P1 (6lr2798)

## ENROLLED BILL

-- Economic Matters and Ways and Means/Finance --

Introduced by Delegates Brown, Cadden, and Minnick Minnick, Burns, Conroy, D. Davis, Doory, Feldman, Haddaway, Harrison, Impallaria, Jameson, Kirk, Krebs, Krysiak, Love, McHale, Miller, Moe, Parrott, Taylor, Trueschler, Vaughn, Walkup, and Wood

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Read and Examined by Proofreaders: Proofreader. Proofreader. Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_ day of \_\_\_\_ at \_\_\_\_ o'clock, \_\_\_\_M. CHAPTER\_\_\_\_ 1 AN ACT concerning 2 Aid to Service-Disabled Veterans and Military Reservists or National Guard 3 **Personnel Called to Active Duty** FOR the purpose of requiring the Department of Business and Economic Development, subject to the availability of funds and in consultation with the 5 Department of Veterans Affairs, to establish a program to provide no-interest 6 7 loans for certain purposes to certain service-disabled veterans and certain 8 businesses owned by or employing military reservists or National Guard personnel called to active duty; requiring the Department of Business and 9 10 Economic Development to administer the loans; requiring the Department of Veterans Affairs to establish certain eligibility and priority criteria for the loan 11 program; limiting the period during which certain loans may be made; requiring 12 and authorizing the adoption of certain regulations to carry out this Act; 13

allowing a credit against the State income tax for certain compensation paid to

Speaker.

## **UNOFFICIAL COPY OF HOUSE BILL 1280**

1 2 3 4 5 6 7	certain employees hired to replace military reservists or National Guard personnel called to active duty under certain circumstances; providing that certain excess credit may be carried forward and used in certain taxable years under certain circumstances; defining certain terms; providing for the application of this Act; and generally relating to benefits for service-disabled veterans and businesses owned by or employing military reservists and National Guard personnel called to active duty.
8 9 10 11 12 13	BY adding to Article 83A - Department of Business and Economic Development Section 6-901 to be under the new subtitle "Subtitle 9. Military Reservists and Service-Related No-Interest Loan Program" Annotated Code of Maryland (2003 Replacement Volume and 2005 Supplement)
14 15 16 17 18	BY adding to Article Tax General Section 10 726 Annotated Code of Maryland (2004 Replacement Volume and 2005 Supplement)
19 20	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
21	Article 83A - Department of Business and Economic Development
22 23	SUBTITLE 9. MILITARY RESERVISTS AND SERVICE-RELATED NO-INTEREST LOAN PROGRAM.
24	6-901.
25 26	(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.
	INDICATED.
29	(2) "SERVICE-DISABLED VETERAN" MEANS A VETERAN WITH A DISABILITY THAT IS SERVICE CONNECTED, AS DEFINED IN 38 U.S.C. § 101(16), WHO WAS DOMICILED IN MARYLAND WHEN THE SERVICE CONNECTED DISABILITY WAS INCURRED.
28 29 30 31 32 33	(2) "SERVICE-DISABLED VETERAN" MEANS A VETERAN WITH A DISABILITY THAT IS SERVICE CONNECTED, AS DEFINED IN 38 U.S.C. § 101(16), WHO WAS DOMICILED IN MARYLAND WHEN THE SERVICE CONNECTED DISABILITY WAS

- 1 (B) <u>SUBJECT TO THE AVAILABILITY OF FUNDS</u>, THE DEPARTMENT, IN
- 2 CONSULTATION WITH THE DEPARTMENT OF VETERANS AFFAIRS, SHALL ESTABLISH
- 3 A PROGRAM TO PROVIDE NO-INTEREST LOANS UNDER THIS SECTION TO:
- 4 (1) SMALL BUSINESS EMPLOYERS OF MILITARY RESERVISTS AND
- 5 NATIONAL GUARD PERSONNEL CALLED TO ACTIVE DUTY;
- 6 (2) BUSINESSES OWNED BY MILITARY RESERVISTS AND NATIONAL 7 GUARD PERSONNEL CALLED TO ACTIVE DUTY; AND
- 8 (3) SERVICE-DISABLED VETERANS.
- 9 (C) LOANS SHALL BE MADE UNDER THIS SECTION FOR THE PURPOSES OF:
- 10 (1) PROVIDING FINANCIAL SUPPORT TO:
- 11 (I) A BUSINESS OWNED BY A MILITARY RESERVIST OR NATIONAL
- 12 GUARD MEMBER WHO IS CALLED TO ACTIVE DUTY; OR
- 13 (II) A SMALL BUSINESS EMPLOYER OF A MILITARY RESERVIST OR
- 14 NATIONAL GUARD MEMBER WHO IS CALLED TO ACTIVE DUTY; AND
- 15 (2) MAKING THE HOME, AUTOMOBILE, OR PLACE OF EMPLOYMENT OF A
- 16 SERVICE-DISABLED VETERAN ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES,
- 17 INCLUDING PURCHASING EQUIPMENT NECESSARY TO ENABLE A BUSINESS TO
- 18 EMPLOY A SERVICE-DISABLED VETERAN; AND
- 19 <u>DEFRAYING OTHER NECESSARY EXPENSES, AS DETERMINED BY THE</u>
- 20 DEPARTMENT OF VETERANS AFFAIRS, INCURRED BY A SERVICE-DISABLED VETERAN
- 21 OR A BUSINESS EMPLOYING A SERVICE-DISABLED VETERAN AS A RESULT OF THE
- 22 VETERAN'S DISABILITY.
- 23 (D) SUBJECT TO THE PROVISIONS OF THIS SECTION:
- 24 (1) THE DEPARTMENT SHALL ADMINISTER THE LOAN PROGRAM
- 25 AUTHORIZED UNDER THIS SECTION; AND
- 26 (2) THE DEPARTMENT OF VETERANS AFFAIRS SHALL ESTABLISH
- 27 ELIGIBILITY CRITERIA FOR LOANS UNDER THIS SECTION.
- 28 (E) (1) A LOAN MADE UNDER THIS SECTION FOR THE PURPOSE OF
- 29 PROVIDING FINANCIAL SUPPORT TO A BUSINESS OWNED BY AN INDIVIDUAL WHO IS
- 30 CALLED TO ACTIVE DUTY OR TO A SMALL BUSINESS EMPLOYER OF AN INDIVIDUAL
- 31 WHO IS CALLED TO ACTIVE DUTY:
- 32 (I) MAY BE MADE AT ANY TIME FROM THE INDIVIDUAL'S RECEIPT
- 33 OF ORDERS TO REPORT TO 6 MONTHS AFTER THE END OF THE INDIVIDUAL'S ACTIVE
- 34 DUTY; AND
- 35 (II) SHALL BE SUBJECT TO CRITERIA FOR ELIGIBILITY AND
- 36 PRIORITY ESTABLISHED BY THE DEPARTMENT OF VETERANS AFFAIRS, INCLUDING:

<del>2.</del>

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1 1. THE INABILITY OF THE BUSINESS TO OBTAIN 2 ACCEPTABLE CREDIT ELSEWHERE; AND
3 2. THE EXTENT TO WHICH THE INDIVIDUAL WHO IS CALLED 4 TO ACTIVE DUTY IS AN ESSENTIAL EMPLOYEE OF THE BUSINESS.
5 (2) A LOAN MADE UNDER THIS SECTION FOR THE PURPOSE OF MAKING 6 ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES THE HOME OR PLACE OF 7 EMPLOYMENT OF A SERVICE-DISABLED VETERAN MAY BE MADE AT ANY TIME.
8 (F) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS 9 SUBTITLE.
10 (2) THE DEPARTMENT OF VETERANS AFFAIRS MAY ADOPT 11 REGULATIONS CONCERNING ELIGIBILITY CRITERIA FOR LOANS UNDER THIS 12 SUBTITLE.
13 Article - Tax - General
14 <del>10-726.</del>
15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS 16 INDICATED:
17 (2) "QUALIFIED ACTIVE DUTY" MEANS:
18 (I) ACTIVE DUTY IN CONNECTION WITH WHICH AN EMPLOYEE IS 19 ENTITLED TO REEMPLOYMENT RIGHTS AND OTHER BENEFITS OR TO A LEAVE OF 20 ABSENCE FROM EMPLOYMENT UNDER CHAPTER 43 OF TITLE 38 OF THE UNITED 21 STATES CODE, OTHER THAN TRAINING DUTY SPECIFIED IN 10 U.S.C. § 10147, 22 RELATING TO TRAINING REQUIREMENTS FOR THE READY RESERVE, OR 32 U.S.C. § 23 502(A), RELATING TO REQUIRED DRILLS AND FIELD EXERCISES FOR THE NATIONAL 24 GUARD; AND
25 (II) HOSPITALIZATION INCIDENT TO ACTIVE DUTY DESCRIBED IN 26 ITEM (I) OF THIS PARAGRAPH.
27 (3) "QUALIFIED COMPENSATION" MEANS:
28 (I) COMPENSATION THAT IS NORMALLY CONTINGENT ON A 29 QUALIFIED REPLACEMENT EMPLOYEE'S PRESENCE FOR WORK AND THAT IS 30 DEDUCTIBLE FROM THE EMPLOYER'S GROSS INCOME UNDER § 162(A)(1) OF THE 31 INTERNAL REVENUE CODE;
32 (II) COMPENSATION THAT IS NOT CHARACTERIZED BY THE 33 EMPLOYER AS:
34 1. VACATION OR HOLIDAY PAY;

SICK LEAVE OR PAY; OR

ANY OTHER FORM OF PAY FOR A NONSPECIFIC LEAVE OF 1 3. 2 ABSENCE: AND (III)GROUP HEALTH PLAN COSTS, IF ANY, WITH RESPECT TO THE 4 OUALIFIED REPLACEMENT EMPLOYEE. "QUALIFIED REPLACEMENT EMPLOYEE" MEANS AN INDIVIDUAL 6 WHO IS HIRED TO REPLACE A READY RESERVE-NATIONAL GUARD EMPLOYEE OR A 7 READY RESERVE NATIONAL GUARD SELF EMPLOYED INDIVIDUAL, BUT ONLY WITH 8 RESPECT TO THE PERIOD DURING WHICH THE READY RESERVE NATIONAL GUARD 9 EMPLOYEE OR READY RESERVE NATIONAL GUARD SELF EMPLOYED INDIVIDUAL 10 PARTICIPATES IN QUALIFIED ACTIVE DUTY, INCLUDING TIME SPENT IN TRAVEL 11 STATUS. 12 "READY RESERVE NATIONAL GUARD EMPLOYEE" MEANS AN 13 EMPLOYEE WHO IS A MEMBER OF THE READY RESERVE OF A RESERVE COMPONENT 14 OF AN ARMED FORCE OF THE UNITED STATES AS DESCRIBED IN 10 U.S.C. §§ 10101 AND 15 10142. "READY RESERVE-NATIONAL GUARD SELF-EMPLOYED INDIVIDUAL" 16 <del>(6)</del> 17 MEANS AN INDIVIDUAL WHO: <del>(I)</del> HAS NET EARNINGS FROM SELF EMPLOYMENT, AS DEFINED IN 18 19 \$ 1402(A) OF THE INTERNAL REVENUE CODE, FOR THE TAXABLE YEAR IN WHICH THE 20 INDIVIDUAL IS CALLED TO ACTIVE DUTY: AND IS A MEMBER OF THE READY RESERVE OF A RESERVE 22 COMPONENT OF AN ARMED FORCE OF THE UNITED STATES AS DESCRIBED IN 10 23 U.S.C. §§ 10101 AND 10142. "SMALL BUSINESS EMPLOYER" MEANS, WITH RESPECT TO ANY 24 25 TAXABLE YEAR, AN EMPLOYER WHO EMPLOYED AN AVERAGE OF 50 OR FEWER 26 EMPLOYEES ON BUSINESS DAYS DURING THE TAXABLE YEAR. 27 FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, 28 ALL PERSONS TREATED AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF 29 THE INTERNAL REVENUE CODE SHALL BE TREATED AS A SINGLE EMPLOYER. A READY RESERVE NATIONAL GUARD SELF EMPLOYED INDIVIDUAL OR 30 31 AN INDIVIDUAL OR CORPORATION THAT IS A SMALL BUSINESS EMPLOYER MAY 32 CLAIM AS A CREDIT AGAINST THE STATE INCOME TAX FOR A TAXABLE YEAR FOR 33 EACH QUALIFIED REPLACEMENT EMPLOYEE THE LESSER OF: 34 50% OF THE OUALIFIED COMPENSATION OF THE EMPLOYEE DURING 35 THE TAXABLE YEAR THAT IS ATTRIBUTABLE TO SERVICE RENDERED AS A QUALIFIED 36 REPLACEMENT EMPLOYEE: OR 37 <del>(2)</del> \$6,000. 38 <del>(C)</del> THE CREDIT UNDER THIS SECTION MAY NOT BE ALLOWED:

- 1 (1) FOR ANY TAXABLE YEAR IN WHICH THE TAXPAYER IS UNDER A
- 2 FINAL ORDER, JUDGMENT, OR OTHER PROCESS ISSUED OR REQUIRED BY A DISTRICT
- 3 COURT OF THE UNITED STATES UNDER 38 U.S.C. § 4323 WITH RESPECT TO A
- 4 VIOLATION OF CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE; OR
- 5 (2) FOR THE 2 SUCCEEDING TAXABLE YEARS AFTER ANY TAXABLE YEAR
- 6 DESCRIBED IN ITEM (1) OF THIS SUBSECTION.
- 7 (D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR
- 8 EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, AN INDIVIDUAL OR
- 9 CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME
- 10 TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:
- 11 <del>(1)</del> THE EXHAUSTION OF THE FULL AMOUNT OF THE EXCESS; OR
- 12 (2) THE EXPIRATION OF THE 5TH TAXABLE YEAR AFTER THE TAXABLE
- 13 YEAR IN WHICH THE CREDIT IS EARNED.
- 14 SECTION 2. AND BE IT FURTHER ENACTED, That the tax credit under §
- 15 10-726 of the Tax General Article as enacted by Section 1 of this Act shall be
- 16 applicable to all taxable years beginning after December 31, 2005.
- 17 SECTION 3. 2. AND BE IT FURTHER ENACTED, That this Act shall take
- 18 effect July 1, 2006.