Department of Legislative Services

Maryland General Assembly
1999 Session

FISCAL NOTE
Revised

House Bill 789 (Delegate Rudolph, *et al.*)
Ways and Means

Heritage Structure Rehabilitation Tax Credit - Mortgage Credit Certificates

This bill provides that a business entity or an individual may elect to receive a historic rehabilitation mortgage credit certificate issued by the Director of the Maryland Historic Trust in lieu of the heritage structure rehabilitation tax credit for a "qualified purchased heritage structure" or for any other certified rehabilitation. The entity electing the certificate may transfer the certificate to a lending institution subject to Maryland tax for purposes of securing a loan. A lending institution that accepts the certificate may claim a tax credit in an amount equal to the discounted face value of the certificate. The credit may be carried forward for ten years beginning after the taxable year the certificate is issued.

In addition, the bill extends the time period within which rehabilitation expenditures may be treated as qualified expenditures to the end of the year in which the rehabilitation is completed and the building is designated as a certified heritage structure.

The bill applies to all taxable years beginning after December 31, 1998.

Fiscal Summary

State Effect: Indeterminate effect on general and special fund revenues. No effect on expenditures.

Local Effect: Indeterminate effect on revenues. No effect on expenditures.

Small Business Effect: Potential meaningful.

Fiscal Analysis

Bill Summary: A "qualified purchased heritage structure" is defined as a certified rehabilitated heritage structure that has been purchased within ten years after the completion of the rehabilitation by a purchaser who intends to use the structure as a principal residence within a reasonable period and for which the full amount of the rehabilitation tax credits is unused and could be transferred to the purchaser. The purchaser must be the first purchaser of the rehabilitated structure.

The election to take the mortgage credit certificate in lieu of the rehabilitation tax credit may not be made if any part of the tax credit had been used by the transferor of the property.

The bill also provides that the full amount of the heritage structure rehabilitation tax credit to which a tax-exempt organization is entitled if the organization were taxable may be transferred to a purchaser at the time of the purchase.

The lending institution that accepts the certificate must apply the value of the certificate to reduce the principal amount of the loan, the interest on the loan, or the cost of purchasing the certified heritage structure. The value of the certificate is the face value of the certificate discounted for the lending institution's increased federal income tax liability as a result of using the credit to reduce the institution's State taxes. If the amount of the discount exceeds the amount of the institution's increased federal tax liability, the lending institution must refund the excess with any interest earned by the institution on the excess. A lending institution is not required to accept the rehabilitation mortgage credit certificate.

State Revenues: Beginning in 1997 the Historic Preservation subtraction modification was converted to a credit of 10% of rehabilitation expenses. Chapter 731 of 1997 (HB 1263) increased the credit from 10% to 15% and Chapter 735 of 1998 (HB 1199) increased it to 25%.

In 1997, 27 taxpayers claimed a total of $82,290 in credits (at the 10% rate). Based on the 1997 data and applying the current credit percentage of 25%, at least $205,700 in credits will be claimed on the 1999 return under current law. The total credits claimed for rehabilitation expenses in 1997 could potentially be higher because not all taxpayers indicate the type of credit claimed on their tax returns. To illustrate this point, about $1.5 million was taken as a subtraction under the Historic Preservation subtraction modification in 1991 and 1992, respectively, representing $7.5 million in qualified rehabilitation expenditures in each year. Assuming that rehabilitation activities have not decreased significantly from 1991 to 1999, program costs for 1999 could be as much as $1.9 million.

Although the current credit may be carried forward, it is not refundable. Thus, a business or individual with limited or no tax liability will not be able to claim all or any of the credit. This bill will allow those taxpayers to transfer the full amount of the credit to a lending institution in exchange for reduced mortgage interest payments or to buy down the mortgage.

If this results in additional taxpayers taking advantage of the rehabilitation program, State revenues would decrease as a result of the credits claimed by lending institutions. The extent of the decrease would depend on the level of new rehabilitation activity and number of lending institutions that participate. On the other hand, if taxpayers who elect the certificate are those who would have taken the credit in the absence of the bill, the effect of the bill will be minimal.

If any of the taxpayers file a corporate return, special fund revenues to the Transportation Trust Fund (TTF) would be reduced since about 25% of corporate tax revenues are distributed to the TTF.

Local Revenues: Local revenues would decrease if TTF revenues are reduced as a result of this bill since a portion of the TTF is distributed to local governments.

Small Business Effect: To the extent that this bill causes an increase in rehabilitation activities, small businesses, including construction, design, and historic preservation-related businesses, could realize increased revenues.

Information Source(s): Comptroller of the Treasury (Bureau of Revenue Estimates), Department of Housing and Community Development (Maryland Historical Trust), Department of Legislative Services

Fiscal Note History:	First Reader - February 22, 1999
dncsjr	Revised - House Third Reader - March 30, 1999
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