

SENATE BILL 936

Q3, M3, C5

6lr3041
CF 6lr3168

By: **Senator Manno**

Introduced and read first time: February 5, 2016

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Clean Energy Incentive Act of 2016**

3 FOR the purpose of extending a certain credit against the State income tax for electricity
4 produced by certain facilities from certain qualified energy resources until a certain
5 date; extending the period in which the Maryland Energy Administration may issue
6 certain qualifying certifications; and generally relating to a certain income tax credit
7 for electricity produced from qualified energy resources.

8 BY repealing and reenacting, with amendments,
9 Article – Tax – General
10 Section 10–720
11 Annotated Code of Maryland
12 (2010 Replacement Volume and 2015 Supplement)

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

15 **Article – Tax – General**

16 10–720.

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

18 (2) “Administration” means the Maryland Energy Administration.

19 (3) (i) Except as provided in subparagraphs (ii) and (iii) of this
20 paragraph, “qualified energy resources” has the meaning stated in § 45(c)(1) of the Internal
21 Revenue Code.

22 (ii) “Qualified energy resources” includes any nonhazardous waste
23 material that is segregated from other waste materials and is derived from:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) sold by the individual or corporation to a person other than a
2 related person, within the meaning of § 45 of the Internal Revenue Code, during the taxable
3 year.

4 (2) If the electricity is produced from a qualified energy resource that is
5 co-fired at a facility that produces electricity from coal, the credit is 0.5 cents for each
6 kilowatt hour of electricity produced from the qualified energy resource instead of 0.85
7 cents.

8 (3) The annual tax credit under this subsection may not exceed one-fifth
9 of the maximum amount of credit stated in the initial credit certificate.

10 (c) (1) Subject to the provisions of this subsection, on application by a
11 taxpayer, the Administration shall issue an initial credit certificate if the taxpayer has
12 demonstrated that the taxpayer will within the next 12 months produce electricity from
13 qualified energy resources at a qualified Maryland facility.

14 (2) The initial credit certificate issued under this subsection shall:

15 (i) state the maximum amount of credit that may be claimed by the
16 taxpayer for electricity produced over a 5-year period;

17 (ii) state the earliest tax year for which the credit may be claimed;
18 and

19 (iii) state the 5-year period during which electricity produced from
20 qualified energy resources at the qualified Maryland facility qualifies for the credit.

21 (3) The maximum amount of credit stated in the initial credit certificate
22 shall, for an energy producer, be in an amount equal to the lesser of:

23 (i) the product of multiplying 5 times the taxpayer's estimated
24 annual tax credit, based on estimated annual energy production, as certified by the
25 Administration; or

26 (ii) \$2,500,000.

27 (4) The Administration may not issue initial credit certificates for
28 maximum credit amounts in the aggregate totaling more than \$25,000,000.

29 (5) The Administration shall approve all applications that qualify for an
30 initial credit certificate under this subsection on a first-come, first-served basis.

31 (6) If a taxpayer over a 3-year period does not claim on average at least
32 10% of the maximum credit amount stated in the initial credit certificate, the
33 Administration at its discretion may cancel an amount of the taxpayer's initial credit
34 certificate equal to the product of multiplying:

1 (i) the amount of the credit on average that was not claimed over
2 the 3-year period; and

3 (ii) the remaining number of tax years that the taxpayer is eligible
4 to take the credit.

5 (7) An applicant for an initial credit certificate or a taxpayer whose credits
6 have been canceled under paragraph (6) of this subsection, may appeal a decision by the
7 Administration to the Office of Administrative Hearings in accordance with Title 10,
8 Subtitle 2 of the State Government Article.

9 (8) The Administration may not issue an initial credit certificate after
10 December 31, ~~[2015]~~ **2018**.

11 (9) The Administration may not issue initial credit certificates for credit
12 amounts less than \$1,000.

13 (d) If the credit allowed under this section in any taxable year exceeds the State
14 income tax otherwise payable by the corporation or individual for that taxable year, the
15 corporation or the individual may claim a refund in the amount of the excess.

16 (e) (1) On January 1, 2007, and each year thereafter, the Administration shall
17 provide to the Comptroller a list of all taxpayers in the prior tax year that have been issued
18 an initial credit certificate and shall specify for each taxpayer the earliest tax year for which
19 the credit may be claimed and the maximum amount of credit allowed.

20 (2) (i) On or before October 1, 2007, and each year thereafter, the
21 Comptroller and the Administration jointly shall submit to the Governor and, subject to §
22 2-1246 of the State Government Article, to the General Assembly a written report
23 regarding:

24 1. the number of certifications and taxpayers claiming the
25 credit under this section;

26 2. the name and physical location of each taxpayer issued an
27 initial credit certificate;

28 3. the maximum credit amount approved for each taxpayer;

29 4. the geographical distribution of the credits claimed; and

30 5. any other available information the Administration
31 determines to be meaningful and appropriate.

32 (ii) The Comptroller shall ensure that the information is presented
33 and classified in a manner consistent with the confidentiality of tax return information.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2016.