

SENATE BILL 56

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2000 Regular Session
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(PRE-FILED)

By: **Chairman, Budget and Taxation Committee (Departmental -
Assessments and Taxation)**

Requested: October 5, 1999

Introduced and read first time: January 12, 2000

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institution Franchise Tax - Termination**

3 FOR the purpose of terminating the financial institution franchise tax; providing that
4 financial institutions are subject to the income tax after a certain date; altering
5 the personal property tax exemption for financial institutions; repealing
6 obsolete or redundant provisions; consolidating certain provisions; providing
7 that the Department of Assessments and Taxation retains certain enforcement
8 powers; requiring the State Comptroller, under certain circumstances, to assess
9 interest and penalty for a certain fiscal year; providing for the effective date and
10 application of this Act; and generally relating to the termination of the financial
11 institution franchise tax.

12 BY repealing and reenacting, without amendments,
13 Article - Tax - General
14 Section 8-101(c)
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 1999 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Tax - General
19 Section 8-202(a)
20 Annotated Code of Maryland
21 (1997 Replacement Volume and 1999 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Tax - Property
24 Section 7-221
25 Annotated Code of Maryland
26 (1994 Replacement Volume and 1999 Supplement)

27 BY repealing

1 Article - Tax - Property
2 Section 7-228
3 Annotated Code of Maryland
4 (1994 Replacement Volume and 1999 Supplement)

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

7 **Article - Tax - General**

8 8-101.

9 (c) (1) "Financial institution" means:

10 (i) a credit company;

11 (ii) except as provided in paragraph (2)(i) of this subsection, a
12 finance company;

13 (iii) an international banking facility;

14 (iv) a loan company;

15 (v) a mortgage company;

16 (vi) a safe-deposit company; and

17 (vii) a savings and loan association.

18 (2) "Financial institution" does not include:

19 (i) a finance company that makes loans only to farmers for
20 agricultural purposes;

21 (ii) a company licensed under the federal Small Business
22 Investment Act of 1958;

23 (iii) a corporation that elects to be taxed as a small business
24 corporation under Subchapter S of the Internal Revenue Code;

25 (iv) an entity that is a real estate mortgage investment conduit as
26 defined in the Internal Revenue Code;

27 (v) a limited liability company; or

28 (vi) a commercial bank, savings bank, trust company, or company
29 that substantially competes with national banks in the State.

1 8-202.

2 (a) (1) [A] FOR ALL TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2001,
3 A franchise tax, measured by taxable net earnings, is imposed annually on each
4 financial institution existing or doing business in the State during any part of the
5 fiscal year of the financial institution.

6 (2) FOR ALL TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2000,
7 THE FINANCIAL INSTITUTION FRANCHISE TAX IS TERMINATED, AND MARYLAND
8 TAXABLE INCOME OF FINANCIAL INSTITUTIONS SHALL BE SUBJECT TO TAXATION
9 UNDER TITLE 10 OF THIS ARTICLE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
11 read as follows:

12 **Article - Tax - Property**

13 7-221.

14 (a) Personal property is not subject to valuation or to property tax, if the
15 personal property is owned by [an institution that is subject to the]:

16 (1) A financial institution AS DEFINED IN § 8-101(C) [franchise tax under
17 Title 8, Subtitle 2] of the Tax - General Article; OR

18 (2) A CREDIT UNION ORGANIZED FOR RECEIVING DEPOSITS OF MONEY
19 AND PAYING INTEREST OR DIVIDENDS ON THE MONEY, IF THE CREDIT UNION DOES
20 NOT HAVE CAPITAL STOCK.

21 (b) This exemption does not include any personal property that is leased,
22 loaned, or made available by the institution for the use of a person whose business is
23 not that of the institution.

24 [(c) For any taxable year beginning after June 30, 1998, the exemption under
25 this section does not apply to a commercial bank, savings bank, trust company, or
26 company that substantially competes with national banks in the State.

27 (d) Notwithstanding subsection (a) of this section, except as provided in §
28 7-221.1 of this subtitle, for a commercial bank, savings bank, trust company, or
29 company that substantially competes with national banks in the State, the personal
30 property described in subsection (a) of this section is subject to property tax:

31 (1) on 50% of its assessment for the taxable year beginning on July 1,
32 1996; and

33 (2) on 75% of its assessment for the taxable year beginning on July 1,
34 1997.]

1 [7-228.

2 Personal property is not subject to valuation or property tax, if the property is
3 owned by:

4 (1) an institution that is subject to the financial institution franchise tax
5 under Title 8, Subtitle 2 of the Tax - General Article; or

6 (2) a credit union organized for receiving deposits of money and paying
7 interest or dividends on the money, if the credit union does not have capital stock.]

8 SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding the
9 termination of the financial institution franchise tax as provided in Section 1 of this
10 Act, the Department of Assessments and Taxation shall retain full authority to audit,
11 administer, and enforce the tax for taxable years beginning before January 1, 2001.

12 SECTION 4. AND BE IT FURTHER ENACTED, That for a taxable year
13 beginning after December 31, 2000, but before January 1, 2001, notwithstanding §§
14 13-602 and 13-702 of the Tax - General Article:

15 (a) Except as provided in subsection (b) of this section, the Comptroller shall
16 assess interest and penalty under §§ 13-602 and 13-702 of the Tax - General Article
17 if a financial institution pays estimated income tax for the taxable year in an amount
18 less than 90% of the tax required to be shown on the financial institution's income tax
19 return for the taxable year.

20 (b) Subsection (a) of this section does not apply if the financial institution pays
21 estimated financial institution franchise tax for the taxable year in an amount that
22 when added to the estimated income tax paid by the financial institution for the
23 taxable year is at least equal to the financial institution franchise tax paid by the
24 financial institution for the prior taxable year.

25 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
26 take effect January 1, 2001 and be applicable to all taxable years beginning after
27 June 30, 2001.

28 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
29 Section 5 of this Act, this Act shall take effect October 1, 2000.