

HOUSE BILL 389

Q3
HB 554/12 – W&M

3lr1564

By: **Delegates Hogan and Beidle**
Introduced and read first time: January 25, 2013
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Lead Safe Income Tax Credit**

3 FOR the purpose of allowing an individual or a corporation to claim a credit against
4 the State income tax under certain circumstances for certain costs incurred for
5 an approved lead hazard reduction project with respect to certain property;
6 providing for calculation of the credit; disallowing the credit for costs for which
7 the taxpayer has received a grant or loan under certain State programs;
8 providing for the carryover of unused credit; providing for submission of
9 proposals for lead hazard reduction projects to the Department of Housing and
10 Community Development for approval; limiting the total amount of credits that
11 the Department may approve for any fiscal year; prohibiting the Department
12 from approving lead hazard reduction projects for a credit after a certain date;
13 prohibiting certain false statements; providing a certain penalty for certain
14 violations; requiring the Department to adopt certain regulations; defining
15 certain terms; providing for the application of this Act; and generally relating to
16 a credit against the State income tax for certain approved lead hazard reduction
17 projects.

18 BY adding to
19 Article – Tax – General
20 Section 10–733
21 Annotated Code of Maryland
22 (2010 Replacement Volume and 2012 Supplement)

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

25 **Article – Tax – General**

26 **10–733.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

3 (2) “DEPARTMENT” MEANS THE DEPARTMENT OF HOUSING AND
4 COMMUNITY DEVELOPMENT.

5 (3) “EXTERIOR SURFACES” HAS THE MEANING STATED IN § 6-801
6 OF THE ENVIRONMENT ARTICLE.

7 (4) “LEAD HAZARD REDUCTION ACTIVITY” HAS THE MEANING
8 STATED IN § 4-701 OF THE HOUSING AND COMMUNITY DEVELOPMENT
9 ARTICLE.

10 (5) “LEAD-FREE WINDOW” MEANS A WINDOW THAT IS LEAD-FREE
11 OR THAT WAS INSTALLED AFTER 1978.

12 (6) “QUALIFYING PROPERTY” MEANS A PROPERTY
13 CONSTRUCTED BEFORE 1978 WITH RESPECT TO WHICH A CREDIT UNDER THIS
14 SECTION HAS NOT PREVIOUSLY BEEN GRANTED AND THAT IS:

15 (I) AN AFFECTED PROPERTY REGISTERED WITH THE
16 DEPARTMENT OF THE ENVIRONMENT UNDER § 6-811 OF THE ENVIRONMENT
17 ARTICLE THAT:

18 1. CONTAINS LEAD-BASED PAINT;

19 2. HAS AT LEAST TWO BEDROOMS; AND

20 3. NOTWITHSTANDING § 6-817 OF THE
21 ENVIRONMENT ARTICLE, AT THE TIME OF APPLICATION AND AT THE TIME OF
22 COMMENCEMENT OF AN APPROVED LEAD HAZARD REDUCTION PROJECT UNDER
23 THIS SECTION, IS IN FULL COMPLIANCE WITH THE REQUIREMENTS OF TITLE 6,
24 SUBTITLE 8 OF THE ENVIRONMENT ARTICLE;

25 (II) A CHILD CARE CENTER AS DEFINED IN § 5-570 OF THE
26 FAMILY LAW ARTICLE OR A DAY CARE CENTER FOR THE ELDERLY AS DEFINED
27 IN § 14-201 OF THE HEALTH - GENERAL ARTICLE THAT:

28 1. CONTAINS LEAD-BASED PAINT; AND

29 2. AT THE TIME OF APPLICATION AND AT THE TIME
30 OF COMMENCEMENT OF AN APPROVED LEAD HAZARD REDUCTION PROJECT

1 UNDER THIS SECTION, IS IN FULL COMPLIANCE WITH ALL APPLICABLE
2 LICENSING LAWS AND HAS MET ALL INSPECTION REQUIREMENTS OF THE
3 SOCIAL SERVICES ADMINISTRATION OF THE DEPARTMENT OF HUMAN
4 RESOURCES, LOCAL PUBLIC HEALTH DEPARTMENTS, AND ANY OTHER LEGALLY
5 REQUIRED INSPECTIONS; OR

6 (III) OWNER–OCCUPIED HOUSING THAT:

7 1. CONTAINS LEAD–BASED PAINT; AND

8 2. HAS AT LEAST TWO BEDROOMS.

9 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN
10 INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE
11 INCOME TAX IN THE AMOUNT DETERMINED UNDER SUBSECTION (C) OF THIS
12 SECTION FOR AN APPROVED LEAD HAZARD REDUCTION PROJECT FOR
13 QUALIFYING PROPERTY.

14 (C) SUBJECT TO THE LIMITATIONS UNDER SUBSECTION (D) OF THIS
15 SECTION, THE CREDIT ALLOWED UNDER THIS SECTION IS:

16 (1) FOR RENTAL PROPERTY, 90% OF THE DIRECT COSTS OF AN
17 APPROVED LEAD HAZARD REDUCTION PROJECT INCURRED WITH RESPECT TO A
18 RESIDENTIAL RENTAL UNIT;

19 (2) FOR A CHILD CARE CENTER OR A DAY CARE CENTER FOR THE
20 ELDERLY, 70% OF THE DIRECT COSTS OF AN APPROVED LEAD HAZARD
21 REDUCTION PROJECT; AND

22 (3) FOR OWNER–OCCUPIED PROPERTY, 90% OF THE DIRECT
23 COSTS OF AN APPROVED LEAD HAZARD REDUCTION PROJECT.

24 (D) (1) FOR ANY TAXABLE YEAR, THE TOTAL CREDIT ALLOWED
25 UNDER THIS SECTION MAY NOT EXCEED:

26 (I) \$5,000 PER UNIT; OR

27 (II) \$50,000 TOTAL FOR ANY TAXPAYER.

28 (2) THE TOTAL CREDIT ALLOWED UNDER THIS SECTION FOR AN
29 APPROVED LEAD HAZARD REDUCTION PROJECT MAY NOT EXCEED THE
30 MAXIMUM CREDIT SPECIFIED BY THE DEPARTMENT IN ITS APPROVAL OF THE
31 LEAD HAZARD REDUCTION PROJECT.

1 **(E) THE CREDIT UNDER THIS SECTION IS ALLOWED FOR THE TAXABLE**
2 **YEAR IN WHICH AN APPROVED LEAD HAZARD REDUCTION PROJECT IS**
3 **COMPLETED AND THE REQUIREMENTS OF SUBSECTION (F) OF THIS SECTION**
4 **ARE SATISFIED.**

5 **(F) (1) THE CREDIT UNDER THIS SECTION IS ALLOWED ONLY IF:**

6 **(I) ALL LEAD HAZARD REDUCTION ACTIVITIES UNDER AN**
7 **APPROVED LEAD HAZARD REDUCTION PROJECT ARE PERFORMED IN**
8 **ACCORDANCE WITH STANDARDS AND PROCEDURES ESTABLISHED IN**
9 **REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT UNDER**
10 **TITLE 6, SUBTITLES 8 AND 10 OF THE ENVIRONMENT ARTICLE; AND**

11 **(II) AT COMPLETION OF THE APPROVED LEAD HAZARD**
12 **REDUCTION PROJECT:**

13 **1. THE FULL RISK REDUCTION STANDARD UNDER §**
14 **6-819(A)(2) OF THE ENVIRONMENT ARTICLE IS SATISFIED;**

15 **2. ALL EXTERIOR ENTRYWAYS FOR THE PROPERTY**
16 **HAVE A WALK-OFF FLOOR MAT;**

17 **3. ALL EXTERIOR SURFACES ARE FREE OF CHIPPING,**
18 **PEELING, OR FLAKING PAINT;**

19 **4. ALL WINDOWS, OTHER THAN WINDOWS IN AN**
20 **UNFINISHED BASEMENT AREA NOT USED FOR COOKING, EATING, LIVING,**
21 **SANITATION, OR SLEEPING, ARE LEAD-FREE WINDOWS; AND**

22 **5. THE PROPERTY PASSES THE TEST FOR**
23 **LEAD-CONTAMINATED DUST UNDER § 6-816 OF THE ENVIRONMENT ARTICLE**
24 **AND REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.**

25 **(2) AN INDEPENDENT INSPECTOR WHO IS ACCREDITED BY THE**
26 **DEPARTMENT OF THE ENVIRONMENT AND IS NOT A RELATED PARTY AS**
27 **DEFINED IN § 6-801 OF THE ENVIRONMENT ARTICLE SHALL VERIFY THAT THE**
28 **REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION HAVE BEEN**
29 **SATISFIED AND A STATE-ACCREDITED LABORATORY SHALL PROCESS THE**
30 **LEAD-CONTAMINATED DUST TEST UNDER PARAGRAPH (1)(II)5 OF THIS**
31 **SUBSECTION.**

1 **(3) WHEN THE REQUIREMENTS OF THIS SUBSECTION HAVE BEEN**
2 **SATISFIED, THE INDEPENDENT INSPECTOR HIRED BY THE OWNER SHALL ISSUE**
3 **A CERTIFICATE INDICATING THAT THE TAXPAYER HAS MET THE REQUIREMENTS**
4 **FOR THE CREDIT UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

5 **(4) THE CERTIFICATE ISSUED UNDER PARAGRAPH (3) OF THIS**
6 **SUBSECTION SHALL BE PROVIDED TO THE COMPTROLLER WITH THE**
7 **TAXPAYER'S RETURN FOR THE TAXABLE YEAR FOR WHICH THE CREDIT IS**
8 **CLAIMED.**

9 **(G) THE CREDIT UNDER THIS SECTION MAY NOT BE ALLOWED FOR ANY**
10 **COSTS FOR WHICH THE TAXPAYER HAS RECEIVED A GRANT OR LOAN UNDER THE**
11 **LEAD HAZARD REDUCTION GRANT AND LOAN PROGRAMS ESTABLISHED UNDER**
12 **TITLE 4, SUBTITLE 7 OF THE HOUSING AND COMMUNITY DEVELOPMENT**
13 **ARTICLE.**

14 **(H) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE**
15 **STATE INCOME TAX FOR THE TAXABLE YEAR, THE TAXPAYER MAY APPLY THE**
16 **EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX FOR SUCCEEDING**
17 **TAXABLE YEARS UNTIL THE EARLIER OF:**

18 **(1) THE FULL AMOUNT OF THE EXCESS IS USED; OR**

19 **(2) THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE**
20 **TAXABLE YEAR IN WHICH THE APPROVED LEAD HAZARD REDUCTION PROJECT**
21 **WAS COMPLETED.**

22 **(I) (1) FOR EACH FISCAL YEAR, A TAXPAYER MAY SUBMIT TO THE**
23 **DEPARTMENT FOR APPROVAL A PROPOSAL FOR A LEAD HAZARD REDUCTION**
24 **PROJECT QUALIFYING FOR THE TAX CREDIT ALLOWED UNDER THIS SECTION.**

25 **(2) A PROPOSAL FOR A LEAD HAZARD REDUCTION PROJECT**
26 **SHALL BE SUBMITTED IN WRITING BEFORE COMMENCEMENT OF THE PROJECT**
27 **AND SHALL INCLUDE:**

28 **(I) A DESCRIPTION OF THE PROPERTY OR PROPERTIES**
29 **THAT ARE THE SUBJECT OF THE PROPOSED LEAD HAZARD REDUCTION**
30 **PROJECT, INCLUDING THE CURRENT AND ANTICIPATED USES OF THE**
31 **PROPERTY;**

32 **(II) A DESCRIPTION OF ANY LEAD HAZARD REDUCTION**
33 **ACTIVITIES OF WHICH THE TAXPAYER IS AWARE THAT HAVE BEEN PERFORMED**
34 **ON THE PROPERTY;**

1 (III) A DESCRIPTION OF THE LEAD HAZARD REDUCTION
2 ACTIVITIES THAT WILL BE PERFORMED ON THE PROPERTY UNDER THE
3 PROJECT;

4 (IV) THE ANTICIPATED DIRECT COSTS OF THE PROJECT;

5 (V) THE ANTICIPATED DATES FOR COMMENCEMENT AND
6 COMPLETION OF THE PROJECT; AND

7 (VI) ANY OTHER INFORMATION THAT THE DEPARTMENT
8 REQUIRES BY REGULATION.

9 (3) IN APPROVING OR DISAPPROVING A LEAD HAZARD
10 REDUCTION PROJECT UNDER THIS SUBTITLE AND IN DETERMINING THE
11 MAXIMUM AMOUNT OF CREDITS FOR EACH APPROVED PROJECT, THE
12 DEPARTMENT SHALL:

13 (I) CONSIDER ANY RELEVANT FACTORS; AND

14 (II) APPORTION AMONG THE APPROVED PROJECTS THE
15 LIMIT IMPOSED UNDER SUBSECTION (J) OF THIS SECTION ON THE TOTAL TAX
16 CREDITS THAT MAY BE APPROVED FOR THE FISCAL YEAR.

17 (4) THE DEPARTMENT SHALL APPROVE OR DISAPPROVE AN
18 APPLICATION WITHIN 60 DAYS AFTER IT RECEIVES A COMPLETED APPLICATION.

19 (5) EACH APPROVAL:

20 (I) SHALL BE IN WRITING;

21 (II) SHALL SPECIFY THE MAXIMUM TOTAL AMOUNT OF TAX
22 CREDITS FOR WHICH THE PROJECT IS ELIGIBLE; AND

23 (III) SHALL ASSIGN A PREAPPROVED VOUCHER NUMBER FOR
24 THE TAX CREDIT.

25 (6) EACH DISAPPROVAL SHALL STATE IN DETAIL THE REASONS
26 FOR THE DISAPPROVAL.

27 (J) (1) THE SUM OF THE TAX CREDITS FOR ALL LEAD HAZARD
28 REDUCTION PROJECTS APPROVED FOR EACH FISCAL YEAR MAY NOT EXCEED
29 \$1,000,000.

1 **(2) THE DEPARTMENT MAY NOT APPROVE A LEAD HAZARD**
2 **REDUCTION PROJECT FOR A TAX CREDIT UNDER THIS SECTION AFTER JUNE 30,**
3 **2017.**

4 **(K) (1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE**
5 **ANY FALSE STATEMENT OR REPORT IN ANY APPLICATION OR OTHER DOCUMENT**
6 **REQUIRED TO BE FURNISHED TO THE DEPARTMENT OR THE COMPTROLLER**
7 **RELATING TO THE TAX CREDIT ALLOWED UNDER THIS SECTION.**

8 **(2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS**
9 **SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT**
10 **TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 2**
11 **YEARS OR BOTH.**

12 **(L) THE DEPARTMENT, IN COOPERATION WITH THE COMPTROLLER**
13 **AND THE DEPARTMENT OF THE ENVIRONMENT, SHALL ADOPT REGULATIONS TO**
14 **CARRY OUT THIS SECTION.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 July 1, 2013, and shall be applicable to all taxable years beginning after December 31,
17 2012.