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Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 20, 2006

CHAPTER _____

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"

1 Annotated Code of Maryland
2 (2003 Replacement Volume and 2005 Supplement)

3 ~~BY adding to~~
4 ~~Article Tax General~~
5 ~~Section 10-726~~
6 ~~Annotated Code of Maryland~~
7 ~~(2004 Replacement Volume and 2005 Supplement)~~

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

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

11 SUBTITLE 9. MILITARY RESERVISTS AND SERVICE-RELATED NO-INTEREST LOAN
12 PROGRAM.

13 6-901.

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

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

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

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

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

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

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

34 (3) SERVICE-DISABLED VETERANS.

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

1 (1) PROVIDING FINANCIAL SUPPORT TO:

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

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

6 (2) MAKING THE HOME, AUTOMOBILE, OR PLACE OF EMPLOYMENT OF A
7 SERVICE-DISABLED VETERAN ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES,
8 INCLUDING PURCHASING EQUIPMENT NECESSARY TO ENABLE A BUSINESS TO
9 EMPLOY A SERVICE-DISABLED VETERAN; AND

10 (3) DEFRAYING OTHER NECESSARY EXPENSES, AS DETERMINED BY THE
11 DEPARTMENT OF VETERANS AFFAIRS, INCURRED BY A SERVICE-DISABLED VETERAN
12 OR A BUSINESS EMPLOYING A SERVICE-DISABLED VETERAN AS A RESULT OF THE
13 VETERAN'S DISABILITY.

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

15 (1) THE DEPARTMENT SHALL ADMINISTER THE LOAN PROGRAM
16 AUTHORIZED UNDER THIS SECTION; AND

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

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

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

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

28 ~~1. THE INABILITY OF THE BUSINESS TO OBTAIN~~
29 ~~ACCEPTABLE CREDIT ELSEWHERE; AND~~

30 ~~2. THE EXTENT TO WHICH THE INDIVIDUAL WHO IS CALLED~~
31 ~~TO ACTIVE DUTY IS AN ESSENTIAL EMPLOYEE OF THE BUSINESS.~~

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

35 (F) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS
36 SUBTITLE.

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

4 ~~Article—Tax—General~~

5 ~~40-726.~~

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

8 (2) ~~"QUALIFIED ACTIVE DUTY" MEANS:~~

9 (I) ~~ACTIVE DUTY IN CONNECTION WITH WHICH AN EMPLOYEE IS~~
 10 ~~ENTITLED TO REEMPLOYMENT RIGHTS AND OTHER BENEFITS OR TO A LEAVE OF~~
 11 ~~ABSENCE FROM EMPLOYMENT UNDER CHAPTER 43 OF TITLE 38 OF THE UNITED~~
 12 ~~STATES CODE, OTHER THAN TRAINING DUTY SPECIFIED IN 10 U.S.C. § 10147,~~
 13 ~~RELATING TO TRAINING REQUIREMENTS FOR THE READY RESERVE, OR 32 U.S.C. §~~
 14 ~~502(A), RELATING TO REQUIRED DRILLS AND FIELD EXERCISES FOR THE NATIONAL~~
 15 ~~GUARD; AND~~

16 (II) ~~HOSPITALIZATION INCIDENT TO ACTIVE DUTY DESCRIBED IN~~
 17 ~~ITEM (I) OF THIS PARAGRAPH.~~

18 (3) ~~"QUALIFIED COMPENSATION" MEANS:~~

19 (I) ~~COMPENSATION THAT IS NORMALLY CONTINGENT ON A~~
 20 ~~QUALIFIED REPLACEMENT EMPLOYEE'S PRESENCE FOR WORK AND THAT IS~~
 21 ~~DEDUCTIBLE FROM THE EMPLOYER'S GROSS INCOME UNDER § 162(A)(1) OF THE~~
 22 ~~INTERNAL REVENUE CODE;~~

23 (II) ~~COMPENSATION THAT IS NOT CHARACTERIZED BY THE~~
 24 ~~EMPLOYER AS:~~

25 1. ~~VACATION OR HOLIDAY PAY;~~

26 2. ~~SICK LEAVE OR PAY; OR~~

27 3. ~~ANY OTHER FORM OF PAY FOR A NONSPECIFIC LEAVE OF~~
 28 ~~ABSENCE; AND~~

29 (III) ~~GROUP HEALTH PLAN COSTS, IF ANY, WITH RESPECT TO THE~~
 30 ~~QUALIFIED REPLACEMENT EMPLOYEE.~~

31 (4) ~~"QUALIFIED REPLACEMENT EMPLOYEE" MEANS AN INDIVIDUAL~~
 32 ~~WHO IS HIRED TO REPLACE A READY RESERVE NATIONAL GUARD EMPLOYEE OR A~~
 33 ~~READY RESERVE NATIONAL GUARD SELF-EMPLOYED INDIVIDUAL, BUT ONLY WITH~~
 34 ~~RESPECT TO THE PERIOD DURING WHICH THE READY RESERVE NATIONAL GUARD~~
 35 ~~EMPLOYEE OR READY RESERVE NATIONAL GUARD SELF-EMPLOYED INDIVIDUAL~~

1 PARTICIPATES IN QUALIFIED ACTIVE DUTY, INCLUDING TIME SPENT IN TRAVEL
2 STATUS.

3 (5) "READY RESERVE NATIONAL GUARD EMPLOYEE" MEANS AN
4 EMPLOYEE WHO IS A MEMBER OF THE READY RESERVE OF A RESERVE COMPONENT
5 OF AN ARMED FORCE OF THE UNITED STATES AS DESCRIBED IN 10 U.S.C. §§ 10101 AND
6 10142.

7 (6) "READY RESERVE NATIONAL GUARD SELF EMPLOYED INDIVIDUAL"
8 MEANS AN INDIVIDUAL WHO:

9 (I) HAS NET EARNINGS FROM SELF EMPLOYMENT, AS DEFINED IN
10 § 1402(A) OF THE INTERNAL REVENUE CODE, FOR THE TAXABLE YEAR IN WHICH THE
11 INDIVIDUAL IS CALLED TO ACTIVE DUTY; AND

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

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

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

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

25 (1) 50% OF THE QUALIFIED COMPENSATION OF THE EMPLOYEE DURING
26 THE TAXABLE YEAR THAT IS ATTRIBUTABLE TO SERVICE RENDERED AS A QUALIFIED
27 REPLACEMENT EMPLOYEE; OR

28 (2) \$6,000.

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

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

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

36 (D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR
37 EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, AN INDIVIDUAL OR

~~1 CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME
2 TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:~~

~~3 (1) THE EXHAUSTION OF THE FULL AMOUNT OF THE EXCESS; OR~~

~~4 (2) THE EXPIRATION OF THE 5TH TAXABLE YEAR AFTER THE TAXABLE
5 YEAR IN WHICH THE CREDIT IS EARNED.~~

~~6 SECTION 2. AND BE IT FURTHER ENACTED, That the tax credit under §
7 40-726 of the Tax General Article as enacted by Section 1 of this Act shall be
8 applicable to all taxable years beginning after December 31, 2005.~~

9 SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
10 effect July 1, 2006.