

HOUSE BILL 1399

C8

9lr0069

By: **Chair, Ways and Means Committee (By Request – Departmental – Housing and Community Development)**

Introduced and read first time: February 25, 2009

Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means, March 2, 2009

Committee Report: Favorable

House action: Adopted

Read second time: March 24, 2009

CHAPTER _____

1 AN ACT concerning

2 **Department of Housing and Community Development – Neighborhood and**
3 **Community Assistance Program – Individual Donor Eligibility – Tax Credit**

4 FOR the purpose of altering a certain community investment tax credit program to
5 allow an individual to apply for the credit under certain circumstances;
6 providing for the application of this Act; defining a certain term; and generally
7 relating to tax credits allowed for contributions to an approved project under the
8 Neighborhood and Community Assistance Program of the Department of
9 Housing and Community Development.

10 BY repealing and reenacting, with amendments,
11 Article – Housing and Community Development
12 Section 6–401, 6–403, and 6–404
13 Annotated Code of Maryland
14 (2006 Volume and 2008 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Tax – General
17 Section 10–101(a), (f), and (g)
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2008 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Housing and Community Development**

2 6–401.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) “Approved project” means a project that the Department approves under
5 § 6–405 of this subtitle.

6 (c) “Business entity” means a person that conducts a trade or business in the
7 State and is subject to:

8 (1) the State income tax on individuals or corporations;

9 (2) the public service company franchise tax; or

10 (3) the insurance premiums tax.

11 **(D) “INDIVIDUAL” MEANS AN INDIVIDUAL AS DEFINED UNDER §**
12 **10–101 OF THE TAX – GENERAL ARTICLE.**

13 [(d)] **(E)** “Nonprofit organization” means a not for profit corporation,
14 foundation, or other legal entity that is exempt from federal income tax under §
15 501(c)(3) of the Internal Revenue Code.

16 [(e)] **(F)** “Priority funding area” means a priority funding area under §
17 5–7B–02 of the State Finance and Procurement Article.

18 [(f)] **(G)** “Redevelopment assistance” means the money that nonprofit
19 organizations spend for labor and materials used directly in the physical improvement
20 of part or all of a priority funding area.

21 6–403.

22 The purposes of the Neighborhood and Community Assistance Program are to:

23 (1) help nonprofit organizations to carry out approved projects in
24 priority funding areas;

25 (2) encourage business entities **AND INDIVIDUALS** to invest in
26 priority funding areas; and

27 (3) strengthen partnerships between public and private entities.

28 6–404.

1 (a) (1) For a contribution worth \$500 or more in goods, money, or real
2 property to an approved project, a business entity **OR AN INDIVIDUAL** is entitled to a
3 tax credit in the amount determined under subsection (b) of this section.

4 (2) No part of a tax credit under this section may be taken more than
5 once.

6 (b) (1) Except as provided in paragraph (2) of this subsection, the credit
7 allowed to a business entity **OR AN INDIVIDUAL** under this section equals 50% of the
8 amount of contributions:

9 (i) that the Department approves under subsection (c) of this
10 section; and

11 (ii) that were made during the taxable year for which the credit
12 is claimed.

13 (2) The credit allowed under this section for any taxable year may not
14 exceed the lesser of:

15 (i) \$250,000; and

16 (ii) the total amount of tax otherwise payable by the business
17 entity **OR INDIVIDUAL** for the taxable year.

18 (3) Any excess credit that would be allowed but for the limits of
19 paragraph (2) of this subsection may be carried over and applied as a credit for up to 5
20 taxable years after the taxable year in which the contribution was made, until the full
21 amount of the excess is used.

22 (c) (1) To qualify for a credit for a contribution under this section, before
23 making a contribution, a business entity **OR AN INDIVIDUAL** shall apply for and
24 receive approval of the contribution from the Department.

25 (2) Each application for approval of a contribution shall contain:

26 (i) the name of the approved project to which the contribution
27 will be made;

28 (ii) the amount of the contribution; and

29 (iii) a certification by an independent and unrelated third party
30 as to the value of any nonmonetary contribution included or, for new goods, an invoice
31 or receipt certifying the contribution's net cost to the business entity **OR INDIVIDUAL**.

32 (3) The Department may not approve an application if it determines
33 that:

1 (i) the maximum amount of contributions eligible for a tax
2 credit for the project for the fiscal year will be exceeded by the sum of:

- 3 1. the amount of the proposed contribution; and
4 2. the total amount of contributions previously approved
5 for that project for the fiscal year; or

6 (ii) the applicant has overstated the value of a nonmonetary
7 contribution.

8 (4) On or before January 31 of each year, the Department shall report
9 to the Department of Assessments and Taxation, the Comptroller, and the Maryland
10 Insurance Administration the contributions that the Department has approved under
11 this section in the preceding calendar year.

12 **Article – Tax – General**

13 10–101.

14 (a) In this title the following words have the meanings indicated.

15 (f) (1) “Fiduciary” means a person holding the legal title to property for
16 the use and benefit of another person.

17 (2) “Fiduciary” does not include:

18 (i) an agent holding custody or possession of property that the
19 principal of the agent owns; or

20 (ii) a guardian, as defined in § 13–101 of the Estates and Trusts
21 Article.

22 (g) “Individual” means, unless expressly provided otherwise, a natural
23 person or a fiduciary.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2009, and shall be applicable to all taxable years beginning after December 31,
26 2009.