

# HOUSE BILL 34

Q7, Q3

8lr4598

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By: **Delegates Olszewski and Lafferty**  
Introduced and read first time: October 29, 2007  
Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland–Mined Coal Credit – Repeal**

3 FOR the purpose of repealing certain tax credits allowed for the purchase of  
4 Maryland–mined coal; providing for the effective date and application of this  
5 Act; and generally relating to the repeal of the Maryland–mined coal credit.

6 BY repealing and reenacting, with amendments,  
7 Article – Tax – General  
8 Section 8–406  
9 Annotated Code of Maryland  
10 (2004 Replacement Volume and 2007 Supplement)

11 BY repealing  
12 Article – Tax – General  
13 Section 10–704.1  
14 Annotated Code of Maryland  
15 (2004 Replacement Volume and 2007 Supplement)

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

18 **Article – Tax – General**

19 8–406.

20 (a) A public service company may claim a credit against the public service  
21 company franchise tax equal to the estimated tax paid under § 8–405(b) of this  
22 subtitle.

23 [(b) (1) (i) Subject to the limitations of this subsection, a public service  
24 company, including any multijurisdictional public service company, may claim a credit

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 against the public service company franchise tax in the amount of \$3 for each ton of  
2 Maryland–mined coal that the public service company purchased in the calendar year.

3 (ii) The credit under this subsection may not be claimed for  
4 Maryland–mined coal purchased in a calendar year beginning after December 31,  
5 2020.

6 (2) (i) This paragraph applies only to credits claimed under this  
7 subsection for calendar years beginning on or after January 1, 2007.

8 (ii) The amount claimed as a credit under this subsection may  
9 not exceed the amount approved by the Department under this paragraph.

10 (iii) By January 15 of the calendar year following the end of the  
11 calendar year in which the Maryland–mined coal was purchased, a public service  
12 company, or a cogenerator or electricity supplier as defined in § 10–704.1 of this  
13 article, shall submit an application to the Department for approval of the credit  
14 allowed under this paragraph.

15 (iv) Subject to subparagraph (vi) of this paragraph, the total  
16 amount of credits approved by the Department under this paragraph for any calendar  
17 year may not exceed:

18 1. \$9,000,000 for a calendar year beginning after  
19 December 31, 2006, but before January 1, 2011;

20 2. \$6,000,000 for a calendar year beginning after  
21 December 31, 2010, but before January 1, 2015; or

22 3. \$3,000,000 for a calendar year beginning after  
23 December 31, 2014, but before January 1, 2021.

24 (v) Subject to subparagraph (vi) of this paragraph, if the total  
25 amount of credits applied for in any calendar year under this paragraph exceeds the  
26 maximum specified under subparagraph (iv) of this paragraph, the Department shall  
27 approve a credit under this paragraph for each applicant in an amount equal to the  
28 product of multiplying the credit applied for by the applicant times a fraction:

29 1. the numerator of which is the maximum specified  
30 under subparagraph (iv) of this paragraph; and

31 2. the denominator of which is the total of all credits  
32 applied for by all applicants under this paragraph for the calendar year.

33 (vi) 1. Of the total credits approved for any calendar year  
34 beginning after December 31, 2006, but before January 1, 2021, the Department shall  
35 reserve \$2,250,000 of the credits for purchases of Maryland–mined coal that will be  
36 used by a facility in Maryland.

1                   2.     If the total amount of credits applied for by all  
2 applicants for any calendar year for the purchase of Maryland–mined coal that will be  
3 used in Maryland exceeds \$2,250,000, the Department shall approve a credit under  
4 this paragraph for each applicant in an amount equal to the product of multiplying the  
5 credit applied for by the applicant times a fraction:

6                   A.     the numerator of which is \$2,250,000; and

7                   B.     the denominator of which is the total of all credits  
8 applied for by all applicants under this paragraph for the calendar year for the  
9 purchase of Maryland–mined coal that will be used in Maryland.

10                   (vii)   On or before February 15 of the calendar year following the  
11 end of the calendar year in which the Maryland–mined coal was purchased, the  
12 Department shall certify to each applicant claiming a credit the amount of the tax  
13 credits approved by the Department for that applicant under this paragraph.]

14                   [(c)](B)     (1)     To prevent actual multiple taxation of the sale of interstate  
15 long distance telecommunications service, a long distance telecommunications  
16 company, upon proof that it has paid a properly due excise, sales and use, or gross  
17 receipts tax in another state on a sale the gross receipts from which are subject to  
18 taxation under this subtitle, shall be allowed a credit against the public service  
19 company franchise tax for the amount paid.

20                   (2)     The credit permitted under this subsection may not exceed the tax  
21 imposed under this subtitle.

22                   [10–704.1.

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

24                   (2)     “Cogenerator” means a qualifying cogenerator or qualifying small  
25 power producer as determined by the Federal Energy Regulatory Commission under  
26 the Public Utility Regulatory Policies Act of 1978.

27                   (3)     “Electricity supplier” has the meaning stated in § 1–101 of the  
28 Public Utility Companies Article.

29                   (b)     This section does not apply to:

30                   (1)     a cogenerator or electricity supplier that is subject to the public  
31 service company franchise tax; or

32                   (2)     an electricity supplier that, before July 1, 1999, was not an electric  
33 company as defined in § 1–101 of the Public Utility Companies Article as in effect on

1 June 30, 1999, unless the electricity supplier is an affiliate of such an electric  
2 company.

3 (c) Subject to the limitations in § 8–406(b)(2) of this article, a cogenerator or  
4 electricity supplier may claim a credit against the State income tax in the amount of  
5 \$3 for each ton of Maryland–mined coal that the cogenerator or electricity supplier  
6 purchased in the taxable year.

7 (d) (1) A cogenerator or electricity supplier may only apply the credit  
8 against the State income tax for the taxable year in which the credit was earned.

9 (2) The amount of the credit may not exceed the State income tax for  
10 that taxable year.

11 (3) The total amount of credits approved under this section shall be  
12 subject to the limitations in § 8–406(b)(2)(iv), (v), and (vi) of this article.

13 (e) A cogenerator or electricity supplier shall submit an application in  
14 accordance with § 8–406(b)(2)(iii) of this article in order to claim the credit available  
15 under this section.]

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 January 1, 2008, and shall be applicable to all taxable years beginning after December  
18 31, 2007.