

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

Committee Report: Favorable with amendments

Senate 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:

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 TAXABLE 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 CERTIFIED
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 COULD~~ THE FULL AMOUNT OF THE
36 UNUSED CREDIT MAY BE TRANSFERRED TO THE PURCHASER UNDER SUBSECTION
37 (D) OF THIS SECTION;

1 2. AS TO WHICH THE PURCHASER IS THE FIRST PURCHASER
2 OF THE CERTIFIED HERITAGE STRUCTURE AFTER THE COMPLETION OF THE
3 CERTIFIED REHABILITATION;

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

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

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

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

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

14 2. FOR ANY OTHER CERTIFIED REHABILITATION, ON OR
15 BEFORE THE DATE THE CERTIFIED REHABILITATION IS COMPLETED.

16 (III) AN ELECTION MAY NOT BE MADE UNDER THIS SUBSECTION
17 FOR A CERTIFIED REHABILITATION OF A CERTIFIED HERITAGE STRUCTURE THAT
18 HAS BEEN SOLD OR TRANSFERRED IF THE SELLER OR TRANSFEROR OF THE
19 STRUCTURE HAS CLAIMED ANY PORTION OF THE CREDIT ALLOWED UNDER THIS
20 SECTION FOR THE CERTIFIED REHABILITATION.

21 (3) IF A BUSINESS ENTITY OR INDIVIDUAL MAKES AN ELECTION UNDER
22 THIS SUBSECTION, THE DIRECTOR SHALL ISSUE A HISTORIC REHABILITATION
23 MORTGAGE CREDIT CERTIFICATE TO THE BUSINESS ENTITY OR INDIVIDUAL IN A
24 FACE AMOUNT EQUAL TO THE TOTAL AMOUNT OF THE CREDIT THAT, BUT FOR THE
25 ELECTION UNDER THIS SUBSECTION, WOULD BE ALLOWABLE TO THE BUSINESS
26 ENTITY OR INDIVIDUAL WITH RESPECT TO THE CERTIFIED REHABILITATION.

27 (4) A BUSINESS ENTITY OR INDIVIDUAL MAY TRANSFER A HISTORIC
28 REHABILITATION MORTGAGE CREDIT CERTIFICATE TO A LENDING INSTITUTION
29 SUBJECT TO MARYLAND TAX, INCLUDING A NONDEPOSITORY INSTITUTION, IN
30 CONNECTION WITH A LOAN:

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

32 (II) THE PROCEEDS OF WHICH MAY NOT BE USED FOR ANY
33 PURPOSE OTHER THAN THE ACQUISITION OR REHABILITATION OF THE CERTIFIED
34 HERITAGE STRUCTURE.

35 (5) A LENDING INSTITUTION THAT ACCEPTS A HISTORIC
36 REHABILITATION MORTGAGE CREDIT CERTIFICATE FROM A BUSINESS ENTITY OR
37 INDIVIDUAL SHALL IN EXCHANGE PROVIDE THE BUSINESS ENTITY OR INDIVIDUAL
38 AN AMOUNT EQUAL TO THE FACE AMOUNT OF THE HISTORIC REHABILITATION

1 MORTGAGE CREDIT CERTIFICATE, DISCOUNTED BY THE AMOUNT BY WHICH THE
2 LENDING INSTITUTION'S FEDERAL INCOME TAX LIABILITY IS INCREASED AS A
3 RESULT OF ITS USE OF THE HISTORIC REHABILITATION MORTGAGE CREDIT
4 CERTIFICATE TO OFFSET STATE TAXES UNDER THIS SUBSECTION, TO BE ~~APPLIED~~
5 ALLOCATED, AT THE BORROWER'S ELECTION:

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

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

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

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

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

22 2. THE EXPIRATION OF THE 10TH TAXABLE YEAR AFTER THE
23 TAXABLE YEAR IN WHICH THE HISTORIC REHABILITATION MORTGAGE CREDIT
24 CERTIFICATE IS ISSUED.

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

32 (8) A LENDING INSTITUTION THAT ACCEPTS A HISTORIC
33 REHABILITATION MORTGAGE CREDIT CERTIFICATE FROM A BUSINESS ENTITY OR
34 INDIVIDUAL UNDER THIS SUBSECTION SHALL BE ENTITLED TO RELY IN GOOD FAITH
35 ON THE INFORMATION CONTAINED IN AND USED IN CONNECTION WITH OBTAINING
36 THE CERTIFICATE BY THE BUSINESS ENTITY OR INDIVIDUAL INCLUDING, WITHOUT
37 LIMITATION, THE AMOUNT OF THE QUALIFIED REHABILITATION EXPENDITURES.

38 (9) NOTWITHSTANDING ANY PROVISION IN THIS SUBSECTION, A
39 LENDING INSTITUTION IS NOT REQUIRED TO ACCEPT A HISTORIC REHABILITATION
40 MORTGAGE CREDIT CERTIFICATE FROM ANY BUSINESS ENTITY OR INDIVIDUAL.

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 1999 and shall be applicable to all taxable years beginning after December
8 31, 1998.