

SENATE BILL 184

Unofficial Copy  
Q3

2001 Regular Session  
11r0670  
CF 11r0580

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By: **Senators Exum, Currie, Conway, Hughes, Kelley, Lawlah, McFadden,  
Mitchell, and Pinsky**

Introduced and read first time: January 22, 2001

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - State Tax Credit for Qualified Maryland Low-Income Housing**

3 FOR the purpose of allowing a credit in a certain amount against the State income tax  
4 for certain qualified Maryland low-income housing; providing that the credit  
5 shall be allocated among the partners, members, or shareholders of an entity  
6 owning the Maryland low-income housing in any manner agreed to by those  
7 persons; providing for the recapture of a portion of the State income tax credit  
8 under certain circumstances; providing for the carryover of certain unused  
9 credit to certain taxable years; requiring the Secretary of Housing and  
10 Community Development and the Comptroller to jointly adopt regulations to  
11 administer the credit; defining certain terms; providing for the application of  
12 this Act; and generally relating to credit against the State income tax for certain  
13 qualified Maryland low-income housing.

14 BY adding to

15 Article - Tax - General

16 Section 10-722

17 Annotated Code of Maryland

18 (1997 Replacement Volume and 2000 Supplement)

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

21 **Article - Tax - General**

22 10-722.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED.

25 (2) "FEDERAL LOW-INCOME HOUSING TAX CREDIT" MEANS THE  
26 FEDERAL TAX CREDIT AS PROVIDED UNDER § 42 OF THE INTERNAL REVENUE CODE.

1 (3) "QUALIFIED MARYLAND LOW-INCOME BUILDING" MEANS A  
2 QUALIFIED LOW-INCOME BUILDING, AS DEFINED IN § 42 OF THE INTERNAL  
3 REVENUE CODE, THAT IS LOCATED IN MARYLAND.

4 (4) "STATE TAX CREDIT" MEANS THE INCOME TAX CREDIT ALLOWED  
5 UNDER THIS SECTION.

6 (B) (1) A CREDIT IS ALLOWED AGAINST THE STATE INCOME TAX FOR EACH  
7 QUALIFIED MARYLAND LOW-INCOME BUILDING THAT IS ALLOCATED A FEDERAL  
8 LOW-INCOME HOUSING TAX CREDIT ON OR AFTER JANUARY 1, 2002.

9 (2) THE AMOUNT OF THE STATE TAX CREDIT EQUALS THE AMOUNT OF  
10 THE FEDERAL LOW-INCOME HOUSING TAX CREDIT ALLOCATED TO THE QUALIFIED  
11 MARYLAND LOW-INCOME BUILDING.

12 (C) THE STATE TAX CREDIT ALLOWED UNDER THIS SECTION:

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

14 (2) SHALL BE ALLOCATED AMONG THE PARTNERS, MEMBERS, OR  
15 SHAREHOLDERS OF AN ENTITY OWNING THE QUALIFIED MARYLAND LOW-INCOME  
16 BUILDING IN ANY MANNER AGREED TO BY THOSE PERSONS:

17 (I) REGARDLESS OF THE ALLOCATION OF THE FEDERAL  
18 LOW-INCOME HOUSING CREDIT AMONG THOSE PERSONS; AND

19 (II) WHETHER OR NOT THE PERSONS RECEIVING THE ALLOCATION  
20 OF THE STATE TAX CREDIT ARE ALLOCATED OR ALLOWED ANY PORTION OF THE  
21 FEDERAL LOW-INCOME HOUSING TAX CREDIT FOR THE QUALIFIED MARYLAND  
22 LOW-INCOME BUILDING.

23 (D) (1) IF A PORTION OF THE FEDERAL LOW-INCOME HOUSING TAX CREDIT  
24 TAKEN WITH RESPECT TO A QUALIFIED MARYLAND LOW-INCOME BUILDING IS  
25 REQUIRED TO BE RECAPTURED UNDER § 42 OF THE INTERNAL REVENUE CODE, A  
26 TAXPAYER CLAIMING THE STATE TAX CREDIT FOR THAT QUALIFIED MARYLAND  
27 LOW-INCOME BUILDING SHALL ALSO BE REQUIRED TO RECAPTURE A PORTION OF  
28 THE STATE TAX CREDIT.

29 (2) THE AMOUNT TO BE RECAPTURED UNDER THIS SUBSECTION SHALL  
30 EQUAL THE AMOUNT THAT BEARS THE SAME PROPORTION TO THE STATE TAX  
31 CREDIT CLAIMED BY THE TAXPAYER AS THE FEDERAL RECAPTURE AMOUNT BEARS  
32 TO THE ORIGINAL FEDERAL LOW-INCOME HOUSING TAX CREDIT AMOUNT THAT IS  
33 SUBJECT TO RECAPTURE.

34 (3) IF RECAPTURE OF THE STATE TAX CREDIT IS REQUIRED UNDER THIS  
35 SUBSECTION, AN ENTITY OWNING THE QUALIFIED MARYLAND LOW-INCOME  
36 BUILDING SHALL FILE A STATEMENT WITH THE COMPTROLLER THAT SHALL  
37 INCLUDE:

1 (I) THE PROPORTION OF THE STATE TAX CREDIT REQUIRED TO BE  
2 RECAPTURED;

3 (II) THE IDENTITY OF EACH TAXPAYER SUBJECT TO THE  
4 RECAPTURE; AND

5 (III) THE AMOUNT OF THE STATE TAX CREDIT PREVIOUSLY  
6 ALLOCATED TO EACH TAXPAYER.

7 (E) (1) THE STATE TAX CREDIT ALLOWED UNDER THIS SECTION MAY NOT  
8 EXCEED THE TAXPAYER'S STATE INCOME TAX LIABILITY, DETERMINED BEFORE THE  
9 APPLICATION OF THE CREDITS ALLOWED UNDER THIS SECTION AND §§ 10-701 AND  
10 10-701.1 OF THIS SUBTITLE AFTER THE APPLICATION OF ANY OTHER CREDITS  
11 ALLOWED UNDER THIS SUBTITLE.

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

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

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

19 (F) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT AND THE  
20 COMPTROLLER SHALL JOINTLY ADOPT REGULATIONS TO ADMINISTER THE CREDIT  
21 PROVIDED UNDER THIS SECTION.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 July 1, 2001, and shall be applicable to all taxable years beginning after December 31,  
24 2001.