

HOUSE BILL 698

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Q7  
HB 888/01 - W&M

2002 Regular Session  
2lr0356  
CF 2lr2719

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By: **Delegates Shriver, Benson, C. Davis, Bronrott, Dembrow, Cryor, Menes, Fulton, Marriott, Kirk, Leopold, Petzold, Carlson, Cadden, Rosenberg, McKee, Riley, Dypski, Phillips, Glassman, Sophocleus, Cane, Franchot, DeCarlo, Turner, V. Jones, Hurson, Swain, A. Jones, and Eckardt**

Introduced and read first time: February 6, 2002  
Assigned to: Ways and Means

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 23, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Qualified Maryland Housing Tax Credit**

3 FOR the purpose of allowing a credit against the State insurance premiums tax or the  
4 State income tax for certain qualified Maryland housing in certain areas;  
5 providing for allocation of the aggregate available credit among qualified  
6 Maryland housing projects by the Secretary of Housing and Community  
7 Development; limiting the aggregate credit that may be authorized for any  
8 calendar year; requiring the Department to approve a prorated credit for each  
9 applicant if the total amount applied for exceeds the maximum that may be  
10 approved; authorizing the Secretary to adopt certain regulations; requiring the  
11 Secretary to adopt certain regulations or policies; authorizing the Secretary in  
12 consultation with the Insurance Commissioner and the Comptroller to adopt  
13 certain regulations providing for the recapture of the tax credit under certain  
14 circumstances; allowing unused credit to be carried over to certain taxable  
15 years; defining certain terms; providing for the application of this Act; and  
16 generally relating to a State tax credit for certain qualified Maryland housing.

17 BY adding to  
18 Article 83B - Department of Housing and Community Development  
19 Section 2-1601 through 2-1605 to be under the new subtitle "Subtitle 16.  
20 Qualified Maryland Housing Tax Credit"  
21 Annotated Code of Maryland  
22 (1998 Replacement Volume and 2001 Supplement)

23 BY adding to

1 Article - Insurance  
2 Section 6-121  
3 Annotated Code of Maryland  
4 (1997 Volume and 2001 Supplement)

5 BY adding to  
6 Article - Tax - General  
7 Section 10-724  
8 Annotated Code of Maryland  
9 (1997 Replacement Volume and 2001 Supplement)

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

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

13 SUBTITLE 16. QUALIFIED MARYLAND HOUSING TAX CREDIT.

14 2-1601.

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
16 INDICATED.

17 (B) "COMMUNITY REVITALIZATION AREA" MEANS:

18 (1) A CERTIFIED HERITAGE AREA WITHIN A COUNTY DESIGNATED  
19 GROWTH AREA, AS DESIGNATED UNDER TITLE 13, SUBTITLE 11 OF THE FINANCIAL  
20 INSTITUTIONS ARTICLE;

21 (2) A COMMUNITY LEGACY AREA, AS DEFINED IN ARTICLE 83B, §  
22 4-801(F) OF THE CODE;

23 (3) A DESIGNATED NEIGHBORHOOD, AS DEFINED IN ARTICLE 83B, §  
24 4-202(B) OF THE CODE;

25 (4) A FEDERAL EMPOWERMENT ZONE, AS DEFINED IN 26 U.S.C. §  
26 1391 ET SEQ.;

27 (5) A FEDERAL OR MARYLAND ENTERPRISE ZONE, AS DEFINED IN  
28 ARTICLE 83A, § 5-401(F) OF THE CODE;

29 (6) A HOTSPOT COMMUNITY, AS DESIGNATED BY THE GOVERNOR'S  
30 OFFICE OF CRIME CONTROL AND PREVENTION;

31 (7) A MAIN STREET MARYLAND COMMUNITY, AS DESIGNATED BY  
32 THE DEPARTMENT;

1                   (8)     A RURAL VILLAGE, AS DEFINED IN § 5-7B-01(F) OF THE STATE  
2 FINANCE AND PROCUREMENT ARTICLE, AND DESIGNATED IN A COUNTY  
3 COMPREHENSIVE PLAN AS OF JULY 1, 1998; OR

4                   (9)     ANY OTHER AREA DESIGNATED AS A COMMUNITY  
5 REVITALIZATION AREA BY THE SECRETARY.

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

8     ~~(C)~~     (D)     "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 A~~  
11 COMMUNITY REVITALIZATION AREA AND THAT QUALIFIES FOR AN ALLOCATION OF  
12 THE FEDERAL LOW INCOME HOUSING TAX CREDIT; OR

13                  (2)     A HOUSING PROJECT IN ~~THE STATE A~~ COMMUNITY REVITALIZATION  
14 AREA THAT MEETS REQUIREMENTS FOR ELIGIBILITY FOR THE STATE TAX CREDIT AS  
15 SPECIFIED IN REGULATIONS THAT THE SECRETARY ADOPTS UNDER § 2-1603 OF THIS  
16 SUBTITLE.

17     ~~(D)~~     (E)     "STATE TAX CREDIT" MEANS THE INSURANCE PREMIUMS TAX  
18 CREDIT ALLOWED UNDER § 6-121 OF THE INSURANCE ARTICLE OR THE INCOME TAX  
19 CREDIT ALLOWED UNDER § 10-724 OF THE TAX - GENERAL ARTICLE.

20 2-1602.

21     (A)     (1)     THE OWNER OF A QUALIFIED MARYLAND HOUSING PROJECT OR THE  
22 DEVELOPER OF A PROPOSED PROJECT THAT WILL BECOME A QUALIFIED MARYLAND  
23 HOUSING PROJECT MAY APPLY TO THE SECRETARY FOR ALLOCATION TO THE  
24 PROJECT OF A PORTION OF THE STATE TAX CREDIT.

25                  (2)     THE STATE TAX CREDIT MAY BE ALLOCATED TO A QUALIFIED  
26 MARYLAND HOUSING PROJECT WHETHER OR NOT A FEDERAL LOW INCOME  
27 HOUSING TAX CREDIT IS ALLOCATED TO THE QUALIFIED MARYLAND HOUSING  
28 PROJECT.

29                  (3)     ALL OR ANY PORTION OF THE STATE TAX CREDIT ALLOCATED  
30 UNDER THIS SUBTITLE MAY BE ALLOCATED TO AN OWNER OF A QUALIFIED  
31 MARYLAND HOUSING PROJECT, WHETHER OR NOT THE OWNER IS ALLOCATED A  
32 PORTION OF ANY FEDERAL INCOME HOUSING TAX CREDIT ALLOCATED TO THE  
33 QUALIFIED MARYLAND HOUSING PROJECT.

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

37     (C)     (1)     THE SECRETARY MAY REQUIRE THAT THE OWNER OF A QUALIFIED  
38 MARYLAND HOUSING PROJECT, AS A CONDITION TO RECEIVING AN ALLOCATION OF

1 THE STATE TAX CREDIT, ENTER INTO A WRITTEN REGULATORY AGREEMENT WITH  
2 THE SECRETARY UNDER TERMS AND CONDITIONS SET BY THE SECRETARY,  
3 REGARDING THE USE OF THE PROJECT.

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

7 (3) THE SECRETARY AND ANY LOCAL AGENCY OR AUTHORITY  
8 DESIGNATED BY THE SECRETARY MAY ENFORCE AN AGREEMENT REQUIRED BY THE  
9 SECRETARY UNDER THIS SECTION IN THE EVENT THE OWNER FAILS TO SATISFY ANY  
10 OF THE REQUIREMENTS OF THE AGREEMENT.

11 2-1603.

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, A PROJECT THAT DOES NOT QUALIFY FOR THE  
21 FEDERAL LOW INCOME HOUSING TAX CREDIT MAY BE ELIGIBLE FOR THE STATE TAX  
22 CREDIT UNDER THIS SUBTITLE IF THE PROJECT WILL PROVIDE IN WHOLE OR IN  
23 PART HOUSING FOR FAMILIES OF LOW INCOMES, AS DETERMINED UNDER  
24 PARAGRAPH (3) OF THIS SUBSECTION.

25 (3) FOR PURPOSES OF THIS SUBSECTION, A PROJECT WILL BE  
26 CONSIDERED TO PROVIDE IN WHOLE OR IN PART HOUSING FOR FAMILIES OF LOW  
27 INCOMES IF:

28 (I) AT LEAST 20% OF THE RESIDENTIAL UNITS ARE OCCUPIED BY  
29 INDIVIDUALS OR FAMILIES WHOSE INCOME IS 50% OR LESS OF AREA MEDIAN  
30 INCOME; OR

31 (II) AT LEAST 40% OF THE RESIDENTIAL UNITS ARE OCCUPIED BY  
32 INDIVIDUALS OR FAMILIES WHOSE INCOME IS 60% OR LESS OF AREA MEDIAN  
33 INCOME.

34 (C) (1) THE MAXIMUM AGGREGATE AVAILABLE STATE TAX CREDIT FOR  
35 EACH CALENDAR YEAR EQUALS THE LESSER OF:

36 (I) 50% OF THE STATE HOUSING CREDIT CEILING APPLICABLE TO  
37 THE STATE FOR THE CALENDAR YEAR UNDER § 42(H)(3)(C) OF THE INTERNAL  
38 REVENUE CODE; OR

1 (II) \$250,000.

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

6 (II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL  
7 APPLICANTS EXCEEDS THE MAXIMUM AGGREGATE AVAILABLE STATE TAX CREDIT IN  
8 PARAGRAPH (I) OF THIS SUBSECTION, THE SECRETARY SHALL APPROVE THE CREDIT  
9 UNDER THIS SECTION IN AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING  
10 THE CREDIT APPLIED FOR TIMES A FRACTION:

11 1. THE NUMERATOR OF WHICH IS THE MAXIMUM SPECIFIED  
12 UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

13 2. THE DENOMINATOR OF WHICH IS THE TOTAL OF ALL  
14 CREDITS APPLIED FOR BY ALL APPLICANTS IN THE TAXABLE YEAR.

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

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

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

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

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

27 ~~(2) IF THE AGGREGATE STATE TAX CREDIT ALLOCATED FOR ANY~~  
28 ~~CALENDAR YEAR EXCEEDS THE AGGREGATE AVAILABLE STATE TAX CREDIT FOR~~  
29 ~~THAT YEAR, THE AGGREGATE AVAILABLE STATE TAX CREDIT FOR SUBSEQUENT~~  
30 ~~CALENDAR YEARS SHALL BE REDUCED TO THE EXTENT OF THE EXCESS.~~

31 ~~(E)~~ (D) ANY PROJECT THAT RECEIVES AN ALLOCATION OF A PORTION OF  
32 THE STATE TAX CREDIT SHALL BE RESTRICTED IN OCCUPANCY AS SPECIFIED IN THE  
33 REGULATIONS ADOPTED BY THE SECRETARY UNDER SUBSECTION (A) OF THIS  
34 SECTION FOR A PERIOD OF AT LEAST 4 YEARS COMMENCING WITH THE FIRST  
35 TAXABLE YEAR IN WHICH A STATE TAX CREDIT IS CLAIMED BY THE OWNER.

1 2-1604.

2 (A) IF THE SECRETARY ALLOCATES A PORTION OF THE STATE TAX CREDIT TO  
3 A PROJECT:

4 (1) THE OWNER SHALL CERTIFY:

5 (I) THAT THE PROJECT IS A QUALIFIED MARYLAND HOUSING  
6 PROJECT ELIGIBLE FOR THE STATE TAX CREDIT; AND

7 (II) THE YEAR IN WHICH THE PROJECT WAS PLACED IN SERVICE;  
8 AND

9 (2) THE SECRETARY SHALL CERTIFY:

10 (I) THE AMOUNT OF THE STATE TAX CREDIT ALLOCATED TO THE  
11 PROJECT; AND

12 (II) THE AMOUNT OF THE STATE TAX CREDIT TRANSFERRED  
13 PURSUANT TO § 2-1605 OF THIS SUBTITLE.

14 (B) THE SECRETARY SHALL:

15 (1) DETERMINE IF ANY EVENT OCCURS IN VIOLATION OF § 2-1603(E) OF  
16 THIS SUBTITLE THAT MAKES THE PROJECT INELIGIBLE FOR THE STATE TAX CREDIT  
17 OR OTHERWISE TRIGGERS THE RECAPTURE OF ANY STATE TAX CREDIT ALLOWED  
18 FOR THE PROJECT UNDER § 6-121 OF THE INSURANCE ARTICLE OR § 10-724 OF THE  
19 TAX - GENERAL ARTICLE; AND

20 (2) NOTIFY THE INSURANCE COMMISSIONER AND THE COMPTROLLER  
21 OF THE OCCURRENCE OF SUCH AN EVENT.

22 2-1605.

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

27 (B) (1) AN OWNER OR TRANSFEREE DESIRING TO MAKE A TRANSFER, SALE,  
28 OR ASSIGNMENT AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL SUBMIT  
29 TO THE SECRETARY A STATEMENT DESCRIBING THE AMOUNT OF CREDIT FOR WHICH  
30 THE TRANSFER, SALE, OR ASSIGNMENT OF CREDIT IS ELIGIBLE, AND THE  
31 SECRETARY SHALL ISSUE A CERTIFICATE REPRESENTING THE AMOUNT OF THE  
32 CREDIT AVAILABLE TO THE TRANSFEREE.

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

35 (C) (1) IF RECAPTURE OF THE STATE TAX CREDIT IS REQUIRED UNDER §  
36 6-121 OF THE INSURANCE ARTICLE OR § 10-724 OF THE TAX - GENERAL ARTICLE, ANY

1 STATEMENT SUBMITTED TO THE SECRETARY UNDER THIS SECTION SHALL INCLUDE  
2 THE PROPORTION OF THE STATE TAX CREDIT REQUIRED TO BE RECAPTURED, THE  
3 IDENTITY OF EACH TRANSFEREE SUBJECT TO RECAPTURE, AND THE AMOUNT OF  
4 CREDIT PREVIOUSLY TRANSFERRED TO EACH TRANSFEREE.

5 (2) EACH TRANSFEREE SHALL HAVE ALL RIGHTS TO APPEAL UNDER  
6 THE INSURANCE ARTICLE OR THE TAX - GENERAL ARTICLE A DECISION TO  
7 RECAPTURE OR ANY OTHER ADVERSE DECISION AFFECTING THE STATE TAX CREDIT  
8 ALLOCATED TO THAT TRANSFEREE.

9 **Article - Insurance**

10 6-121.

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
12 INDICATED.

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

15 (3) "QUALIFIED MARYLAND HOUSING PROJECT" HAS THE MEANING  
16 STATED IN ARTICLE 83B, § 2-1601 OF THE CODE.

17 (4) "SECRETARY" MEANS THE SECRETARY OF HOUSING AND  
18 COMMUNITY DEVELOPMENT.

19 (B) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, AN INSURER  
20 MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX IN THE AMOUNT DETERMINED  
21 UNDER SUBSECTION (C) OF THIS SECTION FOR A QUALIFIED MARYLAND HOUSING  
22 PROJECT.

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

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

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

29 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
30 PARAGRAPH, THE AMOUNT ALLOWED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION  
31 FOR EACH QUALIFIED MARYLAND HOUSING PROJECT EQUALS THE AMOUNT OF THE  
32 STATE TAX CREDIT ALLOCATED TO THE PROJECT, AS CERTIFIED BY THE SECRETARY  
33 UNDER ARTICLE 83B, § 2-1604 OF THE CODE.

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

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

5                                   2.        IN THE CASE OF A PROJECT THAT HAS NOT RECEIVED AN  
6 ALLOCATION OF THE FEDERAL LOW INCOME HOUSING TAX CREDIT, THE FIRST  
7 TAXABLE YEAR THE PROJECT IS PLACED IN SERVICE, WITHIN THE MEANING OF § 42  
8 OF THE INTERNAL REVENUE CODE.

9                                   (3)       FOR EACH TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS  
10 SECTION MAY NOT EXCEED THE PREMIUM TAX THAT WOULD OTHERWISE BE  
11 IMPOSED FOR THAT TAXABLE YEAR, DETERMINED AFTER THE SUBTRACTION OF ANY  
12 OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

13                                  (4)       THE SAME CREDIT MAY NOT BE CLAIMED UNDER THIS SECTION AND  
14 UNDER § 10-724 OF THE TAX - GENERAL ARTICLE.

15       (D)       IF, AS A RESULT OF THE LIMITATION UNDER SUBSECTION (C)(3) OF THIS  
16 SECTION, A PORTION OF THE CREDIT OTHERWISE ALLOWABLE IS UNUSED FOR THE  
17 TAXABLE YEAR, UNTIL THE FULL AMOUNT OF THE UNUSED CREDIT IS USED THE  
18 INSURER MAY APPLY THE UNUSED CREDIT AS A CREDIT AGAINST THE PREMIUM TAX  
19 FOR:

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

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

24       (E)       AN INSURER CLAIMING THE STATE TAX CREDIT FOR A QUALIFIED  
25 MARYLAND HOUSING PROJECT SHALL SUBMIT WITH THE INSURER'S PREMIUM TAX  
26 RETURN A COPY OF THE SECRETARY'S CERTIFICATION FOR THE QUALIFIED  
27 MARYLAND HOUSING PROJECT UNDER ARTICLE 83B, § 2-1604 OF THE CODE.

28       (F)       THE SECRETARY IN CONSULTATION WITH THE INSURANCE  
29 COMMISSIONER MAY ADOPT REGULATIONS PROVIDING FOR THE RECAPTURE OF THE  
30 STATE TAX CREDITS ALLOWED UNDER THIS SECTION FOR A QUALIFIED MARYLAND  
31 HOUSING PROJECT THAT FAILS TO CONTINUE TO MEET THE REQUIREMENTS OF  
32 ARTICLE 83B, § 2-1603(E) OF THE CODE.

33       (G)       AN INSURER MAY NOT CLAIM THE CREDIT ALLOWED UNDER THIS  
34 SECTION FOR A PROJECT FOR ANY TAXABLE YEAR IN WHICH THE OWNER OF THE  
35 PROJECT IS IN DEFAULT UNDER ANY REGULATORY AGREEMENT REQUIRED WITH  
36 RESPECT TO THE PROJECT REQUIRED UNDER ARTICLE 83B, § 2-1602 OF THE CODE.



**Article - Tax - General**

10-724.

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

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

(3) "QUALIFIED MARYLAND HOUSING PROJECT" HAS THE MEANING STATED IN ARTICLE 83B, § 2-1601 OF THE CODE.

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

(B) AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT DETERMINED UNDER SUBSECTION (C) OF THIS SECTION FOR A QUALIFIED MARYLAND HOUSING PROJECT.

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

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

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

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AMOUNT ALLOWED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION FOR EACH QUALIFIED MARYLAND HOUSING PROJECT EQUALS THE AMOUNT OF THE STATE TAX CREDIT ALLOCATED TO THE PROJECT, AS CERTIFIED BY THE SECRETARY UNDER ARTICLE 83B, § 2-1604 OF THE CODE.

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

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

2. IN THE CASE OF A PROJECT THAT HAS NOT RECEIVED AN ALLOCATION OF THE FEDERAL LOW INCOME HOUSING TAX CREDIT, THE FIRST TAXABLE YEAR THE PROJECT IS PLACED IN SERVICE, WITHIN THE MEANING OF § 42 OF THE INTERNAL REVENUE CODE.

(3) FOR EACH TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE STATE INCOME TAX THAT WOULD OTHERWISE BE

1 IMPOSED FOR THAT TAXABLE YEAR, DETERMINED BEFORE THE APPLICATION OF  
2 THE CREDITS ALLOWED UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS  
3 SUBTITLE, BUT AFTER THE APPLICATION OF ANY OTHER CREDITS ALLOWED UNDER  
4 THIS SUBTITLE.

5 (4) THE SAME CREDIT MAY NOT BE CLAIMED UNDER THIS SECTION AND  
6 UNDER § 6-121 OF THE INSURANCE ARTICLE.

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

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

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

16 (E) AN INDIVIDUAL OR CORPORATION CLAIMING THE STATE TAX CREDIT FOR  
17 A QUALIFIED MARYLAND HOUSING PROJECT SHALL SUBMIT WITH THE INDIVIDUAL'S  
18 OR CORPORATION'S INCOME TAX RETURN A COPY OF THE SECRETARY'S  
19 CERTIFICATION FOR THE QUALIFIED MARYLAND HOUSING PROJECT UNDER  
20 ARTICLE 83B, § 2-1604 OF THE CODE.

21 (F) THE SECRETARY IN CONSULTATION WITH THE COMPTROLLER MAY ADOPT  
22 REGULATIONS PROVIDING FOR THE RECAPTURE OF THE STATE TAX CREDITS  
23 ALLOWED UNDER THIS SECTION FOR A QUALIFIED MARYLAND HOUSING PROJECT  
24 THAT FAILS TO CONTINUE TO MEET THE REQUIREMENTS OF ARTICLE 83B, § 2-1603(E)  
25 OF THE CODE.

26 (G) AN INDIVIDUAL OR CORPORATION MAY NOT CLAIM THE CREDIT ALLOWED  
27 UNDER THIS SECTION FOR A PROJECT FOR ANY TAXABLE YEAR IN WHICH THE  
28 OWNER OF THE PROJECT IS IN DEFAULT UNDER ANY REGULATORY AGREEMENT  
29 REQUIRED WITH RESPECT TO THE PROJECT REQUIRED UNDER ARTICLE 83B, § 2-1602  
30 OF THE CODE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2002, and shall be applicable to all taxable years beginning after December  
33 31, 2002.

