

SENATE BILL 258

Q7

9lr0204
CF 9lr0205

By: **The President (By Request – Administration)**

Introduced and read first time: January 23, 2009

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Heritage Structure Rehabilitation Tax Credit Program**

3 FOR the purpose of reestablishing and altering the Maryland Heritage Structure
4 Rehabilitation Tax Credit Program to provide tax credits for rehabilitation of
5 historic properties and other properties contributing to a historic district or a
6 certified heritage area; requiring the Director of the Maryland Historical Trust
7 in the Maryland Department of Planning to adopt certain regulations; providing
8 limits on the amount of tax credits for certain purposes; providing for an
9 additional credit if a certain rehabilitation meets a certain high performance
10 building standard; providing for the issuance of credit certificates for certain
11 rehabilitations, subject to certain requirements and limitations; providing
12 certain limits on the amount of the credit that may be claimed for certain
13 rehabilitations; authorizing the Director to charge a certain fee for certain
14 purposes; prohibiting the Director from issuing credit certificates that exceed a
15 certain amount and after a certain date; establishing the Maryland Department
16 of Planning Tax Credit Administration Fund; providing for amended tax
17 returns under certain circumstances; authorizing the allocation of the credit;
18 providing for certain determinations by the Comptroller; providing for certain
19 reporting requirements; providing for the recapture of the credit if certain work
20 is performed; providing for the termination of the Program; requiring certain
21 funds in the Heritage Structure Rehabilitation Tax Credit Reserve Fund to
22 revert to the General Fund on a certain date; providing for the application of
23 certain provisions of this Act; providing for the retroactive application of a
24 certain provision of this Act; authorizing the Comptroller to make certain
25 determinations and adopt certain regulations; defining certain terms; and
26 generally relating to the Maryland Heritage Structure Rehabilitation Tax
27 Credit Program.

28 BY adding to

29 Article – State Finance and Procurement

30 Section 5A–362 through 5A–370 to be under the new part “Part VI. Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Heritage Structure Rehabilitation Tax Credit Program”
2 Annotated Code of Maryland
3 (2006 Replacement Volume and 2008 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Tax – General
6 Section 10–704.5
7 Annotated Code of Maryland
8 (2004 Replacement Volume and 2008 Supplement)

9 BY repealing and reenacting, with amendments, and transferring to the Session Laws
10 Article – State Finance and Procurement
11 Section 5A–303
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2008 Supplement)

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

16 **Article – State Finance and Procurement**

17 **5A–360. RESERVED.**

18 **5A–361. RESERVED.**

19 **PART VI. MARYLAND HERITAGE STRUCTURE REHABILITATION TAX CREDIT**
20 **PROGRAM.**

21 **5A–362.**

22 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (B) “BUSINESS ENTITY” MEANS:

25 (1) A PERSON CONDUCTING OR OPERATING A TRADE OR
26 BUSINESS IN THE STATE; OR

27 (2) AN ORGANIZATION OPERATING IN MARYLAND THAT IS
28 EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE
29 CODE.

30 (C) “CERTIFIED HERITAGE AREA” HAS THE MEANING STATED IN §
31 13–1101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

1 (D) (1) **“CERTIFIED HERITAGE STRUCTURE” MEANS A STRUCTURE**
2 **THAT IS LOCATED IN THE STATE AND IS:**

3 (I) **LISTED IN THE NATIONAL REGISTER OF HISTORIC**
4 **PLACES;**

5 (II) **DESIGNATED AS A HISTORIC PROPERTY UNDER LOCAL**
6 **LAW AND DETERMINED BY THE DIRECTOR TO BE ELIGIBLE FOR LISTING ON THE**
7 **NATIONAL REGISTER OF HISTORIC PLACES;**

8 (III) **1. LOCATED IN A HISTORIC DISTRICT LISTED ON THE**
9 **NATIONAL REGISTER OF HISTORIC PLACES OR IN A LOCAL HISTORIC DISTRICT**
10 **THAT THE DIRECTOR DETERMINES IS ELIGIBLE FOR LISTING ON THE NATIONAL**
11 **REGISTER OF HISTORIC PLACES; AND**

12 **2. CERTIFIED BY THE DIRECTOR AS CONTRIBUTING**
13 **TO THE SIGNIFICANCE OF THE DISTRICT; OR**

14 (IV) **LOCATED IN A CERTIFIED HERITAGE AREA AND**
15 **CERTIFIED BY THE MARYLAND HERITAGE AREAS AUTHORITY AS**
16 **CONTRIBUTING TO THE SIGNIFICANCE OF THE CERTIFIED HERITAGE AREA.**

17 (2) **“CERTIFIED HERITAGE STRUCTURE” DOES NOT INCLUDE A**
18 **STRUCTURE THAT IS OWNED BY THE STATE, A POLITICAL SUBDIVISION OF THE**
19 **STATE, OR THE FEDERAL GOVERNMENT.**

20 (E) **“CERTIFIED REHABILITATION” MEANS A COMPLETED**
21 **REHABILITATION OF A CERTIFIED HERITAGE STRUCTURE THAT THE DIRECTOR**
22 **CERTIFIES IS A SUBSTANTIAL REHABILITATION IN CONFORMANCE WITH THE**
23 **REHABILITATION STANDARDS OF THE UNITED STATES SECRETARY OF THE**
24 **INTERIOR.**

25 (F) **“COMMERCIAL REHABILITATION” MEANS A REHABILITATION OF A**
26 **STRUCTURE OTHER THAN A SINGLE-FAMILY, OWNER-OCCUPIED RESIDENCE.**

27 (G) **“HIGH-PERFORMANCE BUILDING” MEANS A BUILDING THAT:**

28 (1) **MEETS OR EXCEEDS THE CURRENT VERSION OF THE U.S.**
29 **GREEN BUILDING COUNCIL’S LEED (LEADERSHIP IN ENERGY AND**
30 **ENVIRONMENTAL DESIGN) GREEN BUILDING RATING SYSTEM GOLD RATING; OR**

31 (2) **ACHIEVES AT LEAST A COMPARABLE NUMERIC RATING**
32 **ACCORDING TO A NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE**
33 **NUMERIC SUSTAINABLE DEVELOPMENT RATING SYSTEM, GUIDELINE, OR**

1 STANDARD APPROVED BY THE SECRETARY OF BUDGET AND MANAGEMENT AND
2 THE SECRETARY OF GENERAL SERVICES UNDER § 3-602.1 OF THIS ARTICLE.

3 (H) "INITIAL CREDIT CERTIFICATE" MEANS A CERTIFICATE THAT
4 AUTHORIZES A BUSINESS ENTITY TO CLAIM A TAX CREDIT UNDER THE
5 PROVISIONS OF THIS PART.

6 (I) "LOCAL HISTORIC DISTRICT" MEANS A DISTRICT THAT THE
7 GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION, OR THE MAYOR
8 AND CITY COUNCIL OF BALTIMORE, HAS DESIGNATED UNDER LOCAL LAW AS
9 HISTORIC.

10 (J) "NATIONAL REGISTER STRUCTURE" MEANS A STRUCTURE THAT IS:

11 (1) LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES;
12 OR

13 (2) LOCATED IN A HISTORIC DISTRICT LISTED ON THE NATIONAL
14 REGISTER OF HISTORIC PLACES AND CERTIFIED BY THE DIRECTOR AS
15 CONTRIBUTING TO THE SIGNIFICANCE OF THE DISTRICT.

16 (K) "PROGRAM" MEANS THE HERITAGE STRUCTURE REHABILITATION
17 TAX CREDIT PROGRAM ESTABLISHED UNDER THIS PART.

18 (L) "QUALIFIED REHABILITATION EXPENDITURE" MEANS ANY AMOUNT
19 THAT:

20 (1) IS PROPERLY CHARGEABLE TO A CAPITAL ACCOUNT;

21 (2) IS EXPENDED IN THE REHABILITATION OF A STRUCTURE THAT
22 BY THE END OF THE CALENDAR YEAR IN WHICH THE CERTIFIED
23 REHABILITATION IS COMPLETED IS A CERTIFIED HERITAGE STRUCTURE;

24 (3) IS EXPENDED IN COMPLIANCE WITH A PLAN OF PROPOSED
25 REHABILITATION THAT HAS BEEN APPROVED BY THE DIRECTOR; AND

26 (4) IS NOT FUNDED, FINANCED, OR OTHERWISE REIMBURSED BY
27 ANY:

28 (I) STATE OR LOCAL GRANT;

29 (II) GRANT MADE FROM THE PROCEEDS OF TAX-EXEMPT
30 BONDS ISSUED BY THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN

1 INSTRUMENTALITY OF THE STATE OR OF A POLITICAL SUBDIVISION OF THE
2 STATE;

3 (III) STATE TAX CREDIT OTHER THAN THE TAX CREDIT
4 UNDER THIS PART; OR

5 (IV) OTHER FINANCIAL ASSISTANCE FROM THE STATE OR A
6 POLITICAL SUBDIVISION OF THE STATE, OTHER THAN A LOAN THAT MUST BE
7 REPAID AT AN INTEREST RATE THAT IS GREATER THAN THE INTEREST RATE ON
8 GENERAL OBLIGATION BONDS ISSUED BY THE STATE AT THE MOST RECENT
9 BOND SALE PRIOR TO THE TIME THE LOAN IS MADE.

10 (M) (1) "SINGLE-FAMILY, OWNER-OCCUPIED RESIDENCE" MEANS A
11 STRUCTURE OCCUPIED BY THE OWNER AND THE OWNER'S IMMEDIATE FAMILY
12 AS THEIR PRIMARY OR SECONDARY RESIDENCE.

13 (2) "SINGLE-FAMILY, OWNER-OCCUPIED RESIDENCE" INCLUDES
14 A RESIDENTIAL UNIT IN A COOPERATIVE PROJECT OWNED BY OR LEASED TO A
15 COOPERATIVE HOUSING CORPORATION, AS DEFINED IN § 5-6B-01 OF THE
16 CORPORATIONS AND ASSOCIATIONS ARTICLE, AND LEASED FOR EXCLUSIVE
17 OCCUPANCY TO, AND OCCUPIED BY, A MEMBER OF THE CORPORATION AND THE
18 MEMBER'S IMMEDIATE FAMILY UNDER A PROPRIETARY LEASE.

19 (N) "SUBSTANTIAL REHABILITATION" MEANS REHABILITATION OF A
20 STRUCTURE FOR WHICH THE QUALIFIED REHABILITATION EXPENDITURES,
21 DURING THE 24-MONTH PERIOD SELECTED BY THE INDIVIDUAL OR BUSINESS
22 ENTITY ENDING WITH OR WITHIN THE TAXABLE YEAR, EXCEED:

23 (1) FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY, \$5,000; OR

24 (2) FOR ALL OTHER PROPERTY, THE GREATER OF:

25 (I) THE ADJUSTED BASIS OF THE STRUCTURE; OR

26 (II) \$5,000.

27 **5A-363.**

28 (A) THE DIRECTOR SHALL ADOPT REGULATIONS TO:

29 (1) ESTABLISH PROCEDURES AND STANDARDS FOR CERTIFYING
30 HERITAGE STRUCTURES AND REHABILITATIONS UNDER THIS PART;

1 (2) FOR COMMERCIAL REHABILITATIONS, ESTABLISH AN
2 APPLICATION PROCESS FOR THE AWARD OF INITIAL CREDIT CERTIFICATES FOR
3 MARYLAND HERITAGE STRUCTURE REHABILITATION TAX CREDITS
4 CONSISTENT WITH THE REQUIREMENTS OF THIS PART;

5 (3) FOR ALL REHABILITATIONS, ESTABLISH CRITERIA,
6 CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION, FOR EVALUATING
7 PLANS OF PROPOSED REHABILITATION THAT HAVE BEEN DETERMINED BY THE
8 DIRECTOR TO CONFORM WITH THE REHABILITATION STANDARDS OF THE
9 UNITED STATES SECRETARY OF THE INTERIOR;

10 (4) FOR COMMERCIAL REHABILITATIONS, DETERMINE WHETHER
11 THE CERTIFIED REHABILITATION IS A HIGH-PERFORMANCE BUILDING;

12 (5) FOR COMMERCIAL REHABILITATIONS, ESTABLISH A
13 REQUIRED EXTERNAL MARKER FOR THE REHABILITATION PROJECTS THAT
14 IDENTIFIES THAT THE REHABILITATION WAS FUNDED BY MARYLAND HERITAGE
15 STRUCTURE REHABILITATION TAX CREDITS; AND

16 (6) AS PROVIDED IN SUBSECTION (B)(1) AND (2) OF THIS
17 SECTION, CHARGE A REASONABLE FEE TO CERTIFY HERITAGE STRUCTURES
18 AND REHABILITATIONS UNDER THIS PART.

19 (B) (1) THE DIRECTOR SHALL SET THE LEVEL OF THE FEE UNDER
20 SUBSECTION (A)(6) OF THIS SECTION SO THAT THE PROJECTED PROCEEDS
21 FROM THE FEE WILL COVER THE COSTS TO THE TRUST OF ADMINISTERING THE
22 CREDIT UNDER THIS SECTION AND THE FEDERAL HISTORIC TAX CREDIT.

23 (2) THE FEE CHARGED MAY NOT EXCEED 1% OF THE AMOUNT OF
24 THE INITIAL CREDIT CERTIFICATE ISSUED FOR A COMMERCIAL
25 REHABILITATION PROJECT OR THE AMOUNT OF THE CREDIT FOR WHICH A
26 SINGLE-FAMILY, OWNER-OCCUPIED REHABILITATION WOULD BE ELIGIBLE
27 BASED ON THE GREATER OF THE ESTIMATED OR FINAL QUALIFIED
28 REHABILITATION EXPENDITURES FOR THE REHABILITATION.

29 (3) IF THE FEE FOR A COMMERCIAL REHABILITATION IS NOT
30 RECEIVED BY THE TRUST WITHIN 120 DAYS AFTER THE TRUST SENDS NOTICE
31 THAT THE FEE IS DUE, THE RESERVATION OF AN AWARD FOR AN INITIAL CREDIT
32 CERTIFICATE FOR THE REHABILITATION SHALL EXPIRE.

33 **5A-364.**

1 (A) (1) THE DIRECTOR MAY ACCEPT AN APPLICATION FOR
2 APPROVAL OF PLANS OF A PROPOSED REHABILITATION ON A
3 FIRST-COME, FIRST-SERVED BASIS.

4 (2) THE DIRECTOR MAY NOT ACCEPT AN APPLICATION FOR
5 APPROVAL OF PLANS OF A PROPOSED REHABILITATION IF:

6 (I) AN INDIVIDUAL OR A BUSINESS ENTITY HAS OBTAINED
7 RIGHTS IN ALL REQUIRED GOVERNMENT APPROVALS FOR CONSTRUCTION;

8 (II) ACTUAL SUBSTANTIVE CONSTRUCTION HAS STARTED;
9 OR

10 (III) THE APPLICANT FOR A COMMERCIAL REHABILITATION
11 HAS PREVIOUSLY SUBMITTED THREE OR MORE APPLICATIONS FOR
12 COMMERCIAL REHABILITATIONS WITH TOTAL PROPOSED REHABILITATIONS
13 EXCEEDING \$500,000 IN THAT YEAR.

14 (3) FOR A COMMERCIAL REHABILITATION, THE DIRECTOR MAY
15 MAKE AN AWARD OF AN INITIAL CREDIT CERTIFICATE CONSISTENT WITH THE
16 REQUIREMENTS OF THIS PART.

17 (B) THE DIRECTOR MAY NOT CERTIFY A COMPLETED REHABILITATION
18 FOR THE CERTIFIED REHABILITATION UNDER THIS PART UNLESS THE
19 INDIVIDUAL OR BUSINESS ENTITY SEEKING CERTIFICATION STATES UNDER
20 OATH THE AMOUNT OF THE INDIVIDUAL'S OR BUSINESS ENTITY'S QUALIFIED
21 REHABILITATION EXPENDITURES.

22 (C) BETWEEN JULY 1, 2009, AND JUNE 30, 2012, NOT MORE THAN 75%
23 OF THE TOTAL CREDIT AMOUNTS UNDER INITIAL CREDIT CERTIFICATES
24 AUTHORIZED UNDER THIS SECTION MAY BE AWARDED FOR PROJECTS IN A
25 SINGLE COUNTY OR BALTIMORE CITY.

26 (D) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FOR THE
27 TAXABLE YEAR IN WHICH A CERTIFIED REHABILITATION IS COMPLETED, AN
28 INDIVIDUAL OR BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN AN AMOUNT
29 EQUAL TO:

30 (I) 20% OF THE INDIVIDUAL'S OR BUSINESS ENTITY'S
31 QUALIFIED REHABILITATION EXPENDITURES FOR A SINGLE-FAMILY,
32 OWNER-OCCUPIED RESIDENTIAL REHABILITATION; OR

1 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
2 SUBSECTION, 20% OF THE BUSINESS ENTITY'S QUALIFIED REHABILITATION
3 EXPENDITURES FOR A COMMERCIAL REHABILITATION.

4 (2) FOR THE TAXABLE YEAR IN WHICH A CERTIFIED COMMERCIAL
5 REHABILITATION IS COMPLETED, A BUSINESS ENTITY MAY CLAIM A TAX CREDIT
6 IN AN AMOUNT EQUAL TO 25% OF THE BUSINESS ENTITY'S QUALIFIED
7 REHABILITATION EXPENDITURES IF THE CERTIFIED REHABILITATION IS A
8 HIGH-PERFORMANCE BUILDING.

9 (3) (I) FOR ANY COMMERCIAL REHABILITATION, THE STATE
10 TAX CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE LESSER OF:

11 1. \$3,000,000; OR

12 2. THE MAXIMUM AMOUNT SPECIFIED UNDER THE
13 INITIAL CREDIT CERTIFICATE ISSUED FOR THE REHABILITATION.

14 (II) FOR A REHABILITATION OTHER THAN A COMMERCIAL
15 REHABILITATION, THE STATE TAX CREDIT ALLOWED UNDER THIS SECTION MAY
16 NOT EXCEED \$50,000.

17 (III) FOR THE PURPOSES OF THE LIMITATION UNDER
18 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE FOLLOWING SHALL BE TREATED
19 AS A SINGLE COMMERCIAL REHABILITATION:

20 1. THE PHASED REHABILITATION OF THE SAME
21 STRUCTURE OR PROPERTY;

22 2. THE SEPARATE REHABILITATION OF DIFFERENT
23 COMPONENTS OF THE SAME STRUCTURE OR PROPERTY; OR

24 3. THE REHABILITATION OF MULTIPLE STRUCTURES
25 THAT ARE FUNCTIONALLY RELATED TO SERVE AN OVERALL PURPOSE.

26 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
27 THE INITIAL CREDIT CERTIFICATE FOR A PROPOSED COMMERCIAL
28 REHABILITATION SHALL EXPIRE AND THE CREDIT UNDER THIS SECTION MAY
29 NOT BE CLAIMED IF:

30 1. WITHIN 18 MONTHS AFTER THE INITIAL CREDIT
31 CERTIFICATE WAS ISSUED, THE APPLICANT HAS NOT NOTIFIED THE TRUST, IN
32 WRITING, THAT THE COMMERCIAL REHABILITATION HAS BEGUN; OR

1 **2. WITHIN 30 MONTHS AFTER THE INITIAL CREDIT**
2 **CERTIFICATE WAS ISSUED, THE COMMERCIAL REHABILITATION IS NOT**
3 **COMPLETED.**

4 **(II) FOR REASONABLE CAUSE, THE DIRECTOR MAY**
5 **POSTPONE THE 30-MONTH EXPIRATION DATE FOR AN INITIAL CREDIT**
6 **CERTIFICATE FOR A COMMERCIAL REHABILITATION.**

7 **(5) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY**
8 **TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE**
9 **BUSINESS ENTITY OR THE INDIVIDUAL FOR THAT TAXABLE YEAR, THE**
10 **INDIVIDUAL OR BUSINESS ENTITY MAY:**

11 **(I) APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING**
12 **TAXABLE YEARS UNTIL THE EARLIER OF:**

- 13 **1. THE FULL AMOUNT OF THE CREDIT IS USED; OR**
- 14 **2. THE EXPIRATION OF THE TENTH TAXABLE YEAR**
15 **AFTER THE TAXABLE YEAR IN WHICH THE REHABILITATION IS COMPLETED; OR**

16 **(II) CLAIM A REFUND IN THE AMOUNT OF THE EXCESS IF:**

17 **1. THE REHABILITATION IS A SINGLE-FAMILY,**
18 **OWNER-OCCUPIED RESIDENCE;**

19 **2. THE REHABILITATION IS A COMMERCIAL**
20 **REHABILITATION AND THE QUALIFIED REHABILITATION EXPENDITURES DO NOT**
21 **EXCEED \$250,000; OR**

22 **3. THE BUSINESS ENTITY IS A NONPROFIT**
23 **CORPORATION AND THE QUALIFIED REHABILITATION EXPENDITURES DO NOT**
24 **EXCEED \$250,000.**

25 **(E) THE STATE CREDIT ALLOWED UNDER THIS SECTION MAY BE**
26 **ALLOCATED AMONG THE PARTNERS, MEMBERS, OR SHAREHOLDERS OF AN**
27 **ENTITY IN ANY MANNER AGREED TO BY THOSE PERSONS IN WRITING.**

28 **(F) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS**
29 **SUBSECTION, THE DIRECTOR MAY NOT ISSUE INITIAL CREDIT CERTIFICATES**
30 **AFTER JULY 1, 2009, THAT IN THE AGGREGATE EXCEED \$100,000,000.**

31 **(2) THE AMOUNT OF RESERVATIONS FOR INITIAL CREDIT**
32 **CERTIFICATE AWARDS AND ISSUED INITIAL CREDIT CERTIFICATES WHICH**

1 EXPIRE PRIOR TO JULY 1, 2014, UNDER THE PROVISIONS OF § 5A-363(B)(3) OF
2 THIS PART OR SUBSECTION (D)(4) OF THIS SECTION MAY NOT BE INCLUDED IN
3 THE AGGREGATE AMOUNT OF INITIAL CREDIT CERTIFICATES ISSUED.

4 (3) THE DIRECTOR MAY NOT ISSUE AN INITIAL CREDIT
5 CERTIFICATE AFTER JUNE 30, 2014.

6 **5A-365.**

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

9 (2) (I) "DISPOSITION" OR "DISPOSE" MEANS A TRANSFER OF
10 LEGAL TITLE OR, IN THE CASE OF A LEASEHOLD, THE LEASEHOLD INTEREST.

11 (II) "DISPOSITION" OR "DISPOSE" INCLUDES A SALE IN A
12 SALE-AND-LEASEBACK TRANSACTION, A TRANSFER ON THE FORECLOSURE OF A
13 SECURITY INTEREST, OR A GIFT.

14 (III) "DISPOSITION" OR "DISPOSE" DOES NOT INCLUDE A
15 TRANSFER OF TITLE OR THE LEASEHOLD INTEREST TO A CREDITOR ON
16 CREATION OF A SECURITY INTEREST.

17 (3) "DISQUALIFYING WORK" MEANS WORK THAT:

18 (I) IS PERFORMED ON A CERTIFIED HERITAGE STRUCTURE
19 FOR WHICH A REHABILITATION HAS BEEN CERTIFIED UNDER THIS PART; AND

20 (II) IF PERFORMED AS PART OF THE REHABILITATION
21 CERTIFIED UNDER THIS PART, WOULD HAVE MADE THE REHABILITATION
22 INELIGIBLE FOR CERTIFICATION.

23 (B) THE CREDIT ALLOWED UNDER THIS PART SHALL BE RECAPTURED
24 AS PROVIDED IN SUBSECTION (C) OF THIS SECTION IF, DURING THE TAXABLE
25 YEAR IN WHICH A CERTIFIED REHABILITATION IS COMPLETED OR ANY OF THE 4
26 TAXABLE YEARS SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED
27 REHABILITATION IS COMPLETED:

28 (1) ANY DISQUALIFYING WORK IS PERFORMED ON THE CERTIFIED
29 HERITAGE STRUCTURE FOR WHICH THE CERTIFIED REHABILITATION HAS BEEN
30 COMPLETED; OR

31 (2) FOR A COMMERCIAL REHABILITATION, THE CERTIFIED
32 REHABILITATION IS COMPLETE AND HAS BEEN DISPOSED OF.

1 (c) (1) (i) IF DISPOSITION OCCURS OR DISQUALIFYING WORK IS
2 PERFORMED DURING THE TAXABLE YEAR IN WHICH THE CERTIFIED
3 REHABILITATION WAS COMPLETED, 100% OF THE CREDIT SHALL BE
4 RECAPTURED.

5 (ii) IF DISPOSITION OCCURS OR DISQUALIFYING WORK IS
6 PERFORMED DURING THE FIRST FULL YEAR SUCCEEDING THE TAXABLE YEAR IN
7 WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 80% OF THE CREDIT
8 SHALL BE RECAPTURED.

9 (iii) IF DISPOSITION OCCURS OR DISQUALIFYING WORK IS
10 PERFORMED DURING THE SECOND FULL YEAR SUCCEEDING THE TAXABLE YEAR
11 IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 60% OF THE
12 CREDIT SHALL BE RECAPTURED.

13 (iv) IF DISPOSITION OCCURS OR DISQUALIFYING WORK IS
14 PERFORMED DURING THE THIRD FULL YEAR SUCCEEDING THE TAXABLE YEAR
15 IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 40% OF THE
16 CREDIT SHALL BE RECAPTURED.

17 (v) IF DISPOSITION OCCURS OR DISQUALIFYING WORK IS
18 PERFORMED DURING THE FOURTH FULL YEAR SUCCEEDING THE TAXABLE YEAR
19 IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 20% OF THE
20 CREDIT SHALL BE RECAPTURED.

21 (2) THE INDIVIDUAL OR BUSINESS ENTITY THAT CLAIMED THE
22 TAX CREDIT SHALL PAY THE AMOUNT TO BE RECAPTURED, AS DETERMINED
23 UNDER PARAGRAPH (1) OF THIS SUBSECTION, AS TAXES PAYABLE TO THE
24 STATE FOR THE TAXABLE YEAR IN WHICH THE DISPOSITION OCCURS OR THE
25 DISQUALIFYING WORK IS PERFORMED.

26 **5A-366.**

27 (A) (1) THE COMPTROLLER MAY DETERMINE, UNDER THE PROCESS
28 FOR RETURN EXAMINATION AND AUDIT UNDER §§ 13-301 AND 13-302 OF THE
29 TAX - GENERAL ARTICLE:

30 (i) THE AMOUNT OF REHABILITATION EXPENDITURES USED
31 IN CALCULATING THE CREDIT;

32 (ii) WHETHER SUCH EXPENDITURES ARE QUALIFIED
33 REHABILITATION EXPENDITURES UNDER THIS PART; AND

1 (III) WHETHER THE CREDIT IS ALLOWABLE AS CLAIMED.

2 (B) THE AUTHORITY OF THE COMPTROLLER TO EXAMINE AND AUDIT A
3 TAX RETURN DOES NOT LIMIT THE AUTHORITY OF THE DIRECTOR TO
4 DETERMINE WHETHER A REHABILITATION QUALIFIES AS A CERTIFIED
5 REHABILITATION OR WHETHER A CERTIFICATE OF COMPLETION FOR THE
6 CERTIFIED REHABILITATION HAS BEEN PROPERLY ISSUED.

7 (C) THE COMPTROLLER MAY ADOPT REGULATIONS TO REQUIRE THAT
8 AN ENTITY, OTHER THAN A CORPORATION, CLAIM THE TAX CREDIT ON THE TAX
9 RETURN FILED BY THAT ENTITY.

10 **5A-367.**

11 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE
12 CREDIT UNDER THIS PART MAY BE CLAIMED FOR THE YEAR A CERTIFIED
13 REHABILITATION IS COMPLETED, ONLY IF THE DIRECTOR HAS, BY THE TIME
14 THE RETURN IS FILED, ISSUED A CERTIFICATE OF COMPLETION FOR THE
15 CERTIFIED REHABILITATION.

16 (2) A TAXPAYER CLAIMING THE CREDIT MAY AMEND A RETURN
17 FOR THE YEAR THE CERTIFIED REHABILITATION WAS COMPLETED TO ACCOUNT
18 FOR A CERTIFICATE ISSUED SUBSEQUENT TO THE FILING OF THE ORIGINAL
19 RETURN.

20 (3) AN AMENDED RETURN SHALL BE FILED WITHIN THE PERIOD
21 ALLOWED UNDER THE TAX - GENERAL ARTICLE FOR FILING REFUND CLAIMS.

22 (4) THE PROVISIONS OF THIS SUBSECTION DO NOT EXTEND THE
23 PERIOD IN WHICH A CERTIFIED REHABILITATION MUST BE COMPLETED TO BE
24 ELIGIBLE FOR A TAX CREDIT UNDER THIS PART.

25 (5) AN AMENDED RETURN MAY ACCOUNT FOR AN AMENDED
26 CERTIFICATION ISSUED BY THE DIRECTOR FOR A CERTIFIED REHABILITATION.

27 (B) A REFUND PAYABLE UNDER § 5A-364 OF THIS PART:

28 (1) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM
29 CORPORATIONS IF THE PERSON ENTITLED TO THE REFUND IS A CORPORATION
30 SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF THE TAX - GENERAL
31 ARTICLE;

1 **(2) OPERATES TO REDUCE INSURANCE PREMIUM TAX REVENUES**
2 **IF THE PERSON ENTITLED TO THE REFUND IS SUBJECT TO TAXATION UNDER**
3 **TITLE 6 OF THE INSURANCE ARTICLE; AND**

4 **(3) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM**
5 **INDIVIDUALS IF THE PERSON ENTITLED TO THE REFUND IS:**

6 **(I) AN INDIVIDUAL SUBJECT TO THE INCOME TAX UNDER**
7 **TITLE 10 OF THE TAX – GENERAL ARTICLE; OR**

8 **(II) AN ORGANIZATION EXEMPT FROM TAXATION UNDER §**
9 **501(C)(3) OF THE INTERNAL REVENUE CODE.**

10 **5A-368.**

11 **(A) ON OR BEFORE DECEMBER 15 OF EACH FISCAL YEAR, THE**
12 **DIRECTOR SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF**
13 **THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON:**

14 **(1) THE INITIAL CREDIT CERTIFICATES AWARDED FOR**
15 **COMMERCIAL REHABILITATIONS UNDER THIS PART DURING THAT FISCAL YEAR;**
16 **AND**

17 **(2) THE TAX CREDITS AWARDED FOR CERTIFIED**
18 **REHABILITATIONS COMPLETED IN THE PRECEDING FISCAL YEAR.**

19 **(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
20 **SHALL INCLUDE FOR EACH INITIAL CREDIT CERTIFICATE AWARDED DURING**
21 **THE FISCAL YEAR FOR A COMMERCIAL REHABILITATION:**

22 **(1) THE NAME OF THE OWNER OR DEVELOPER OF THE**
23 **COMMERCIAL REHABILITATION;**

24 **(2) THE NAME AND ADDRESS OF THE PROPOSED OR CERTIFIED**
25 **REHABILITATION AND THE COUNTY WHERE THE PROJECT IS LOCATED;**

26 **(3) THE DATES OF RECEIPT AND APPROVAL BY THE DIRECTOR OF**
27 **ALL APPLICATIONS REGARDING THE PROJECT, INCLUDING APPLICATIONS:**

28 **(I) FOR CERTIFICATION THAT A STRUCTURE OR PROPERTY**
29 **WILL QUALIFY AS A CERTIFIED HERITAGE STRUCTURE; AND**

30 **(II) FOR APPROVAL OF THE PLAN OF PROPOSED**
31 **REHABILITATION; AND**

1 **(4) THE MAXIMUM AMOUNT OF THE CREDIT STATED IN THE**
2 **INITIAL CREDIT CERTIFICATE FOR THE PROJECT AND THE ESTIMATED**
3 **REHABILITATION EXPENDITURES STATED IN THE APPLICATION FOR APPROVAL**
4 **OF THE PLAN OF PROPOSED REHABILITATION.**

5 **(C) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
6 **SHALL INCLUDE FOR EACH CERTIFIED COMMERCIAL REHABILITATION**
7 **COMPLETED DURING THE PRECEDING FISCAL YEAR:**

8 **(1) THE NAME OF THE OWNER OR DEVELOPER OF THE**
9 **COMMERCIAL REHABILITATION;**

10 **(2) THE NAME AND ADDRESS OF THE CERTIFIED REHABILITATION**
11 **AND THE COUNTY WHERE THE PROJECT IS LOCATED;**

12 **(3) THE DATES OF RECEIPT AND APPROVAL BY THE DIRECTOR OF**
13 **ALL APPLICATIONS REGARDING THE PROJECT; AND**

14 **(4) (I) THE MAXIMUM AMOUNT OF THE CREDIT STATED IN THE**
15 **INITIAL CREDIT CERTIFICATE FOR THE PROJECT AND THE ESTIMATED**
16 **REHABILITATION EXPENDITURES STATED IN THE APPLICATION FOR APPROVAL**
17 **OF THE PLAN OF PROPOSED REHABILITATION; AND**

18 **(II) THE ACTUAL QUALIFIED REHABILITATION**
19 **EXPENDITURES AND THE FINAL AMOUNT OF THE CREDIT FOR WHICH THE**
20 **PROJECT QUALIFIED.**

21 **(D) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
22 **SHALL SUMMARIZE FOR EACH CATEGORY OF CERTIFIED REHABILITATIONS:**

23 **(1) THE TOTAL NUMBER OF APPLICANTS FOR:**

24 **(I) CERTIFICATION THAT A STRUCTURE OR PROPERTY**
25 **WILL QUALIFY AS A CERTIFIED HERITAGE STRUCTURE;**

26 **(II) APPROVAL OF PLANS OF PROPOSED REHABILITATIONS;**
27 **OR**

28 **(III) CERTIFICATION OF THE COMPLETED REHABILITATIONS;**

29 **(2) THE NUMBER OF PROPOSED PROJECTS FOR WHICH PLANS OF**
30 **PROPOSED REHABILITATION WERE APPROVED; AND**

1 **(3) THE TOTAL ESTIMATED REHABILITATION EXPENDITURES**
2 **STATED IN APPROVED APPLICATIONS FOR APPROVAL OF PLANS OF PROPOSED**
3 **REHABILITATION AND THE TOTAL QUALIFIED REHABILITATION EXPENDITURES**
4 **FOR COMPLETED REHABILITATIONS CERTIFIED.**

5 **(E) THE INFORMATION REQUIRED UNDER SUBSECTION (D) OF THIS**
6 **SECTION SHALL BE PROVIDED IN THE AGGREGATE AND SEPARATELY FOR EACH**
7 **OF THE FOLLOWING CATEGORIES OF CERTIFIED REHABILITATIONS:**

8 **(1) OWNER–OCCUPIED, SINGLE–FAMILY RESIDENTIAL**
9 **STRUCTURES; AND**

10 **(2) COMMERCIAL REHABILITATIONS.**

11 **5A–369.**

12 **(A) THERE IS A MARYLAND DEPARTMENT OF PLANNING TAX CREDIT**
13 **ADMINISTRATION FUND WHICH IS A CONTINUING, NONLAPSING SPECIAL FUND**
14 **THAT IS NOT SUBJECT TO § 7–302 OF THIS ARTICLE.**

15 **(B) THE PROCEEDS FROM THE FEE CHARGED UNDER THIS PART SHALL**
16 **BE DEPOSITED IN THE FUND, TO BE USED ONLY FOR THE PURPOSES OF PAYING**
17 **THE COSTS OF ADMINISTERING THE CREDIT UNDER THIS PART AND THE**
18 **FEDERAL HISTORIC TAX CREDIT.**

19 **(C) THE STATE TREASURER SHALL HOLD AND THE COMPTROLLER**
20 **SHALL ACCOUNT FOR THE FUND.**

21 **5A–370.**

22 **(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE PROVISIONS**
23 **OF THIS PART AND THE TAX CREDIT AUTHORIZED UNDER THIS PART SHALL**
24 **TERMINATE AS OF JULY 1, 2014.**

25 **(B) ON AND AFTER JULY 1, 2014, THE TAX CREDIT AUTHORIZED UNDER**
26 **THIS PART MAY BE CLAIMED FOR:**

27 **(1) A REHABILITATION PROJECT, OTHER THAN A COMMERCIAL**
28 **REHABILITATION, FOR WHICH AN APPLICATION FOR APPROVAL OF A PLAN OF**
29 **PROPOSED REHABILITATION WAS RECEIVED BY THE DIRECTOR ON OR BEFORE**
30 **JUNE 30, 2014; OR**

31 **(2) A COMMERCIAL REHABILITATION FOR WHICH AN INITIAL**
32 **CREDIT CERTIFICATE HAS BEEN AWARDED UNDER § 5A–364 OF THIS PART.**

- 1 1. listed in the National Register of Historic Places;
- 2 2. designated as a historic property under local law and
3 determined by the Director to be eligible for listing on the National Register of Historic
4 Places;
- 5 3. A. located in a historic district listed on the
6 National Register of Historic Places or in a local historic district that the Director
7 determines is eligible for listing on the National Register of Historic Places; and
- 8 B. certified by the Director as contributing to the
9 significance of the district; or
- 10 4. located in a certified heritage area and certified by the
11 Maryland Heritage Areas Authority as contributing to the significance of the certified
12 heritage area.
- 13 (ii) “Certified heritage structure” does not include a structure
14 that is owned by the State, a political subdivision of the State, or the federal
15 government.
- 16 (5) “Certified rehabilitation” means a completed rehabilitation of a
17 certified heritage structure that the Director certifies is a substantial rehabilitation in
18 conformance with the rehabilitation standards of the United States Secretary of the
19 Interior.
- 20 (6) “Commercial rehabilitation” means a rehabilitation of a structure
21 other than a single-family, owner-occupied residence.
- 22 (7) “Director” means the Director of the Maryland Historical Trust.
- 23 (8) “Local historic district” means a district that the governing body of
24 a county or municipal corporation, or the Mayor and City Council of Baltimore, has
25 designated under local law as historic.
- 26 (9) “National register structure” means a structure that is:
- 27 (i) listed on the National Register of Historic Places; or
- 28 (ii) located in a historic district listed on the National Register
29 of Historic Places and certified by the Director as contributing to the significance of
30 the district.
- 31 (10) “Qualified rehabilitation expenditure” means any amount that:
- 32 (i) is properly chargeable to a capital account;

1 (ii) is expended in the rehabilitation of a structure that by the
2 end of the calendar year in which the certified rehabilitation is completed is a certified
3 heritage structure;

4 (iii) is expended in compliance with a plan of proposed
5 rehabilitation that has been approved by the Director; and

6 (iv) is not funded, financed, or otherwise reimbursed by any:

7 1. State or local grant;

8 2. grant made from the proceeds of tax-exempt bonds
9 issued by the State, a political subdivision of the State, or an instrumentality of the
10 State or of a political subdivision of the State;

11 3. State tax credit other than the tax credit under this
12 section; or

13 4. other financial assistance from the State or a political
14 subdivision of the State, other than a loan that must be repaid at an interest rate that
15 is greater than the interest rate on general obligation bonds issued by the State at the
16 most recent bond sale prior to the time the loan is made.

17 (11) "Substantial rehabilitation" means rehabilitation of a structure for
18 which the qualified rehabilitation expenditures, during the 24-month period selected
19 by the individual or business entity ending with or within the taxable year, exceed:

20 (i) for owner-occupied residential property, \$5,000; or

21 (ii) for all other property, the greater of:

22 1. the adjusted basis of the structure; or

23 2. \$5,000.

24 (b) (1) The Director shall adopt regulations to:

25 (i) establish procedures and standards for certifying heritage
26 structures and rehabilitations under this section;

27 (ii) for commercial rehabilitations, establish an application
28 process for the award of initial credit certificates for Maryland heritage structure
29 rehabilitation tax credits consistent with the requirements of this subsection;

30 (iii) for commercial rehabilitations, establish criteria, consistent
31 with the requirements of this subsection, for evaluating, comparing, and rating plans
32 of proposed rehabilitation that have been determined by the Director to conform with
33 the rehabilitation standards of the United States Secretary of the Interior; and

1 (iv) for commercial rehabilitations, establish a competitive
2 award process for the award of initial credit certificates for Maryland heritage
3 structure rehabilitation tax credits that:

4 1. favors the award of tax credits for rehabilitation
5 projects located in jurisdictions that have been historically underrepresented in the
6 award of tax credits for commercial rehabilitations, based on the number of national
7 register structures in each jurisdiction;

8 2. favors the award of tax credits for rehabilitation
9 projects that are consistent with and promote current growth and development policies
10 and programs of the State; and

11 3. A. favors the award of tax credits for structures
12 that are listed in the National Register of Historic Places or are designated as historic
13 properties under local law and determined by the Director to be eligible for listing in
14 the National Register of Historic Places; or

15 B. favors the award of tax credits for structures that are
16 contributing buildings with historic significance and are located in historic districts
17 listed in the National Register of Historic Places.

18 (2) The Director may not certify that a rehabilitation is a certified
19 rehabilitation eligible for a tax credit provided under this section unless the individual
20 or business entity seeking certification states under oath the amount of the
21 individual's or business entity's qualified rehabilitation expenditures.

22 (3) Each year, the Director may accept applications for approval of
23 plans of proposed commercial rehabilitations and for the award of initial credit
24 certificates for the fiscal year that begins July 1 of that year.

25 (4) For commercial rehabilitations, the Director may not accept an
26 application for approval of plans of proposed rehabilitation if:

27 (i) any substantial part of the proposed rehabilitation work has
28 begun; or

29 (ii) the applicant for a commercial rehabilitation has previously
30 submitted three or more applications for commercial rehabilitations with total
31 proposed rehabilitations exceeding \$500,000 in that year.

32 (5) Except as provided in subsection (d)(3)(iii) of this section, not more
33 than 75% of the total credit amounts under initial credit certificates issued for any
34 fiscal year may be issued for projects in a single county or Baltimore City.

35 (6) (i) The Director shall adopt regulations to charge a reasonable
36 fee to certify heritage structures and rehabilitations under this section.

1 (ii) The Director shall set the level of the fee so that the
2 projected proceeds from the fee will cover the costs to the Trust of administering the
3 credit under this section and the federal historic tax credit.

4 (iii) The fee charged may not exceed 1% of the amount of the
5 initial credit certificate issued for a commercial rehabilitation project or the amount of
6 the credit for which a single-family, owner-occupied rehabilitation would be eligible
7 based on the greater of the estimated or final qualified rehabilitation expenditures for
8 the rehabilitation.

9 (iv) The proceeds from the fee shall be deposited in a special
10 fund, to be used only for the purposes of paying the costs of administering the credit
11 under this section and the federal historic tax credit.

12 (v) Any unused balance of the fund at the end of each fiscal year
13 shall be transferred to the Reserve Fund established under subsection (d) of this
14 section and shall increase the amount of the initial credit certificates that the Trust
15 may issue for the following fiscal year.

16 (c) (1) Except as otherwise provided in this section, for the taxable year in
17 which a certified rehabilitation is completed, an individual or business entity may
18 claim a tax credit in an amount equal to 20% of the individual's or business entity's
19 qualified rehabilitation expenditures for the rehabilitation.

20 (2) (i) For any commercial rehabilitation, the State tax credit
21 allowed under this section may not exceed the lesser of:

- 22 1. \$3,000,000; or
- 23 2. the maximum amount specified under the initial
24 credit certificate issued for the rehabilitation.

25 (ii) For a rehabilitation other than a commercial rehabilitation,
26 the State tax credit allowed under this section may not exceed \$50,000.

27 (iii) For the purposes of the limitation under subparagraph (i) of
28 this paragraph, the following shall be treated as a single commercial rehabilitation:

29 1. the phased rehabilitation of the same structure or
30 property;

31 2. the separate rehabilitation of different components of
32 the same structure or property; or

33 3. the rehabilitation of multiple structures that are
34 functionally related to serve an overall purpose.

1 (3) (i) Subject to subparagraph (ii) of this paragraph, the initial
2 credit certificate for a proposed commercial rehabilitation shall expire and the credit
3 under this section may not be claimed if the commercial rehabilitation is not
4 completed within 30 months after the initial credit certificate was issued.

5 (ii) For reasonable cause, the Director may postpone the
6 expiration date for an initial credit certificate for a commercial rehabilitation.

7 (4) If the tax credit allowed under this section in any taxable year
8 exceeds the total tax otherwise payable by the business entity or the individual for
9 that taxable year, the individual or business entity may claim a refund in the amount
10 of the excess.

11 (d) (1) In this subsection, “Reserve Fund” means the Heritage Structure
12 Rehabilitation Tax Credit Reserve Fund established under paragraph (2) of this
13 subsection.

14 (2) (i) There is a Heritage Structure Rehabilitation Tax Credit
15 Reserve Fund that is a continuing, nonlapsing special fund that is not subject to §
16 7–302 of [this article] **THE STATE FINANCE AND PROCUREMENT ARTICLE**.

17 (ii) The money in the Fund shall be invested and reinvested by
18 the Treasurer, and interest and earnings shall be credited to the General Fund.

19 (3) (i) Subject to the provisions of this subsection, the Director
20 shall issue an initial credit certificate for each commercial rehabilitation for which a
21 plan of proposed rehabilitation is approved.

22 (ii) An initial credit certificate issued under this subsection
23 shall state the maximum amount of credit under this section for which the commercial
24 rehabilitation may qualify.

25 (iii) 1. Except as otherwise provided in this subparagraph
26 and in subsection (b)(6)(v) of this section, for any fiscal year, the Director may not
27 issue initial credit certificates for credit amounts in the aggregate totaling more than
28 the amount appropriated to the Reserve Fund for that fiscal year in the State budget
29 as approved by the General Assembly.

30 2. If the aggregate credit amounts under initial credit
31 certificates issued in a fiscal year total less than the amount appropriated to the
32 Reserve Fund for that fiscal year as a result of the limitation under subsection (b)(5) of
33 this section, any excess amount may be issued under initial credit certificates for
34 projects in a county or Baltimore City in the same fiscal year, without regard to the
35 limitation under subsection (b)(5) of this section.

36 3. Subject to subparagraph 2 of this subparagraph, if
37 the aggregate credit amounts under initial credit certificates issued in a fiscal year
38 total less than the amount appropriated to the Reserve Fund for that fiscal year, any

1 excess amount shall remain in the Reserve Fund and may be issued under initial
2 credit certificates for the next fiscal year.

3 4. For any fiscal year, if funds are transferred from the
4 Reserve Fund under the authority of any provision of law other than paragraph (4) of
5 this subsection, the maximum credit amounts in the aggregate for which the Director
6 may issue initial credit certificates shall be reduced by the amount transferred.

7 (iv) For each of fiscal years 2009 and 2010, the Governor shall
8 include in the budget bill an appropriation to the Reserve Fund.

9 (v) Notwithstanding the provisions of § 7-213 of [this article]
10 **THE STATE FINANCE AND PROCUREMENT ARTICLE**, the Governor may not reduce
11 an appropriation to the Reserve Fund in the State budget as approved by the General
12 Assembly.

13 (vi) The Director may not issue an initial credit certificate for
14 any fiscal year after fiscal year 2010.

15 (4) (i) Except as provided in this paragraph, money appropriated to
16 the Reserve Fund shall remain in the Fund.

17 (ii) 1. Within 15 days after the end of each calendar quarter,
18 the Trust shall notify the Comptroller as to each commercial rehabilitation completed
19 and certified during the quarter:

20 A. the maximum credit amount stated in the initial
21 credit certificate for the project; and

22 B. the final certified credit amount for the project.

23 2. On notification that a project has been certified, the
24 Comptroller shall transfer an amount equal to the maximum credit amount stated in
25 the initial credit certificate for the project from the Reserve Fund to the General Fund.

26 (iii) 1. On or before October 1 of each year, the Trust shall
27 notify the Comptroller as to the maximum credit amount stated in the initial credit
28 certificate for each commercial rehabilitation for which the initial credit certificate has
29 expired under subsection (c)(3) of this section as of the end of the prior fiscal year.

30 2. On notification that the initial credit certificate for a
31 project has expired under subsection (c)(3) of this section, the Comptroller shall
32 transfer an amount equal to the maximum credit amount stated in the initial credit
33 certificate for the project from the Reserve Fund to the General Fund.

34 (e) (1) In this subsection, “disqualifying work” means work that:

1 (i) is performed on a certified heritage structure for which a
2 rehabilitation has been certified under this section; and

3 (ii) if performed as part of the rehabilitation certified under this
4 section, would have made the rehabilitation ineligible for certification.

5 (2) The credit allowed under this section shall be recaptured as
6 provided in paragraph (3) of this subsection if, during the taxable year in which a
7 certified rehabilitation is completed or any of the 4 taxable years succeeding the
8 taxable year in which the certified rehabilitation is completed, any disqualifying work
9 is performed on the certified heritage structure for which the certified rehabilitation
10 has been completed.

11 (3) (i) 1. If the disqualifying work is performed during the
12 taxable year in which the certified rehabilitation was completed, 100% of the credit
13 shall be recaptured.

14 2. If the disqualifying work is performed during the first
15 full year succeeding the taxable year in which the certified rehabilitation was
16 completed, 80% of the credit shall be recaptured.

17 3. If the disqualifying work is performed during the
18 second full year succeeding the taxable year in which the certified rehabilitation was
19 completed, 60% of the credit shall be recaptured.

20 4. If the disqualifying work is performed during the
21 third full year succeeding the taxable year in which the certified rehabilitation was
22 completed, 40% of the credit shall be recaptured.

23 5. If the disqualifying work is performed during the
24 fourth full year succeeding the taxable year in which the certified rehabilitation was
25 completed, 20% of the credit shall be recaptured.

26 (ii) The individual or business entity that claimed the tax credit
27 shall pay the amount to be recaptured as determined under subparagraph (i) of this
28 paragraph as taxes payable to the State for the taxable year in which the disqualifying
29 work is performed.

30 (f) (1) The Comptroller may determine, under the process for return
31 examination and audit under §§ 13-301 and 13-302 of the Tax – General Article:

32 (i) the amount of rehabilitation expenditures used in
33 calculating the credit;

34 (ii) whether such expenditures are qualified rehabilitation
35 expenditures under this section; and

36 (iii) whether the credit is allowable as claimed.

1 (2) The authority of the Comptroller to examine and audit a tax return
2 does not limit the authority of the Director to determine whether a rehabilitation
3 qualifies as a certified rehabilitation or whether a certificate of certified rehabilitation
4 has been properly issued.

5 (3) The Comptroller may adopt regulations to require that an entity
6 other than a corporation claim the tax credit on the tax return filed by that entity.

7 (4) (i) Except as otherwise provided in this paragraph, the credit
8 under this section may be claimed for the year a certified rehabilitation is completed,
9 only if the Director has, by the time the return is filed, issued a certificate of
10 completion for the certified rehabilitation.

11 (ii) A taxpayer claiming the credit may amend a return for the
12 year the certified rehabilitation was completed to account for a certificate issued
13 subsequent to the filing of the original return.

14 (iii) An amended return shall be filed within the period allowed
15 under the Tax – General Article for filing refund claims.

16 (iv) The provisions of this paragraph do not extend the period in
17 which a certified rehabilitation must be completed to be eligible for a tax credit under
18 this section.

19 (v) An amended return may account for an amended
20 certification issued by the Director for a certified rehabilitation.

21 (g) A refund payable under subsection (c) of this section:

22 (1) operates to reduce the income tax revenue from corporations if the
23 person entitled to the refund is a corporation subject to the income tax under Title 10
24 of the Tax – General Article;

25 (2) operates to reduce insurance premium tax revenues if the person
26 entitled to the refund is subject to taxation under Title 6 of the Insurance Article; and

27 (3) operates to reduce the income tax revenue from individuals if the
28 person entitled to the refund is:

29 (i) an individual subject to the income tax under Title 10 of the
30 Tax – General Article; or

31 (ii) an organization exempt from taxation under § 501(c)(3) of
32 the Internal Revenue Code.

1 (h) (1) On or before December 15 of each fiscal year, the Director shall
2 report to the Governor and, subject to § 2-1246 of the State Government Article, to the
3 General Assembly, on:

4 (i) the initial credit certificates awarded for commercial
5 rehabilitations under this section for that fiscal year; and

6 (ii) the tax credits awarded for certified rehabilitations
7 completed in the preceding fiscal year.

8 (2) The report required under paragraph (1) of this subsection shall
9 include for each initial credit certificate awarded for the fiscal year for a commercial
10 rehabilitation:

11 (i) the name of the owner or developer of the commercial
12 rehabilitation;

13 (ii) the name and address of the proposed or certified
14 rehabilitation and the county where the project is located;

15 (iii) the dates of receipt and approval by the Director of all
16 applications regarding the project, including applications:

17 1. for certification that a structure or property will
18 qualify as a certified heritage structure; and

19 2. for approval of the proposed rehabilitation; and

20 (iv) the maximum amount of the credit stated in the initial
21 credit certificate for the project and the estimated rehabilitation expenditures stated
22 in the application for approval of the plan of proposed rehabilitation.

23 (3) The report required under paragraph (1) of this subsection shall
24 include for each certified commercial rehabilitation completed during the preceding
25 fiscal year:

26 (i) the name of the owner or developer of the commercial
27 rehabilitation;

28 (ii) the name and address of the certified rehabilitation and the
29 county where the project is located;

30 (iii) the dates of receipt and approval by the Director of all
31 applications regarding the project; and

32 (iv) 1. the maximum amount of the credit stated in the
33 initial credit certificate for the project and the estimated rehabilitation expenditures
34 stated in the application for approval of the plan of proposed rehabilitation; and

1 2. the actual qualified rehabilitation expenditures and
2 the final amount of the credit for which the project qualified.

3 (4) The report required under paragraph (1) of this subsection shall
4 summarize for each category of certified rehabilitations:

5 (i) the total number of applicants for:

6 1. certification that a structure or property will qualify
7 as a certified heritage structure;

8 2. approval of plans of proposed rehabilitations; or

9 3. certification of the completed rehabilitations;

10 (ii) the number of proposed projects for which plans of proposed
11 rehabilitation were approved; and

12 (iii) the total estimated rehabilitation expenditures stated in
13 approved applications for approval of plans of proposed rehabilitation and the total
14 qualified rehabilitation expenditures for completed rehabilitations certified.

15 (5) The information required under paragraph (4) of this subsection
16 shall be provided in the aggregate and separately for each of the following categories of
17 certified rehabilitations:

18 (i) owner-occupied single family residential structures; and

19 (ii) commercial rehabilitations.

20 (i) (1) Subject to the provisions of this subsection, the provisions of this
21 section and the tax credit authorized under this section shall terminate as of July 1,
22 2010.

23 (2) On and after July 1, 2010:

24 (i) the tax credit authorized under this section may be claimed
25 for:

26 1. a rehabilitation project, other than a commercial
27 rehabilitation, for which an application for approval of a plan of proposed
28 rehabilitation was received by the Director on or before June 30, 2010; or

29 2. a commercial rehabilitation for which an initial credit
30 certificate has been awarded under subsection (d) of this section; and

1 (ii) the Director shall continue to report to the Governor and the
2 General Assembly as required under subsection (h) of this section for as long as any
3 rehabilitation project for which the tax credit may be claimed remains incomplete.

4 **(J) THE STATE CREDIT ALLOWED UNDER THIS SECTION MAY BE**
5 **ALLOCATED AMONG THE PARTNERS, MEMBERS, OR SHAREHOLDERS OF AN**
6 **ENTITY IN ANY MANNER AGREED TO BY THOSE PERSONS IN WRITING.**

7 SECTION 3. AND BE IT FURTHER ENACTED, That:

8 (a) Sections 5A–362 through 5A–370 of the State Finance and Procurement
9 Article, as enacted by Section 1 of this Act, shall be applicable to:

10 (1) Any project for rehabilitation of a single–family, owner–occupied
11 residence for which an application for approval of a plan of proposed rehabilitation is
12 received by the Director of the Maryland Historical Trust on or after July 1, 2009; and

13 (2) Any commercial rehabilitation project for which an application of a
14 plan of proposed rehabilitation is approved by the Director of the Maryland Historical
15 Trust on or after July 1, 2009.

16 (b) Former § 5A–303 of the State Finance and Procurement Article, as
17 amended and transferred to the Session Laws by Section 2 of this Act, shall continue
18 to be applicable to:

19 (1) Any project for rehabilitation of a single–family, owner–occupied
20 residence for which an application for approval of a plan of proposed rehabilitation is
21 received by the Director of the Maryland Historical Trust on or before June 30, 2009;
22 and

23 (2) Any commercial rehabilitation project for which an application of a
24 plan of proposed rehabilitation is approved by the Director of the Maryland Historical
25 Trust on or before June 30, 2009.

26 SECTION 4. AND BE IT FURTHER ENACTED, That any unencumbered funds
27 in the Heritage Structure Rehabilitation Tax Credit Reserve Fund established under
28 former § 5A–303 of the State Finance and Procurement Article, as amended and
29 transferred to the Session Laws by Section 2 of this Act, shall revert to the General
30 Fund on June 30, 2016.

31 SECTION 5. AND BE IT FURTHER ENACTED, That subsection (j) of Section 2
32 of this Act shall be construed to apply retroactively and shall be applied to and
33 interpreted to affect any commercial rehabilitation project for which an application of
34 a plan of proposed rehabilitation is approved by the Director of the Maryland
35 Historical Trust on or after January 1, 2005.

1 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2009.