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By: **Delegate Shriver**

Introduced and read first time: February 11, 2000

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Qualified Maryland Housing Tax Credit**

3 FOR the purpose of allowing a credit against the State income tax for certain  
4 qualified Maryland housing; providing for allocation of the aggregate available  
5 credit among qualified Maryland housing projects by the Secretary of Housing  
6 and Community Development; limiting the aggregate credit that may be  
7 authorized for any calendar year; authorizing the Secretary to adopt certain  
8 regulations; requiring the Secretary to adopt certain regulations or policies;  
9 allowing unused credit to be carried over to certain taxable years; authorizing  
10 the Secretary in consultation with the Comptroller to adopt certain regulations  
11 providing for the recapture of the tax credit under certain circumstances;  
12 defining certain terms; providing for the application of this Act; and generally  
13 relating to a State income tax credit for certain qualified Maryland housing.

14 BY adding to

15 Article 83B - Department of Housing and Community Development  
16 Section 2-1501 through 2-1505 to be under the new subtitle "Subtitle 15.  
17 Qualified Maryland Housing Tax Credit"  
18 Annotated Code of Maryland  
19 (1998 Replacement Volume and 1999 Supplement)

20 BY adding to

21 Article - Tax - General  
22 Section 10-718  
23 Annotated Code of Maryland  
24 (1997 Replacement Volume and 1999 Supplement)

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

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

## SUBTITLE 15. QUALIFIED MARYLAND HOUSING TAX CREDIT.

3 2-1501.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 (B) "FEDERAL LOW INCOME HOUSING TAX CREDIT" MEANS THE FEDERAL TAX  
7 CREDIT AS PROVIDED IN § 42 OF THE INTERNAL REVENUE CODE.

8 (C) "QUALIFIED MARYLAND HOUSING PROJECT" MEANS:

9 (1) A QUALIFIED LOW-INCOME HOUSING PROJECT, AS DEFINED IN §  
10 42(G) OF THE INTERNAL REVENUE CODE, THAT IS LOCATED IN THE STATE; OR

11 (2) A HOUSING PROJECT IN THE STATE THAT MEETS REQUIREMENTS  
12 FOR ELIGIBILITY FOR THE STATE TAX CREDIT AS SPECIFIED IN REGULATIONS THAT  
13 THE SECRETARY ADOPTS UNDER § 2-1503 OF THIS SUBTITLE.

14 (D) "STATE TAX CREDIT" MEANS THE INCOME TAX CREDIT ALLOWED UNDER §  
15 10-718 OF THE TAX - GENERAL ARTICLE.

16 2-1502.

17 (A) (1) THE OWNER OF A QUALIFIED MARYLAND HOUSING PROJECT MAY  
18 APPLY TO THE SECRETARY FOR ALLOCATION TO THE PROJECT OF A PORTION OF THE  
19 STATE TAX CREDIT.

20 (2) THE STATE TAX CREDIT MAY BE ALLOCATED TO A QUALIFIED  
21 MARYLAND HOUSING PROJECT WHETHER OR NOT A FEDERAL LOW INCOME  
22 HOUSING TAX CREDIT IS ALLOCATED TO THE QUALIFIED MARYLAND HOUSING  
23 PROJECT.

24 (3) ALL OR ANY PORTION OF THE STATE TAX CREDIT ALLOCATED  
25 UNDER THIS SUBTITLE MAY BE ALLOCATED TO ANY PERSON WHO OWNS AN  
26 INTEREST IN A QUALIFIED MARYLAND HOUSING PROJECT, WHETHER OR NOT THE  
27 PERSON IS ALLOCATED A PORTION OF ANY FEDERAL INCOME HOUSING TAX CREDIT  
28 ALLOCATED TO THE QUALIFIED MARYLAND HOUSING PROJECT.

29 (B) AN APPLICATION UNDER THIS SECTION SHALL BE IN THE FORM AND  
30 MANNER AND CONTAIN ANY INFORMATION THAT THE SECRETARY REQUIRES BY  
31 REGULATION.

32 (C) (1) THE SECRETARY MAY REQUIRE THAT THE OWNER OF A QUALIFIED  
33 MARYLAND HOUSING PROJECT, AS A CONDITION TO RECEIVING AN ALLOCATION OF  
34 THE STATE TAX CREDIT, ENTER INTO A WRITTEN REGULATORY AGREEMENT WITH  
35 THE SECRETARY UNDER TERMS AND CONDITIONS SET BY THE SECRETARY,  
36 REGARDING THE USE OF THE PROJECT.

1           (2)     THE SECRETARY MAY REQUIRE THAT ANY AGREEMENT REQUIRED  
2 BY THE SECRETARY UNDER THIS SUBSECTION BE FILED IN THE OFFICIAL LAND  
3 RECORDS OF THE COUNTY WHERE THE PROJECT IS LOCATED.

4     (D)     THE SECRETARY AND ANY LOCAL AGENCY OR AUTHORITY DESIGNATED  
5 BY THE SECRETARY MAY ENFORCE AN AGREEMENT REQUIRED BY THE SECRETARY  
6 UNDER THIS SECTION IN THE EVENT THE OWNER FAILS TO SATISFY ANY OF THE  
7 REQUIREMENTS OF THE AGREEMENT.

8     (E)     AN AGREEMENT REQUIRED BY THE SECRETARY UNDER THIS SECTION  
9 SHALL BE DEEMED A CONTRACT ENFORCEABLE BY TENANTS AS THIRD PARTY  
10 BENEFICIARIES TO THE AGREEMENT.

11 2-1503.

12     (A)     THE SECRETARY MAY ADOPT ANY REGULATIONS NECESSARY TO  
13 ADMINISTER THE PROVISIONS OF THIS SUBTITLE.

14     (B)     (1)     THE SECRETARY SHALL ADOPT REGULATIONS OR POLICIES  
15 ESTABLISHING CRITERIA BY WHICH THE STATE TAX CREDIT WILL BE ALLOCATED  
16 AMONG PROJECTS, INCLUDING ANY CRITERIA FOR ELIGIBILITY FOR THE STATE TAX  
17 CREDIT FOR PROJECTS THAT DO NOT QUALIFY FOR THE FEDERAL LOW INCOME  
18 HOUSING TAX CREDIT.

19           (2)     UNDER THE REGULATIONS THAT THE SECRETARY ADOPTS UNDER  
20 PARAGRAPH (1) OF THIS SUBSECTION, PROJECTS THAT DO NOT QUALIFY FOR THE  
21 FEDERAL LOW INCOME HOUSING TAX CREDIT MAY BE ELIGIBLE FOR TAX CREDITS  
22 UNDER THIS SUBTITLE IF THEY WILL PROVIDE AFFORDABLE HOUSING FOR  
23 FAMILIES OF LIMITED INCOME, AS DEFINED IN § 2-203 OF THIS TITLE, BASED ON THE  
24 FOLLOWING CRITERIA:

25                   (I)     THE NUMBER OF AFFORDABLE HOUSING UNITS TO BE  
26 CREATED FOR FAMILIES OF LIMITED INCOMES;

27                   (II)    THE LEVEL OF AREA MEDIAN INCOME BEING SERVED BY THE  
28 DEVELOPMENT;

29                   (III)   THE NEED FOR THE CREDIT FOR THE ECONOMIC FEASIBILITY  
30 OF THE PROJECT; AND

31                   (IV)    THE EXTENT OF THE PERIOD FOR WHICH THE DEVELOPMENT  
32 COMMITS TO PROVIDE AFFORDABLE HOUSING FOR FAMILIES OF LIMITED INCOMES.

33     (C)     (1)     THE AGGREGATE AVAILABLE STATE TAX CREDIT FOR EACH  
34 CALENDAR YEAR EQUALS THE STATE HOUSING CREDIT CEILING APPLICABLE TO THE  
35 STATE FOR THE CALENDAR YEAR UNDER § 42(W) OF THE INTERNAL REVENUE CODE.

36           (2)     THE SECRETARY MAY ALLOCATE THE AGGREGATE AVAILABLE  
37 STATE TAX CREDIT FOR A CALENDAR YEAR AMONG QUALIFIED MARYLAND HOUSING  
38 PROJECTS TO BE PLACED IN SERVICE DURING OR AFTER THAT CALENDAR YEAR.

1 (3) THE TOTAL AMOUNT ALLOCATED IN A CALENDAR YEAR TO ANY  
2 QUALIFIED MARYLAND HOUSING PROJECT:

3 (I) MAY BE CLAIMED IN FULL IN THE TAXABLE YEAR FOR WHICH  
4 THE CREDIT IS ALLOWED; AND

5 (II) SHALL REDUCE THE AGGREGATE AVAILABLE STATE CREDIT  
6 FOR THE CALENDAR YEAR IN WHICH THE ALLOCATION IS MADE.

7 (4) ANY PORTION OF THE AGGREGATE AVAILABLE STATE TAX CREDIT  
8 FOR ANY CALENDAR YEAR THAT IS NOT ALLOCATED BY THE SECRETARY IN THAT  
9 CALENDAR YEAR MAY BE CARRIED OVER TO ANY SUBSEQUENT CALENDAR YEAR.

10 (D) (1) THE SECRETARY MAY NOT ALLOCATE THE STATE TAX CREDIT IN ANY  
11 CALENDAR YEAR IN EXCESS OF THE AGGREGATE AVAILABLE STATE TAX CREDIT FOR  
12 THAT YEAR AS SPECIFIED IN SUBSECTION (C) OF THIS SECTION.

13 (2) IF THE AGGREGATE STATE TAX CREDIT ALLOCATED FOR ANY  
14 CALENDAR YEAR EXCEEDS THE AGGREGATE AVAILABLE STATE TAX CREDIT FOR  
15 THAT YEAR, THE AGGREGATE AVAILABLE STATE TAX CREDIT FOR SUBSEQUENT  
16 CALENDAR YEARS SHALL BE REDUCED TO THE EXTENT OF THE EXCESS.

17 2-1504.

18 (A) IF THE SECRETARY ALLOCATES A PORTION OF THE STATE TAX CREDIT TO  
19 A PROJECT, THE OWNER SHALL CERTIFY:

20 (1) THAT THE PROJECT IS A QUALIFIED MARYLAND HOUSING PROJECT  
21 ELIGIBLE FOR THE STATE TAX CREDIT;

22 (2) THE AMOUNT OF THE STATE TAX CREDIT ALLOCATED TO THE  
23 PROJECT; AND

24 (3) THE YEAR IN WHICH THE PROJECT WAS PLACED IN SERVICE.

25 (B) THE SECRETARY SHALL NOTIFY THE COMPTROLLER WITHIN 90 DAYS  
26 AFTER BECOMING AWARE OF ANY EVENT MAKING THE PROJECT INELIGIBLE FOR  
27 THE STATE TAX CREDIT OR TRIGGERING THE RECAPTURE OF ANY STATE TAX CREDIT  
28 ALLOWED FOR THE PROJECT UNDER § 10-718 OF THE TAX - GENERAL ARTICLE.

29 2-1505.

30 (A) ALL OR ANY PORTION OF THE STATE TAX CREDIT ALLOCATED UNDER THIS  
31 SUBTITLE MAY BE TRANSFERRED, SOLD, OR ASSIGNED TO ANY PERSON, WHETHER  
32 OR NOT THE PERSON OWNS AN INTEREST IN A QUALIFIED MARYLAND HOUSING  
33 PROJECT.

34 (B) (1) AN OWNER OR TRANSFEREE DESIRING TO MAKE A TRANSFER, SALE,  
35 OR ASSIGNMENT AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL SUBMIT  
36 TO THE SECRETARY A STATEMENT DESCRIBING THE AMOUNT OF CREDIT FOR WHICH

1 THE TRANSFER, SALE, OR ASSIGNMENT OF CREDIT IS ELIGIBLE, AND THE  
2 SECRETARY SHALL ISSUE A CERTIFICATE REPRESENTING THE AMOUNT OF THE  
3 CREDIT AVAILABLE TO THE TRANSFEREE.

4 (2) THE OWNER SHALL PROVIDE TO THE SECRETARY APPROPRIATE  
5 INFORMATION SO THAT THE STATE TAX CREDIT CAN BE PROPERLY ALLOCATED.

6 (C) IF RECAPTURE OF THE STATE TAX CREDIT IS REQUIRED UNDER § 10-718  
7 OF THE TAX - GENERAL ARTICLE, ANY STATEMENT SUBMITTED TO THE SECRETARY  
8 UNDER THIS SECTION SHALL INCLUDE THE PROPORTION OF THE STATE TAX CREDIT  
9 REQUIRED TO BE RECAPTURED, THE IDENTITY OF EACH TRANSFEREE SUBJECT TO  
10 RECAPTURE, AND THE AMOUNT OF CREDIT PREVIOUSLY TRANSFERRED TO EACH  
11 TRANSFEREE.

12 **Article - Tax - General**

13 10-718.

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
15 INDICATED.

16 (2) "FEDERAL LOW INCOME HOUSING TAX CREDIT" MEANS THE  
17 FEDERAL TAX CREDIT AS PROVIDED IN § 42 OF THE INTERNAL REVENUE CODE.

18 (3) "QUALIFIED MARYLAND HOUSING PROJECT" HAS THE MEANING  
19 STATED IN ARTICLE 83B, § 2-1501 OF THE CODE.

20 (4) "SECRETARY" MEANS THE SECRETARY OF HOUSING AND  
21 COMMUNITY DEVELOPMENT.

22 (B) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, AN  
23 INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME  
24 TAX IN THE AMOUNT DETERMINED UNDER SUBSECTION (C) OF THIS SECTION FOR A  
25 QUALIFIED MARYLAND HOUSING PROJECT.

26 (C) (1) SUBJECT TO THE LIMITATION UNDER PARAGRAPH (3) OF THIS  
27 SUBSECTION, THE CREDIT UNDER THIS SECTION EQUALS THE SUM OF:

28 (I) THE AMOUNT DETERMINED UNDER PARAGRAPH (2) OF THIS  
29 SUBSECTION FOR EACH QUALIFIED MARYLAND HOUSING PROJECT; AND

30 (II) ANY CREDIT CARRIED OVER FROM ANOTHER TAXABLE YEAR  
31 UNDER SUBSECTION (D) OF THIS SECTION.

32 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
33 PARAGRAPH, THE AMOUNT ALLOWED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION  
34 FOR EACH QUALIFIED MARYLAND HOUSING PROJECT EQUALS THE AMOUNT OF THE  
35 STATE TAX CREDIT ALLOCATED TO THE PROJECT, AS CERTIFIED BY THE OWNER  
36 UNDER ARTICLE 83B, § 2-1504 OF THE CODE.

1 (II) THE CREDIT AMOUNT ALLOWED FOR A PROJECT UNDER  
2 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE CLAIMED IN FULL FOR:

3 1. IN THE CASE OF A PROJECT THAT HAS RECEIVED AN  
4 ALLOCATION OF THE FEDERAL LOW INCOME HOUSING TAX CREDIT, THE FIRST  
5 TAXABLE YEAR FOR WHICH THE FEDERAL LOW INCOME HOUSING TAX CREDIT MAY  
6 BE CLAIMED; OR

7 2. IN THE CASE OF A PROJECT THAT HAS NOT RECEIVED AN  
8 ALLOCATION OF THE FEDERAL LOW INCOME HOUSING TAX CREDIT, THE FIRST  
9 TAXABLE YEAR FOR WHICH A FEDERAL LOW INCOME HOUSING TAX CREDIT COULD  
10 HAVE BEEN CLAIMED IF THE PROJECT HAD RECEIVED AN ALLOCATION OF THE  
11 FEDERAL LOW INCOME HOUSING TAX CREDIT.

12 (3) FOR EACH TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS  
13 SECTION MAY NOT EXCEED THE STATE INCOME TAX THAT WOULD OTHERWISE BE  
14 IMPOSED FOR THAT TAXABLE YEAR, DETERMINED BEFORE SUBTRACTION OF THE  
15 CREDITS ALLOWED UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS  
16 SUBTITLE, BUT AFTER THE SUBTRACTION OF ANY OTHER CREDITS ALLOWED UNDER  
17 THIS SUBTITLE.

18 (D) IF, AS A RESULT OF THE LIMITATION UNDER SUBSECTION (C)(3) OF THIS  
19 SECTION, A PORTION OF THE CREDIT OTHERWISE ALLOWABLE IS UNUSED FOR THE  
20 TAXABLE YEAR, UNTIL THE FULL AMOUNT OF THE UNUSED CREDIT IS USED THE  
21 INDIVIDUAL OR CORPORATION MAY APPLY THE UNUSED CREDIT AS A CREDIT  
22 AGAINST THE STATE INCOME TAX FOR:

23 (1) THE TAXABLE YEAR PRECEDING THE TAXABLE YEAR FOR WHICH  
24 THE CREDIT IS ALLOWED UNDER SUBSECTION (C)(2)(II) OF THIS SECTION; AND

25 (2) UP TO 5 TAXABLE YEARS FOLLOWING THE TAXABLE YEAR FOR  
26 WHICH THE CREDIT IS ALLOWED UNDER SUBSECTION (C)(2)(II) OF THIS SECTION.

27 (E) AN INDIVIDUAL OR CORPORATION CLAIMING THE STATE TAX CREDIT FOR  
28 A QUALIFIED MARYLAND HOUSING PROJECT SHALL SUBMIT WITH THE INDIVIDUAL'S  
29 OR CORPORATION'S INCOME TAX RETURN A COPY OF THE OWNER'S CERTIFICATION  
30 FOR THE QUALIFIED MARYLAND HOUSING PROJECT UNDER ARTICLE 83B, § 2-1504 OF  
31 THE CODE.

32 (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE  
33 SECRETARY IN CONSULTATION WITH THE COMPTROLLER MAY ADOPT REGULATIONS  
34 PROVIDING FOR THE RECAPTURE OF THE STATE TAX CREDITS ALLOWED UNDER  
35 THIS SECTION FOR A QUALIFIED MARYLAND HOUSING PROJECT THAT FAILS TO  
36 CONTINUE TO MEET ALL STATE REQUIREMENTS UNDER WHICH IT QUALIFIED FOR  
37 THE STATE TAX CREDITS.

38 (2) RECAPTURE OF THE STATE TAX CREDITS ALLOWED UNDER THIS  
39 SECTION MAY NOT BE REQUIRED IN THE CASE OF A QUALIFIED MARYLAND HOUSING  
40 PROJECT THAT HAS BEEN ALLOCATED A PORTION OF THE FEDERAL LOW INCOME  
41 HOUSING TAX CREDIT.

1 (G) AN INDIVIDUAL OR CORPORATION MAY NOT CLAIM THE CREDIT ALLOWED  
2 UNDER THIS SECTION FOR A PROJECT FOR ANY TAXABLE YEAR IN WHICH THE  
3 OWNER OF THE PROJECT IS IN DEFAULT UNDER ANY REGULATORY AGREEMENT  
4 REQUIRED WITH RESPECT TO THE PROJECT REQUIRED UNDER ARTICLE 83B, § 2-1502  
5 OF THE CODE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2000 and shall be applicable to all taxable years beginning after December  
8 31, 2000.