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By: **Delegates Rosenberg and Taylor**

Introduced and read first time: February 9, 2001

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Renewal Communities and New Markets Tax Credits**

3 FOR the purpose of providing that an area designated as a renewal community by the  
4 United States government is an enterprise zone for purposes of provisions of  
5 State law providing certain incentives and initiatives within an enterprise zone  
6 and is a revitalization area for purposes of a certain State job creation tax credit;  
7 allowing a credit in a certain amount against the State income tax for certain  
8 qualified investments in certain qualified Maryland community development  
9 entities; providing that the credit shall be allocated among the partners,  
10 members, or shareholders of an entity in any manner agreed to by those  
11 persons; providing for the recapture of a portion of the State income tax credit  
12 under certain circumstances; providing for the carryover of certain unused  
13 credit to certain taxable years; requiring the Secretary of Housing and  
14 Community Development and the Comptroller to jointly adopt regulations to  
15 administer the credit; defining certain terms; providing for the application of  
16 this Act; and generally relating to renewal communities and new markets tax  
17 credits.

18 BY repealing and reenacting, with amendments,  
19 Article 83A - Department of Business and Economic Development  
20 Section 5-401(f), 5-402(f), and 5-1101(i)  
21 Annotated Code of Maryland  
22 (1998 Replacement Volume and 2000 Supplement)

23 BY adding to  
24 Article - Tax - General  
25 Section 10-722  
26 Annotated Code of Maryland  
27 (1997 Replacement Volume and 2000 Supplement)

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

**Article 83A - Department of Business and Economic Development**

1 5-401.

2 (f) "Enterprise zone" means an area:

3 (1) Meeting the requirements of § 5-403 of this subtitle and so  
4 designated by the Secretary pursuant to § 5-402 of this subtitle;

5 (2) So designated by the United States government; [or]

6 (3) Designated as an empowerment zone by the United States  
7 government pursuant to 26 U.S.C. § 1391 et seq.; OR

8 (4) DESIGNATED AS A RENEWAL COMMUNITY BY THE UNITED STATES  
9 GOVERNMENT PURSUANT TO 26 U.S.C. § 1400E ET SEQ.

10 5-402.

11 (f) Any area that is designated an enterprise zone, [or] an empowerment  
12 zone, OR A RENEWAL COMMUNITY under federal law shall automatically and without  
13 any additional action by the political subdivision or the Secretary be designated an  
14 enterprise zone under this section without regard to any limitation on the number of  
15 enterprise zones that may be designated by the Secretary. However, the incentives  
16 and initiatives provided for in this subtitle shall not be available to business entities  
17 located in an enterprise zone designated under federal law unless the Secretary and  
18 the Board of Public Works shall consent to the designation.  
19

20 5-1101.

21 (i) "Revitalization area" means:

22 (1) An area designated as an enterprise zone by the Secretary under §  
23 5-402 of this title or by the United States government;

24 (2) An area designated as an empowerment zone by the United States  
25 government pursuant to 26 U.S.C. § 1391 et seq.; [or]

26 (3) AN AREA DESIGNATED AS A RENEWAL COMMUNITY BY THE UNITED  
27 STATES GOVERNMENT PURSUANT TO 26 U.S.C. § 1400E ET SEQ.; OR

28 [(3)] (4) An area designated as an eligible neighborhood for economic  
29 revitalization assistance under Article 83B, § 4-203 of the Code.

**Article - Tax - General**

30 10-722.

31 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
32 INDICATED.

1           (2)       "FEDERAL NEW MARKETS TAX CREDIT" MEANS THE NEW MARKETS  
2 TAX CREDIT AS PROVIDED UNDER § 42D OF THE INTERNAL REVENUE CODE.

3           (3)       "QUALIFIED EQUITY INVESTMENT" HAS THE MEANING STATED IN §  
4 42D(B) OF THE INTERNAL REVENUE CODE.

5           (4)       "QUALIFIED MARYLAND COMMUNITY DEVELOPMENT ENTITY"  
6 MEANS A QUALIFIED COMMUNITY DEVELOPMENT ENTITY, AS DEFINED IN § 42D(C)  
7 OF THE INTERNAL REVENUE CODE, THAT SERVES OR PROVIDES INVESTMENT  
8 CAPITAL FOR LOW-INCOME COMMUNITIES OR LOW-INCOME INDIVIDUALS IN THE  
9 STATE.

10          (5)       "STATE NEW MARKETS TAX CREDIT" MEANS THE INCOME TAX  
11 CREDIT ALLOWED UNDER THIS SECTION.

12       (B)       (1)       AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST  
13 THE STATE INCOME TAX AS PROVIDED UNDER THIS SECTION FOR EACH QUALIFIED  
14 EQUITY INVESTMENT IN A QUALIFIED MARYLAND COMMUNITY DEVELOPMENT  
15 ENTITY.

16          (2)       EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE  
17 AMOUNT OF THE STATE NEW MARKETS TAX CREDIT EQUALS THE AMOUNT OF THE  
18 FEDERAL NEW MARKETS TAX CREDIT.

19          (3)       FOR A QUALIFIED EQUITY INVESTMENT IN A QUALIFIED MARYLAND  
20 COMMUNITY DEVELOPMENT ENTITY THAT SERVES OR PROVIDES INVESTMENT  
21 CAPITAL FOR LOW-INCOME COMMUNITIES OR LOW-INCOME INDIVIDUALS IN AND  
22 OUT OF THE STATE, THE AMOUNT OF THE STATE NEW MARKETS TAX CREDIT EQUALS  
23 THE AMOUNT THAT BEARS THE SAME PROPORTION TO THE FEDERAL NEW MARKETS  
24 CREDIT AS THE ACTIVITIES OF THE QUALIFIED MARYLAND COMMUNITY  
25 DEVELOPMENT ENTITY WITHIN THE STATE BEAR TO THE TOTAL ACTIVITIES OF THE  
26 QUALIFIED MARYLAND COMMUNITY DEVELOPMENT ENTITY IN AND OUT OF THE  
27 STATE, AS DETERMINED UNDER REGULATIONS ADOPTED UNDER THIS SECTION.

28       (C)       THE STATE NEW MARKETS TAX CREDIT ALLOWED UNDER THIS SECTION:

29          (1)       MAY BE CLAIMED BY AN INDIVIDUAL OR A CORPORATION; AND

30          (2)       SHALL BE ALLOCATED AMONG THE PARTNERS, MEMBERS, OR  
31 SHAREHOLDERS OF AN ENTITY IN ANY MANNER AGREED TO BY THOSE PERSONS:

32               (I)       REGARDLESS OF THE ALLOCATION OF THE FEDERAL NEW  
33 MARKETS TAX CREDIT AMONG THOSE PERSONS; AND

34               (II)       WHETHER OR NOT THE PERSONS RECEIVING THE ALLOCATION  
35 OF THE STATE NEW MARKETS TAX CREDIT ARE ALLOCATED OR ALLOWED ANY  
36 PORTION OF THE FEDERAL NEW MARKETS TAX CREDIT FOR THE QUALIFIED EQUITY  
37 INVESTMENT.

1 (D) (1) IF A PORTION OF THE FEDERAL NEW MARKETS TAX CREDIT TAKEN  
2 WITH RESPECT TO A QUALIFIED MARYLAND COMMUNITY DEVELOPMENT ENTITY IS  
3 REQUIRED TO BE RECAPTURED UNDER § 42D OF THE INTERNAL REVENUE CODE, A  
4 TAXPAYER CLAIMING THE STATE NEW MARKETS TAX CREDIT WITH RESPECT TO  
5 THAT QUALIFIED MARYLAND COMMUNITY DEVELOPMENT ENTITY SHALL ALSO BE  
6 REQUIRED TO RECAPTURE A PORTION OF THE STATE NEW MARKETS TAX CREDIT.

7 (2) THE AMOUNT TO BE RECAPTURED UNDER THIS SUBSECTION SHALL  
8 EQUAL THE AMOUNT THAT BEARS THE SAME PROPORTION TO THE STATE NEW  
9 MARKETS TAX CREDIT CLAIMED BY THE TAXPAYER AS THE FEDERAL RECAPTURE  
10 AMOUNT BEARS TO THE ORIGINAL FEDERAL NEW MARKETS TAX CREDIT AMOUNT  
11 THAT IS SUBJECT TO RECAPTURE.

12 (3) IF RECAPTURE OF THE STATE NEW MARKETS TAX CREDIT IS  
13 REQUIRED UNDER THIS SUBSECTION, THE QUALIFIED MARYLAND COMMUNITY  
14 DEVELOPMENT ENTITY SHALL FILE A STATEMENT WITH THE COMPTROLLER THAT  
15 SHALL INCLUDE:

16 (I) THE PROPORTION OF THE STATE NEW MARKET TAX CREDIT  
17 REQUIRED TO BE RECAPTURED;

18 (II) THE IDENTITY OF EACH TAXPAYER SUBJECT TO THE  
19 RECAPTURE; AND

20 (III) THE AMOUNT OF THE STATE NEW MARKETS TAX CREDIT  
21 PREVIOUSLY ALLOCATED TO EACH TAXPAYER.

22 (E) (1) THE STATE NEW MARKETS TAX CREDIT ALLOWED UNDER THIS  
23 SECTION MAY NOT EXCEED THE TAXPAYER'S STATE INCOME TAX LIABILITY,  
24 DETERMINED BEFORE THE APPLICATION OF THE CREDITS ALLOWED UNDER THIS  
25 SECTION AND §§ 10-701 AND 10-701.1 OF THIS SUBTITLE AFTER THE APPLICATION OF  
26 ANY OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

27 (2) ANY CREDIT UNUSED AS A RESULT OF THE LIMITATION UNDER  
28 PARAGRAPH (1) OF THIS SUBSECTION MAY BE CARRIED FORWARD AND APPLIED FOR  
29 SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

30 (I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

31 (II) THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE  
32 YEAR IN WHICH THE CREDIT WOULD HAVE BEEN ALLOWED BUT FOR THE  
33 LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

34 (F) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT AND THE  
35 COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO ADMINISTER THE CREDIT  
36 PROVIDED UNDER THIS SECTION.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
38 July 1, 2001 and shall be applicable to all taxable years beginning after December 31,  
39 2000.

