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By: **Delegates Hixson, Howard, Healey, Bozman, and C. Davis**  
Introduced and read first time: February 6, 2002  
Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Heritage Structure Rehabilitation Tax Credit**

3 FOR the purpose of limiting the qualifying expenditures under the Maryland  
4 Heritage Structure Rehabilitation Tax Credit allowed for a commercial  
5 rehabilitation to the amount of proposed expenditures approved by the Director  
6 of the Maryland Historical Trust; altering the calculation of the credit; providing  
7 that certain expenditures funded, financed, or otherwise reimbursed by certain  
8 State financial assistance do not qualify for the credit; limiting the credit  
9 allowed for certain rehabilitations to a certain amount; repealing a provision  
10 making the credit refundable under certain circumstances; providing for the  
11 carry-forward of certain unused credit amounts; allowing certain unused credit  
12 amounts to be transferred under certain circumstances; making the credit  
13 refundable under certain circumstances for certain tax-exempt organizations  
14 and for certain rehabilitations; providing that for certain rehabilitations, the  
15 credit may not be claimed unless the proposed rehabilitation work and the  
16 amount of the proposed rehabilitation expenditures have been approved by the  
17 Director of the Maryland Historical Trust; limiting the amount of proposed  
18 rehabilitation expenditures that the Director may approve for purposes of the  
19 credit for any commercial project; limiting the aggregate amount of proposed  
20 rehabilitation expenditures that the Director may approve for purposes of the  
21 credit in any calendar year; requiring the Director to approve proposed  
22 rehabilitation expenditures for purposes of the credit on a certain basis; altering  
23 certain reporting requirements under the credit; limiting the amount of the  
24 credit that may be claimed for any taxable year for certain rehabilitations to a  
25 certain amount; allowing certain excess credit to be carried forward and applied  
26 as a credit in future tax years, subject to a certain limitation; providing for the  
27 application of this Act; requiring the Comptroller to allow certain amended  
28 returns and to waive certain interest and penalty; providing for the allocation of  
29 the available credit for a certain calendar year under certain circumstances; and  
30 generally relating to the Maryland Heritage Structure Rehabilitation Tax  
31 Credit.

32 BY repealing and reenacting, with amendments,  
33 Article 83B - Department of Housing and Community Development  
34 Section 5-801

1 Annotated Code of Maryland  
2 (1998 Replacement Volume and 2001 Supplement)

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

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

6 5-801.

7 (a) (1) In this section the following words have the meanings indicated.

8 (2) "Business entity" means:

9 (i) A person conducting or operating a trade or business in the  
10 State; or

11 (ii) An organization operating in Maryland that is exempt from  
12 taxation under § 501(c)(3) of the Internal Revenue Code.

13 (3) "Certified heritage area" has the meaning stated in § 13-1101(d) of  
14 the Financial Institutions Article.

15 (4) (i) "Certified heritage structure" means a structure that is located  
16 in the State and is:

17 1. Listed in the National Register of Historic Places;

18 2. Designated as a historic property under local law;

19 3. A. Located in a historic district listed on the National  
20 Register of Historic Places or in a local historic district; and

21 B. Certified by the Director of the Maryland Historical Trust  
22 as contributing to the significance of the district; or

23 4. Located in a certified heritage area and which has been  
24 certified by the Maryland Heritage Areas Authority as contributing to the  
25 significance of the certified heritage area.

26 (ii) "Certified heritage structure" does not include a structure that  
27 is owned by the State, a political subdivision of the State, or the federal government,  
28 other than a structure located on the Hippodrome site, as defined in § 13-701 of the  
29 Financial Institutions Article.

30 (5) "Certified rehabilitation" means a completed rehabilitation of a  
31 certified heritage structure which the Director certifies is substantial rehabilitation  
32 in conformance with the rehabilitation standards of the United States Secretary of  
33 the Interior.

1 (6) "COMMERCIAL REHABILITATION" MEANS A REHABILITATION OF A  
2 STRUCTURE OTHER THAN A SINGLE-FAMILY, OWNER-OCCUPIED RESIDENCE.

3 [(6)] (7) "Director" means the Director of the Maryland Historical Trust.

4 [(7)] (8) "Local historic district" means a district that the governing body  
5 of a county or municipal corporation, or the Mayor and City Council of Baltimore, has  
6 designated under local law as historic.

7 [(8)] (9) "Qualified rehabilitation expenditure" means any amount that  
8 [is]:

9 (I) IS properly chargeable to capital account [and is];

10 (II) IS expended in the rehabilitation of a structure that by the end  
11 of the taxable year in which the certified rehabilitation is completed is a certified  
12 heritage structure;

13 (III) FOR A COMMERCIAL REHABILITATION, IS EXPENDED IN  
14 COMPLIANCE WITH A PLAN OF PROPOSED EXPENDITURES THAT HAS BEEN  
15 APPROVED BY THE DIRECTOR IN ACCORDANCE WITH SUBSECTION (D) OF THIS  
16 SECTION AND DOES NOT EXCEED THE AMOUNT OF PROPOSED REHABILITATION  
17 EXPENDITURES APPROVED BY THE DIRECTOR; AND

18 (IV) EXCEPT FOR A CREDIT TRANSFERRED BY THE MARYLAND  
19 STADIUM AUTHORITY OR AN AUTHORITY AFFILIATE UNDER SUBSECTION (F) OF THIS  
20 SECTION, IS NOT FUNDED, FINANCED, OR OTHERWISE REIMBURSED BY ANY:

21 1. STATE OR LOCAL GRANT OR LOAN;

22 2. TAX-EXEMPT BONDS ISSUED BY THE STATE, A POLITICAL  
23 SUBDIVISION OF THE STATE, OR AN INSTRUMENTALITY OF THE STATE OR OF A  
24 POLITICAL SUBDIVISION OF THE STATE;

25 3. STATE OR LOCAL TAX CREDIT OTHER THAN THE TAX  
26 CREDIT UNDER THIS SECTION; OR

27 4. OTHER FINANCIAL ASSISTANCE FROM THE STATE OR A  
28 POLITICAL SUBDIVISION OF THE STATE.

29 [(9)] (10) "Substantial rehabilitation" means rehabilitation of a structure  
30 for which the qualified rehabilitation expenditures, during the 24-month period  
31 selected by the taxpayer ending with or within the taxable year, exceed:

32 (i) For owner-occupied residential property, \$5,000; or

33 (ii) For all other property, the greater of:

34 1. The adjusted basis of the structure; or

35 2. \$5,000.

1 (b) (1) [Subject to subsection (e) of] EXCEPT AS OTHERWISE PROVIDED IN  
2 this section, for the taxable year in which a certified rehabilitation is completed, a  
3 business entity or an individual may claim a tax credit in an amount equal to 20% of  
4 the taxpayer's qualified rehabilitation expenditures for the rehabilitation.

5 (2) The State tax credit allowed under this section may be allocated  
6 among the partners, members, or shareholders of an entity in any manner agreed to  
7 by those persons in writing.

8 (3) (I) FOR ANY COMMERCIAL REHABILITATION, THE STATE TAX  
9 CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED \$1,000,000.

10 (II) FOR PURPOSES OF THE LIMITATION UNDER SUBPARAGRAPH (I)  
11 OF THIS PARAGRAPH, THE FOLLOWING SHALL BE TREATED AS A SINGLE  
12 REHABILITATION:

13 1. THE PHASED REHABILITATION OF THE SAME STRUCTURE  
14 OR PROPERTY;

15 2. THE SEPARATE REHABILITATION OF DIFFERENT  
16 COMPONENTS OF THE SAME STRUCTURE OR PROPERTY; OR

17 3. THE REHABILITATION OF MULTIPLE STRUCTURES THAT  
18 ARE FUNCTIONALLY RELATED TO SERVE AN OVERALL PURPOSE, SUCH AS A MILL  
19 COMPLEX, AN INDUSTRIAL COMPLEX, OR A RESIDENCE AND CARRIAGE HOUSE.

20 [(3)] (4) The same tax credit may not be applied more than once against  
21 different taxes.

22 (c) (1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,  
23 IF the credit allowed under this section in any taxable year exceeds the total tax  
24 otherwise payable by the business entity or the individual for that taxable year, the  
25 business entity or individual may [claim a refund in the amount of the excess.

26 (d) (1) Except as provided in paragraph (2) of this subsection, a business  
27 entity or individual that incurs qualified rehabilitation expenditures in the  
28 rehabilitation of a certified historic structure in a state other than Maryland may  
29 claim a tax credit to the same extent as provided under subsection (b) of this section  
30 if the other state has in effect a reciprocal historic rehabilitation tax credit program  
31 and agreement for taxpayers of that state who rehabilitate historic structures in  
32 Maryland.

33 (2) A business entity or individual that qualifies for a tax credit under  
34 this subsection may not claim a refund under subsection (c) of this section.

35 (3) If the credit allowed to a business entity or individual under this  
36 subsection for any taxable year exceeds the total tax otherwise payable by the  
37 business entity or the individual for that taxable year, the business entity or  
38 individual may] apply the excess as a credit for succeeding taxable years until the  
39 earlier of:

- 1 (i) The full amount of the credit is used; or
- 2 (ii) The expiration of the tenth taxable year after the taxable year
- 3 in which the rehabilitation is completed.

4 (2) IF A CERTIFIED HERITAGE STRUCTURE FOR WHICH A CERTIFIED

5 REHABILITATION HAS BEEN COMPLETED IS SOLD OR TRANSFERRED, THE AMOUNT

6 OF ANY CREDIT UNUSED AT THE TIME OF SALE OR TRANSFER MAY BE TRANSFERRED

7 TO THE INDIVIDUAL OR BUSINESS ENTITY TO WHICH THE BUILDING IS SOLD OR

8 TRANSFERRED.

9 (3) (I) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR A

10 CERTIFIED REHABILITATION THAT IS NOT A COMMERCIAL REHABILITATION IN ANY

11 TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY AN INDIVIDUAL

12 FOR THAT TAXABLE YEAR, THE INDIVIDUAL MAY CLAIM A REFUND IN THE AMOUNT

13 OF THE EXCESS.

14 (II) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §

15 501(C)(3) OF THE INTERNAL REVENUE CODE MAY CLAIM A REFUND IN THE AMOUNT

16 BY WHICH THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS ANY STATE

17 INCOME TAX DUE ON UNRELATED BUSINESS TAXABLE INCOME AS PROVIDED UNDER

18 §§ 10-304 AND 10-812 OF THIS TITLE.

19 (D) (1) FOR A COMMERCIAL REHABILITATION, THE CREDIT UNDER THIS

20 SECTION MAY NOT BE CLAIMED UNLESS THE PROPOSED REHABILITATION WORK

21 AND THE AMOUNT OF THE PROPOSED REHABILITATION EXPENDITURES FOR THE

22 COMMERCIAL REHABILITATION HAVE BEEN APPROVED BY THE DIRECTOR IN

23 ACCORDANCE WITH THIS SUBSECTION BEFORE THE EXPENDITURES ARE MADE.

24 (2) IN ANY CALENDAR YEAR AFTER CALENDAR YEAR 2001:

25 (I) THE DIRECTOR MAY NOT APPROVE PROPOSED

26 REHABILITATION EXPENDITURES FOR ANY COMMERCIAL REHABILITATION IN AN

27 AMOUNT GREATER THAN THE AMOUNT OF EXPENDITURES THAT IF COMPLETED

28 WOULD RESULT IN A CREDIT OF \$1,000,000 FOR THAT COMMERCIAL REHABILITATION

29 UNDER THIS SECTION; AND

30 (II) THE DIRECTOR MAY NOT APPROVE PROPOSED

31 REHABILITATION EXPENDITURES FOR COMMERCIAL PROJECTS IN THE AGGREGATE

32 IN AN AMOUNT GREATER THAN THE AMOUNT OF EXPENDITURES THAT IF

33 COMPLETED WOULD RESULT IN CREDITS TOTALING \$20,000,000 IN A CALENDAR YEAR

34 FOR ALL COMMERCIAL PROJECTS FOR WHICH PROPOSED REHABILITATION

35 EXPENDITURES ARE APPROVED IN THAT CALENDAR YEAR.

36 (3) IN EACH CALENDAR YEAR, THE DIRECTOR SHALL APPROVE

37 PROPOSED REHABILITATION EXPENDITURES ON A FIRST-COME, FIRST-SERVED

38 BASIS.

1 (e) (1) The Director and the Maryland Heritage Areas Authority may adopt  
2 regulations to establish procedures and standards for certifying heritage structures  
3 and rehabilitations under this section.

4 (2) The Director may not certify that a rehabilitation is a certified  
5 rehabilitation eligible for the tax credit under this section unless the individual or  
6 business entity seeking certification states under oath the amount of the individual's  
7 or business entity's qualified rehabilitation expenditures.

8 (f) (1) In this subsection, "Authority affiliate" has the meaning stated in §  
9 13-701(t) of the Financial Institutions Article.

10 (2) As authorized under § 13-708 of the Financial Institutions Article,  
11 the Maryland Stadium Authority or an Authority affiliate may transfer to any  
12 business entity or individual any credit under this section for qualified rehabilitation  
13 expenditures of the Maryland Stadium Authority or an Authority affiliate.

14 (3) A business entity or individual to whom any credit is transferred by  
15 the Maryland Stadium Authority or an Authority affiliate under this subsection may  
16 claim a tax credit under this section in the full amount of the credit transferred.

17 (g) (1) In this subsection, "disqualifying work" means work that:

18 (i) Is performed on a certified heritage structure for which a  
19 rehabilitation has been certified under this section; and

20 (ii) If performed as part of the rehabilitation certified under this  
21 section, would have made the rehabilitation ineligible for certification.

22 (2) Except as provided in paragraph (4) of this subsection, the credit  
23 allowed under this section shall be recaptured as provided in paragraph (3) of this  
24 subsection if, during the taxable year in which a certified rehabilitation is completed  
25 or any of the 4 taxable years succeeding the taxable year in which the certified  
26 rehabilitation is completed, any disqualifying work is performed on the certified  
27 heritage structure for which the certified rehabilitation has been completed.

28 (3) (i) 1. If the disqualifying work is performed during the taxable  
29 year in which the certified rehabilitation was completed, 100% of the credit shall be  
30 recaptured.

31 2. If the disqualifying work is performed during the first full  
32 year succeeding the taxable year in which the certified rehabilitation was completed,  
33 80% of the credit shall be recaptured.

34 3. If the disqualifying work is performed during the second  
35 full year succeeding the taxable year in which the certified rehabilitation was  
36 completed, 60% of the credit shall be recaptured.







1 before February 1, 2002, the credit allowed for any taxable year for a single certified  
2 rehabilitation may not exceed \$5,000,000 for any taxable year.

3           (2)       If the credit otherwise allowable for a single certified rehabilitation  
4 exceeds the limit under paragraph (1) of this subsection, the excess may be applied as  
5 a credit against the State tax for succeeding taxable years until the full amount of the  
6 excess is used.

7           (3)       For each taxable year, the amount carried forward to the taxable year  
8 under paragraph (2) of this subsection may not exceed the limitation under paragraph  
9 (1) of this subsection.

10       (d)       (1)       Subject to paragraph (2) of this subsection, for any taxable year for  
11 which a tax return is required to be filed in calendar year 2002, the Comptroller shall  
12 allow amended returns to be filed and shall waive any interest or penalty imposed  
13 relating to payment of tax for calendar year 2001 to the extent the Comptroller  
14 determines that the interest or penalty would not have been incurred but for the  
15 revisions under this Act.

16           (2)       Paragraph (1) of this subsection does not apply to any interest or  
17 penalty accruing on or after July 1, 2002 for any tax required to be paid for calendar  
18 year 2001 that remains unpaid as of July 1, 2002.

19       (e)       If the proposed rehabilitation expenditures for all commercial projects  
20 approved by the Director of the Maryland Historical Trust in calendar year 2002  
21 before February 1, 2002 in the aggregate are greater than the amount of expenditures  
22 that if completed would result in credits totaling \$20,000,000, the Director shall  
23 allocate the \$20,000,000 available credit among the projects for which the Director  
24 approved proposed rehabilitation expenditures before February 1, 2002 on a prorated  
25 basis.

26       SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of  
27 this Act, this Act shall take effect June 1, 2002.