

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL NO. 1109

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “- Transfer of Credit”; strike beginning with “allowing” in line 6 down through “credits;” in line 14 and substitute “altering a certain definition for purposes of certain tax credits for certified heritage structure rehabilitations to exclude certain structures owned by certain governments; making certain tax credits for certain heritage structure rehabilitations refundable under certain circumstances; providing for certain recapture of certain tax credits for certain heritage structure rehabilitations under certain circumstances; specifying the revenue effect of certain refunds payable under certain tax credits; providing that certain persons may file certain tax returns to claim refunds of certain tax credits under certain circumstances; requiring the Director of the Maryland Historical Trust to submit a certain report annually to the Governor and General Assembly on certain credits for certain heritage structure rehabilitations; requiring certain persons subject to certain recapture provisions to file certain reports or returns under certain circumstances; repealing certain tax credits as to the financial institution franchise tax and the public service company franchise tax;”; strike beginning with “allowing” in line 17 down through “of” in line 18; strike beginning with “from” in line 18 down through the second “individual” in line 19; after line 24, insert:

“BY repealing and reenacting, without amendments,

Article - Insurance

Section 6-105.2

Annotated Code of Maryland

(1997 Volume and 2000 Supplement)

BY adding to

Article - Insurance

Section 6-107(c)

Annotated Code of Maryland

(Over)

(1997 Volume and 2000 Supplement)

BY repealing

Article - Tax - General

Section 8-208.1 and 8-406.1

Annotated Code of Maryland

(1997 Replacement Volume and 2000 Supplement)”;

and in line 27, strike “10-307(g)” and substitute “and 10-704.5”.

AMENDMENT NO. 2

On page 2, in line 11, after “(4)” insert “(I)”; in the same line, after “is” insert “LOCATED IN THE STATE AND IS”; in lines 12, 13, 14, and 18, strike “(i)”, “(ii)”, “(iii)”, and “(iv)”, respectively, and substitute “1.”, “2.”, “3.”, and “4.”, respectively; in lines 14 and 16, strike “1.” and “2.”, respectively, and substitute “A.” and “B.”, respectively; and after line 20, insert:

“(II) “CERTIFIED HERITAGE STRUCTURE” DOES NOT INCLUDE A STRUCTURE THAT IS OWNED BY THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR THE FEDERAL GOVERNMENT, OTHER THAN A STRUCTURE LOCATED ON THE HIPPODROME SITE, AS DEFINED IN § 13-701 OF THE FINANCIAL INSTITUTIONS ARTICLE.”;

and in line 21, after “means” insert “A COMPLETED”.

On page 3, in line 5, strike “(c)” and substitute “(E)”; in line 11, strike “MAKING THE QUALIFIED REHABILITATION EXPENDITURES”; strike beginning with the colon in line 12 down through “EXPENDITURES” in line 19; strike beginning with “apply” in line 24 down through “completed” in line 28 and substitute “CLAIM A REFUND IN THE AMOUNT OF THE EXCESS”; and strike in their entirety lines 29 through 37, inclusive.

On page 4, in line 1, strike “(e)” and substitute “(D) (1)”; in the same line, strike “A” and substitute “EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A”; and after line 6, insert:

“(2) A BUSINESS ENTITY OR INDIVIDUAL THAT QUALIFIES FOR A TAX CREDIT UNDER THIS SUBSECTION MAY NOT CLAIM A REFUND UNDER SUBSECTION (C) OF THIS SECTION.

(3) IF THE CREDIT ALLOWED TO A BUSINESS ENTITY OR INDIVIDUAL

UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY OR THE INDIVIDUAL FOR THAT TAXABLE YEAR, THE BUSINESS ENTITY OR INDIVIDUAL MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

(I) THE FULL AMOUNT OF THE CREDIT IS USED; OR

(II) THE EXPIRATION OF THE TENTH TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE REHABILITATION IS COMPLETED.”.

On pages 4 through 6, strike in their entirety the lines beginning with line 7 on page 4 through line 10 on page 6, inclusive.

On page 6, in lines 11 and 15, strike “(g)” and “(h)”, respectively, and substitute “(E)(1)” and “(F)”, respectively; strike beginning with the second “and” in line 13 down through “section” in line 14; and after line 14, insert:

“(2) THE DIRECTOR MAY NOT CERTIFY THAT A REHABILITATION IS A CERTIFIED REHABILITATION ELIGIBLE FOR THE TAX CREDIT UNDER THIS SECTION UNLESS THE INDIVIDUAL OR BUSINESS ENTITY SEEKING CERTIFICATION STATES UNDER OATH THE AMOUNT OF THE INDIVIDUAL’S OR BUSINESS ENTITY’S QUALIFIED REHABILITATION EXPENDITURES.”;

On pages 6 and 7, strike in their entirety the lines beginning with line 24 on page 6 through line 2 on page 7, inclusive, and substitute:

“(G) (1) IN THIS SUBSECTION, “DISQUALIFYING WORK” MEANS WORK THAT:

(I) IS PERFORMED ON A CERTIFIED HERITAGE STRUCTURE FOR WHICH A REHABILITATION HAS BEEN CERTIFIED UNDER THIS SECTION; AND

(II) IF PERFORMED AS PART OF THE REHABILITATION

(Over)

CERTIFIED UNDER THIS SECTION, WOULD HAVE MADE THE REHABILITATION INELIGIBLE FOR CERTIFICATION.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE RECAPTURED AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION IF, DURING THE TAXABLE YEAR IN WHICH A CERTIFIED REHABILITATION IS COMPLETED OR ANY OF THE 4 TAXABLE YEARS SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION IS COMPLETED, ANY DISQUALIFYING WORK IS PERFORMED ON THE CERTIFIED HERITAGE STRUCTURE FOR WHICH THE CERTIFIED REHABILITATION HAS BEEN COMPLETED.

(3) (I) 1. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 100% OF THE CREDIT SHALL BE RECAPTURED.

2. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE FIRST FULL YEAR SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 80% OF THE CREDIT SHALL BE RECAPTURED.

3. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE SECOND FULL YEAR SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 60% OF THE CREDIT SHALL BE RECAPTURED.

4. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE THIRD FULL YEAR SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 40% OF THE CREDIT SHALL BE RECAPTURED.

5. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE FOURTH FULL YEAR SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 20% OF THE CREDIT SHALL BE

RECAPTURED.

(II) EXCEPT AS PROVIDED UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE BUSINESS ENTITY OR INDIVIDUAL THAT CLAIMED THE CREDIT SHALL PAY THE AMOUNT TO BE RECAPTURED AS DETERMINED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AS TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN WHICH THE DISQUALIFYING WORK IS PERFORMED.

(4) RECAPTURE OF THE CREDIT ALLOWED UNDER THIS SECTION IS NOT REQUIRED IF THE BUSINESS ENTITY OR INDIVIDUAL THAT CLAIMED THE CREDIT DOES NOT OWN AN INTEREST IN THE CERTIFIED HERITAGE STRUCTURE WHEN THE DISQUALIFYING WORK IS PERFORMED.

(H) A REFUND PAYABLE UNDER SUBSECTION (C) OF THIS SECTION:

(1) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM CORPORATIONS IF THE PERSON ENTITLED TO THE REFUND IS A CORPORATION SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF THE TAX - GENERAL ARTICLE;

(2) OPERATES TO REDUCE INSURANCE PREMIUM TAX REVENUES IF THE PERSON ENTITLED TO THE REFUND IS SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE; AND

(3) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM INDIVIDUALS IF THE PERSON ENTITLED TO THE REFUND IS:

(I) AN INDIVIDUAL SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF THE TAX - GENERAL ARTICLE; OR

(II) AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

(I) (1) ON OR BEFORE JANUARY 15 OF EACH YEAR, THE DIRECTOR

(Over)

SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON THE CREDIT ALLOWED UNDER THIS SECTION.

(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE, FOR EACH CATEGORY OF CERTIFIED REHABILITATIONS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION:

(I) THE NUMBER OF APPLICANTS FOR CERTIFICATION OF REHABILITATIONS DURING THE PRECEDING CALENDAR YEAR;

(II) THE NUMBER OF REHABILITATIONS CERTIFIED AS QUALIFYING FOR THE TAX CREDIT UNDER THIS SECTION DURING THE PRECEDING CALENDAR YEAR;

(III) THE TOTAL QUALIFIED REHABILITATION EXPENDITURES FOR REHABILITATIONS CERTIFIED DURING THE PRECEDING CALENDAR YEAR; AND

(IV) THE AVERAGE QUALIFIED REHABILITATION EXPENDITURES OF REHABILITATIONS CERTIFIED DURING THE PRECEDING CALENDAR YEAR.

(3) THE INFORMATION REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE PROVIDED IN THE AGGREGATE AND SEPARATELY FOR EACH OF THE FOLLOWING CATEGORIES OF CERTIFIED REHABILITATIONS:

(I) OWNER-OCCUPIED SINGLE FAMILY RESIDENTIAL STRUCTURES;

(II) OTHER SINGLE FAMILY RESIDENTIAL STRUCTURES;

(III) MULTIFAMILY RESIDENTIAL STRUCTURES; AND

(IV) NONRESIDENTIAL STRUCTURES.

Article - Insurance

6-105.2.

A person subject to the tax imposed under this subtitle may claim a credit against the tax for a certified rehabilitation as provided under Article 83B, § 5-801 of the Code.

6-107.

(C) A PERSON THAT IS NOT OTHERWISE REQUIRED TO FILE A REPORT WITH THE COMMISSIONER UNDER THIS SECTION SHALL FILE A REPORT AND PAY THE TAX DUE IF THE PERSON:

(1) CLAIMED A CREDIT FOR A PREVIOUS YEAR AGAINST THE TAX IMPOSED UNDER THIS SUBTITLE FOR A CERTIFIED REHABILITATION AS PROVIDED UNDER ARTICLE 83B, § 5-801 OF THE CODE; AND

(2) IS SUBJECT TO THE RECAPTURE OF THE CREDIT AS PROVIDED UNDER ARTICLE 83B, § 5-801 OF THE CODE.”.

AMENDMENT NO. 3

On page 7, after line 3, insert:

“[8-208.1.

A financial institution may claim a credit against the financial institution franchise tax for a certified rehabilitation as provided under Article 83B, § 5-801 of the Code.]

[8-406.1.

A public service company may claim a credit against the public service company franchise tax for a certified rehabilitation as provided under Article 83B, § 5-801 of the Code.]”;

(Over)

in line 6, strike “AN INDIVIDUAL, INCLUDING”; in line 8, strike “(h) OR (I)” and substitute “(F)”; and strike in their entirety lines 9 through 19, inclusive, and substitute:

“10-704.5.

(A) An individual or corporation may claim a credit against the State income tax for a certified rehabilitation as provided under Article 83B, § 5-801 of the Code.

(B) AN INDIVIDUAL OR CORPORATION THAT IS NOT OTHERWISE REQUIRED TO FILE AN INCOME TAX RETURN, INCLUDING A CORPORATION EXEMPT FROM INCOME TAX UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE:

(1) MAY FILE A RETURN TO CLAIM A REFUND OF THE CREDIT UNDER THIS SECTION; AND

(2) SHALL FILE A RETURN IF THE INDIVIDUAL OR CORPORATION IS SUBJECT TO THE RECAPTURE OF THE CREDIT UNDER THIS SECTION AS PROVIDED UNDER ARTICLE 83B, § 5-801 OF THE CODE.”.

AMENDMENT NO. 4

On page 7, in line 22, after “2000” insert “for certified heritage structure rehabilitations certified on or after July 1, 2001”.