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By: **Delegates Brown, Cadden, and Minnick**

Introduced and read first time: February 10, 2006

Assigned to: Economic Matters and Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2                   **Aid to Service-Disabled Veterans and Military Reservists or National Guard**  
3                   **Personnel Called to Active Duty**

4 FOR the purpose of requiring the Department of Business and Economic  
5 Development, in consultation with the Department of Veterans Affairs, to  
6 establish a program to provide no-interest loans for certain purposes to certain  
7 service-disabled veterans and certain businesses owned by or employing  
8 military reservists or National Guard personnel called to active duty; requiring  
9 the Department of Business and Economic Development to administer the  
10 loans; requiring the Department of Veterans Affairs to establish certain  
11 eligibility and priority criteria for the loan program; limiting the period during  
12 which certain loans may be made; requiring and authorizing the adoption of  
13 certain regulations to carry out this Act; allowing a credit against the State  
14 income tax for certain compensation paid to certain employees hired to replace  
15 military reservists or National Guard personnel called to active duty under  
16 certain circumstances; providing that certain excess credit may be carried  
17 forward and used in certain taxable years under certain circumstances; defining  
18 certain terms; providing for the application of this Act; and generally relating to  
19 benefits for service-disabled veterans and businesses owned by or employing  
20 military reservists and National Guard personnel called to active duty.

21 BY adding to  
22 Article 83A - Department of Business and Economic Development  
23 Section 6-901 to be under the new subtitle "Subtitle 9. Military Reservists and  
24 Service-Related No-Interest Loan Program"  
25 Annotated Code of Maryland  
26 (2003 Replacement Volume and 2005 Supplement)

27 BY adding to  
28 Article - Tax - General  
29 Section 10-726  
30 Annotated Code of Maryland  
31 (2004 Replacement Volume and 2005 Supplement)

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

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

4 SUBTITLE 9. MILITARY RESERVISTS AND SERVICE-RELATED NO-INTEREST LOAN  
5 PROGRAM.

6 6-901.

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

9 (2) "SERVICE-DISABLED VETERAN" MEANS A VETERAN WITH A  
10 DISABILITY THAT IS SERVICE CONNECTED, AS DEFINED IN 38 U.S.C. § 101(16), WHO  
11 WAS DOMICILED IN MARYLAND WHEN THE SERVICE CONNECTED DISABILITY WAS  
12 INCURRED.

13 (3) (I) "SMALL BUSINESS EMPLOYER" MEANS AN EMPLOYER WHO  
14 EMPLOYED AN AVERAGE OF 50 OR FEWER EMPLOYEES ON BUSINESS DAYS DURING  
15 THE CALENDAR YEAR PRECEDING THE DETERMINATION OF ELIGIBILITY FOR A LOAN  
16 UNDER THIS SECTION.

17 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH,  
18 ALL PERSONS TREATED AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF  
19 THE INTERNAL REVENUE CODE SHALL BE TREATED AS A SINGLE EMPLOYER.

20 (B) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF  
21 VETERANS AFFAIRS, SHALL ESTABLISH A PROGRAM TO PROVIDE NO-INTEREST  
22 LOANS UNDER THIS SECTION TO:

23 (1) SMALL BUSINESS EMPLOYERS OF MILITARY RESERVISTS AND  
24 NATIONAL GUARD PERSONNEL CALLED TO ACTIVE DUTY;

25 (2) BUSINESSES OWNED BY MILITARY RESERVISTS AND NATIONAL  
26 GUARD PERSONNEL CALLED TO ACTIVE DUTY; AND

27 (3) SERVICE-DISABLED VETERANS.

28 (C) LOANS SHALL BE MADE UNDER THIS SECTION FOR THE PURPOSES OF:

29 (1) PROVIDING FINANCIAL SUPPORT TO:

30 (I) A BUSINESS OWNED BY A MILITARY RESERVIST OR NATIONAL  
31 GUARD MEMBER WHO IS CALLED TO ACTIVE DUTY; OR

32 (II) A SMALL BUSINESS EMPLOYER OF A MILITARY RESERVIST OR  
33 NATIONAL GUARD MEMBER WHO IS CALLED TO ACTIVE DUTY; AND

1 (2) MAKING THE HOME OR PLACE OF EMPLOYMENT OF A  
2 SERVICE-DISABLED VETERAN ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES.

3 (D) SUBJECT TO THE PROVISIONS OF THIS SECTION:

4 (1) THE DEPARTMENT SHALL ADMINISTER THE LOAN PROGRAM  
5 AUTHORIZED UNDER THIS SECTION; AND

6 (2) THE DEPARTMENT OF VETERANS AFFAIRS SHALL ESTABLISH  
7 ELIGIBILITY CRITERIA FOR LOANS UNDER THIS SECTION.

8 (E) (1) A LOAN MADE UNDER THIS SECTION FOR THE PURPOSE OF  
9 PROVIDING FINANCIAL SUPPORT TO A BUSINESS OWNED BY AN INDIVIDUAL WHO IS  
10 CALLED TO ACTIVE DUTY OR TO A SMALL BUSINESS EMPLOYER OF AN INDIVIDUAL  
11 WHO IS CALLED TO ACTIVE DUTY:

12 (I) MAY BE MADE AT ANY TIME FROM THE INDIVIDUAL'S RECEIPT  
13 OF ORDERS TO REPORT TO 6 MONTHS AFTER THE END OF THE INDIVIDUAL'S ACTIVE  
14 DUTY; AND

15 (II) SHALL BE SUBJECT TO CRITERIA FOR ELIGIBILITY AND  
16 PRIORITY ESTABLISHED BY THE DEPARTMENT OF VETERANS AFFAIRS, INCLUDING:

17 1. THE INABILITY OF THE BUSINESS TO OBTAIN  
18 ACCEPTABLE CREDIT ELSEWHERE; AND

19 2. THE EXTENT TO WHICH THE INDIVIDUAL WHO IS CALLED  
20 TO ACTIVE DUTY IS AN ESSENTIAL EMPLOYEE OF THE BUSINESS.

21 (2) A LOAN MADE UNDER THIS SECTION FOR THE PURPOSE OF MAKING  
22 ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES THE HOME OR PLACE OF  
23 EMPLOYMENT OF A SERVICE-DISABLED VETERAN MAY BE MADE AT ANY TIME.

24 (F) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS  
25 SUBTITLE.

26 (2) THE DEPARTMENT OF VETERANS AFFAIRS MAY ADOPT  
27 REGULATIONS CONCERNING ELIGIBILITY CRITERIA FOR LOANS UNDER THIS  
28 SUBTITLE.

29 **Article - Tax - General**

30 10-726.

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

33 (2) "QUALIFIED ACTIVE DUTY" MEANS:

1 (I) ACTIVE DUTY IN CONNECTION WITH WHICH AN EMPLOYEE IS  
2 ENTITLED TO REEMPLOYMENT RIGHTS AND OTHER BENEFITS OR TO A LEAVE OF  
3 ABSENCE FROM EMPLOYMENT UNDER CHAPTER 43 OF TITLE 38 OF THE UNITED  
4 STATES CODE, OTHER THAN TRAINING DUTY SPECIFIED IN 10 U.S.C. § 10147,  
5 RELATING TO TRAINING REQUIREMENTS FOR THE READY RESERVE, OR 32 U.S.C. §  
6 502(A), RELATING TO REQUIRED DRILLS AND FIELD EXERCISES FOR THE NATIONAL  
7 GUARD; AND

8 (II) HOSPITALIZATION INCIDENT TO ACTIVE DUTY DESCRIBED IN  
9 ITEM (I) OF THIS PARAGRAPH.

10 (3) "QUALIFIED COMPENSATION" MEANS:

11 (I) COMPENSATION THAT IS NORMALLY CONTINGENT ON A  
12 QUALIFIED REPLACEMENT EMPLOYEE'S PRESENCE FOR WORK AND THAT IS  
13 DEDUCTIBLE FROM THE EMPLOYER'S GROSS INCOME UNDER § 162(A)(1) OF THE  
14 INTERNAL REVENUE CODE;

15 (II) COMPENSATION THAT IS NOT CHARACTERIZED BY THE  
16 EMPLOYER AS:

- 17 1. VACATION OR HOLIDAY PAY;  
18 2. SICK LEAVE OR PAY; OR  
19 3. ANY OTHER FORM OF PAY FOR A NONSPECIFIC LEAVE OF  
20 ABSENCE; AND

21 (III) GROUP HEALTH PLAN COSTS, IF ANY, WITH RESPECT TO THE  
22 QUALIFIED REPLACEMENT EMPLOYEE.

23 (4) "QUALIFIED REPLACEMENT EMPLOYEE" MEANS AN INDIVIDUAL  
24 WHO IS HIRED TO REPLACE A READY RESERVE-NATIONAL GUARD EMPLOYEE OR A  
25 READY RESERVE-NATIONAL GUARD SELF-EMPLOYED INDIVIDUAL, BUT ONLY WITH  
26 RESPECT TO THE PERIOD DURING WHICH THE READY RESERVE-NATIONAL GUARD  
27 EMPLOYEE OR READY RESERVE-NATIONAL GUARD SELF-EMPLOYED INDIVIDUAL  
28 PARTICIPATES IN QUALIFIED ACTIVE DUTY, INCLUDING TIME SPENT IN TRAVEL  
29 STATUS.

30 (5) "READY RESERVE-NATIONAL GUARD EMPLOYEE" MEANS AN  
31 EMPLOYEE WHO IS A MEMBER OF THE READY RESERVE OF A RESERVE COMPONENT  
32 OF AN ARMED FORCE OF THE UNITED STATES AS DESCRIBED IN 10 U.S.C. §§ 10101 AND  
33 10142.

34 (6) "READY RESERVE-NATIONAL GUARD SELF-EMPLOYED INDIVIDUAL"  
35 MEANS AN INDIVIDUAL WHO:

36 (I) HAS NET EARNINGS FROM SELF-EMPLOYMENT, AS DEFINED IN  
37 § 1402(A) OF THE INTERNAL REVENUE CODE, FOR THE TAXABLE YEAR IN WHICH THE  
38 INDIVIDUAL IS CALLED TO ACTIVE DUTY; AND

1 (II) IS A MEMBER OF THE READY RESERVE OF A RESERVE  
2 COMPONENT OF AN ARMED FORCE OF THE UNITED STATES AS DESCRIBED IN 10  
3 U.S.C. §§ 10101 AND 10142.

4 (7) (I) "SMALL BUSINESS EMPLOYER" MEANS, WITH RESPECT TO ANY  
5 TAXABLE YEAR, AN EMPLOYER WHO EMPLOYED AN AVERAGE OF 50 OR FEWER  
6 EMPLOYEES ON BUSINESS DAYS DURING THE TAXABLE YEAR.

7 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH,  
8 ALL PERSONS TREATED AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF  
9 THE INTERNAL REVENUE CODE SHALL BE TREATED AS A SINGLE EMPLOYER.

10 (B) A READY RESERVE-NATIONAL GUARD SELF-EMPLOYED INDIVIDUAL OR  
11 AN INDIVIDUAL OR CORPORATION THAT IS A SMALL BUSINESS EMPLOYER MAY  
12 CLAIM AS A CREDIT AGAINST THE STATE INCOME TAX FOR A TAXABLE YEAR FOR  
13 EACH QUALIFIED REPLACEMENT EMPLOYEE THE LESSER OF:

14 (1) 50% OF THE QUALIFIED COMPENSATION OF THE EMPLOYEE DURING  
15 THE TAXABLE YEAR THAT IS ATTRIBUTABLE TO SERVICE RENDERED AS A QUALIFIED  
16 REPLACEMENT EMPLOYEE; OR

17 (2) \$6,000.

18 (C) THE CREDIT UNDER THIS SECTION MAY NOT BE ALLOWED:

19 (1) FOR ANY TAXABLE YEAR IN WHICH THE TAXPAYER IS UNDER A  
20 FINAL ORDER, JUDGMENT, OR OTHER PROCESS ISSUED OR REQUIRED BY A DISTRICT  
21 COURT OF THE UNITED STATES UNDER 38 U.S.C. § 4323 WITH RESPECT TO A  
22 VIOLATION OF CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE; OR

23 (2) FOR THE 2 SUCCEEDING TAXABLE YEARS AFTER ANY TAXABLE YEAR  
24 DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

25 (D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR  
26 EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, AN INDIVIDUAL OR  
27 CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME  
28 TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

29 (1) THE EXHAUSTION OF THE FULL AMOUNT OF THE EXCESS; OR

30 (2) THE EXPIRATION OF THE 5TH TAXABLE YEAR AFTER THE TAXABLE  
31 YEAR IN WHICH THE CREDIT IS EARNED.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the tax credit under §  
33 10-726 of the Tax - General Article as enacted by Section 1 of this Act shall be  
34 applicable to all taxable years beginning after December 31, 2005.

35 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 July 1, 2006.