

# HOUSE BILL 403

Q3

9lr2176

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By: **Delegates Ebersole and P. Young**

Introduced and read first time: January 30, 2019

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Income Tax Credit – Qualified Farms – Food Donation Pilot Program –**  
3 **Expansion and Extension**

4 FOR the purpose of altering the definition of “qualified farms”, for purposes of a certain  
5 credit against the State income tax for certain food donations, to include farm  
6 businesses located in ~~the State rather than certain counties~~ Baltimore County;  
7 altering the taxable years for which a qualified farm may claim the credit; altering  
8 the maximum amount of tax credit certificates that may be issued for certain fiscal  
9 years; extending the period of time during which the State Department of  
10 Agriculture may issue certain tax credit certificates; extending the period of time for  
11 which the Secretary of Agriculture, in consultation with the Comptroller, shall  
12 submit a certain report; declaring the intent of the General Assembly with regard to  
13 the expenditure of certain funds by the Department for certain purposes; and  
14 generally relating to a tax credit for certain food donations.

15 BY repealing and reenacting, with amendments,  
16 Article – Tax – General  
17 Section 10–745  
18 Annotated Code of Maryland  
19 (2016 Replacement Volume and 2018 Supplement)

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

22 **Article – Tax – General**

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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 10-745.

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

3 (2) “Certified organic produce” means an eligible food donation that is  
4 certified under Title 10, Subtitle 14 of the Agriculture Article as an organically produced  
5 commodity.

6 (3) “Eligible food donation” means fresh farm products for human  
7 consumption.

8 (4) “Qualified farm” means a farm business that is located in ~~the~~ Anne  
9 Arundel County, **BALTIMORE COUNTY**, Calvert County, Charles County, Montgomery  
10 County, Prince George’s County, or St. Mary’s County] ~~THE STATE~~.

11 (5) “Secretary” means the Secretary of Agriculture or the Secretary’s  
12 designee.

13 (6) “Tax credit certificate administrator” means a person or an  
14 organization that is authorized by the State Department of Agriculture under subsection  
15 (e) of this section to receive eligible food donations.

16 (b) (1) Subject to the limitations of this section, for a taxable year beginning  
17 after December 31, 2016, but before January 1, [2020] **2022**, a qualified farm may claim a  
18 credit against the State income tax in the amount stated on any tax credit certificates  
19 issued to the qualified farm during the taxable year.

20 (2) (i) Except as provided in subparagraph (ii) of this paragraph, for  
21 any taxable year, the aggregate amount of credits authorized under this subsection for a  
22 qualified farm may not exceed \$5,000.

23 (ii) For any taxable year, the Secretary may increase the credit  
24 limitation under subparagraph (i) of this paragraph for a qualified farm by an amount not  
25 to exceed \$5,000.

26 (3) If the credit allowed under this section exceeds the State income tax,  
27 any unused credit may be carried forward and applied for succeeding taxable years until  
28 the earlier of:

29 (i) the date on which the full amount of the credit is used; or

30 (ii) the date of the expiration of the 5th year after the taxable year  
31 for which the credit was allowed.

1 (c) (1) A qualified farm that makes an eligible food donation is eligible for a  
2 tax credit certificate with a stated tax credit amount equal to 50% of the value of the eligible  
3 food donation.

4 (2) A qualified farm that makes a donation of certified organic produce is  
5 eligible for a tax credit certificate with a stated tax credit amount equal to 75% of the value  
6 of the donated certified organic produce.

7 (d) (1) Each week the Secretary shall establish and publish the categories and  
8 value of certified organic produce and eligible food donations.

9 (2) Except as provided in paragraph (3) of this subsection, the value of each  
10 category of certified organic produce and eligible food donations is the wholesale value of  
11 the category established by the State Department of Agriculture and based on United  
12 States Department of Agriculture reports on Maryland products sold at Maryland markets.

13 (3) If the Secretary determines that the value established under paragraph  
14 (2) of this subsection is insufficient to pay for the cost of harvesting a category of certified  
15 organic produce or eligible food donation, the Secretary may establish a value in excess of  
16 the value under paragraph (2) of this subsection.

17 (e) (1) The Secretary, in consultation with the Comptroller, shall establish a  
18 process to certify a person or an organization to act as a tax credit certificate administrator.

19 (2) A tax credit certificate administrator that receives a donation of  
20 certified organic produce or an eligible food donation from a qualified farm shall issue the  
21 qualified farm a tax credit certificate.

22 (3) The tax credit certificate shall:

23 (i) state the date of the donation;

24 (ii) identify the qualified farm;

25 (iii) describe the type of donation;

26 (iv) state the weight of the donation;

27 (v) identify the value of the donation;

28 (vi) state the maximum amount of the tax credit for which the  
29 qualified farm is eligible; and

30 (vii) provide any other information the State Department of  
31 Agriculture or Comptroller requires.

1 (4) The Secretary, in consultation with the Comptroller, shall prepare tax  
2 credit certificate forms for the use of the tax credit certificate administrators.

3 (5) Within 30 days after issuing a tax credit certificate, the tax credit  
4 certificate administrator shall provide a copy of the tax credit certificate to the Secretary  
5 and the Comptroller.

6 (6) (i) The Secretary shall notify each tax credit certificate  
7 administrator to stop issuing tax credit certificates if the amount of tax credit certificates  
8 issued during the fiscal year equals or exceeds the amount of tax credit certificates  
9 authorized to be issued during the fiscal year under subsection (f) of this section less  
10 \$50,000.

11 (ii) The Secretary, in consultation with the Comptroller, shall adopt  
12 regulations providing procedures to issue the remaining \$50,000 of tax credit certificates  
13 under this paragraph.

14 (f) (1) For each fiscal year, the total amount of tax credit certificates issued  
15 under this section may not exceed ~~\$250,000~~ **\$100,000**.

16 (2) If the total amount of tax credit certificates issued during any fiscal  
17 year totals less than the maximum amount provided under paragraph (1) of this subsection,  
18 any excess amount may be carried forward and issued under tax credit certificates in a  
19 subsequent fiscal year.

20 (3) A tax credit certificate may not be issued after December 31, [2019]  
21 **2021**.

22 (g) On or before January 1, 2018, and January 1 each year thereafter until  
23 January 1, [2021] **2023**, the Secretary, in consultation with the Comptroller, shall submit  
24 a report to the Governor and, subject to § 2–1246 of the State Government Article, the  
25 General Assembly on the use and impact of the tax credit established under this section.

26 (h) The Secretary, in consultation with the Comptroller, shall adopt regulations  
27 to administer this section.

28 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General  
29 Assembly that the State Department of Agriculture, in an amount consistent with the  
30 amount of funding expended by the Department before the effective date of this Act in  
31 administering the tax credit established under § 10–745 of the Tax – General Article, shall  
32 continue to fund the marketing of the credit program and facilitate the donation of eligible  
33 food donations by qualified farms in accordance with § 10–745 of the Tax – General Article,  
34 as enacted by Section 1 of this Act, through the reimbursement of transportation costs or  
35 direct assistance with the transportation of eligible food donations.

36 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
37 1, 2019.