

SENATE BILL 507

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1999 Regular Session
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By: **Senators Middleton, Miller, McFadden, Collins, Lawlah, DeGrange,
Hogan, Neall, and Van Hollen**

Introduced and read first time: February 5, 1999

Assigned to: Budget and Taxation

A BILL ENTITLED

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:

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

24 5-801.

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

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

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

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

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

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

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

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

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

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

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

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

20 (8) "Qualified rehabilitation expenditure" means any amount [expended
21 in the rehabilitation of a structure] that is properly chargeable to capital account
22 AND IS EXPENDED IN THE REHABILITATION OF A STRUCTURE THAT BY THE END OF
23 THE YEAR IN WHICH THE CERTIFIED REHABILITATION IS COMPLETED IS A
24 CERTIFIED HERITAGE STRUCTURE.

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

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

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

30 1. The adjusted basis of the structure; or

31 2. \$5,000.

32 (b) (1) Subject to subsection (c) of this section, for the taxable year in which
33 a certified rehabilitation is completed, a business entity or an individual may claim a
34 tax credit in an amount equal to 25% of the taxpayer's qualified rehabilitation
35 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) (1) If a certified heritage structure for which a certified rehabilitation
11 has been completed is sold or transferred, the amount of any credit unused at the time
12 of sale or transfer may be transferred to the individual or business entity to which the
13 building is sold or transferred.

14 (2) IF A CERTIFIED HERITAGE STRUCTURE FOR WHICH A
15 REHABILITATION HAS BEEN COMPLETED BY A NONPROFIT CORPORATION EXEMPT
16 FROM TAXATION IS SOLD OR TRANSFERRED, THE FULL AMOUNT OF THE CREDIT TO
17 WHICH THE NONPROFIT CORPORATION WOULD BE ENTITLED IF TAXABLE MAY BE
18 TRANSFERRED TO THE PURCHASER OR TRANSFEREE AT THE TIME OF THE SALE OR
19 TRANSFER.

20 (E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
21 MEANINGS INDICATED.

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

26 (III) "QUALIFIED PURCHASED HERITAGE STRUCTURE" MEANS A
27 CERTIFIED HERITAGE STRUCTURE:

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

31 2. AS TO WHICH THE PURCHASER IS THE FIRST PURCHASER
32 OF THE CERTIFIED HERITAGE STRUCTURE AFTER THE COMPLETION OF THE
33 CERTIFIED REHABILITATION;

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

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

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

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

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

7 2. FOR ANY OTHER CERTIFIED REHABILITATION, ON OR
8 BEFORE THE DATE THE CERTIFIED REHABILITATION IS COMPLETED.

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

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

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

19 (II) THE PROCEEDS OF WHICH MAY NOT BE USED FOR ANY
20 PURPOSE OTHER THAN THE ACQUISITION OR REHABILITATION OF THE CERTIFIED
21 HERITAGE STRUCTURE.

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

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

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

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

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

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

6 2. THE EXPIRATION OF THE 10TH TAXABLE YEAR AFTER THE
7 TAXABLE YEAR IN WHICH THE HISTORIC REHABILITATION MORTGAGE CREDIT
8 CERTIFICATE IS ISSUED.

9 (7) IF THE AMOUNT OF THE DISCOUNT RETAINED BY A LENDING
10 INSTITUTION EXCEEDS THE AMOUNT BY WHICH THE LENDING INSTITUTION'S
11 FEDERAL INCOME TAX IS INCREASED AS A RESULT OF ITS USE OF THE HISTORIC
12 REHABILITATION MORTGAGE CREDIT CERTIFICATE TO OFFSET STATE TAXES UNDER
13 THIS SUBSECTION, THE LENDING INSTITUTION SHALL REFUND THE EXCESS TO THE
14 BUSINESS ENTITY OR INDIVIDUAL WITH INTEREST AT A RATE PRESCRIBED BY THE
15 DIRECTOR.

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

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

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 1999 and shall be applicable to all taxable years beginning after December
26 31, 1998.