE LENDING INSTITUTION'S
24 FEDERAL INCOME TAX IS INCREASED AS A RESULT OF ITS USE OF THE HISTORIC
25 REHABILITATION MORTGAGE CREDIT CERTIFICATE TO OFFSET STATE TAXES UNDER
26 THIS SUBSECTION, THE LENDING INSTITUTION SHALL REFUND THE EXCESS TO THE
27 BUSINESS ENTITY OR INDIVIDUAL WITH INTEREST AT A RATE PRESCRIBED BY THE
28 DIRECTOR.

29 (8) NOTWITHSTANDING ANY PROVISION IN THIS SUBSECTION, A
30 LENDING INSTITUTION IS NOT REQUIRED TO ACCEPT A HISTORIC REHABILITATION
31 MORTGAGE CREDIT CERTIFICATE FROM ANY BUSINESS ENTITY OR INDIVIDUAL.

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

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 1999 and shall be applicable to all taxable years beginning after December
39 31, 1998.

