

HOUSE BILL 759

Q3

0lr1487

By: **Delegates McIntosh, Anderson, and Boyce**

Introduced and read first time: January 31, 2020

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 28, 2020

CHAPTER _____

1 AN ACT concerning

2 **Historic Revitalization Tax Credit – Expansion – Rehabilitations of Common**
3 **Elements of Condominiums and Cooperative Projects**

4 FOR the purpose of altering the definition of “small commercial project” under the historic
5 revitalization tax credit program to include the rehabilitation of certain
6 condominiums and cooperative projects if the rehabilitations target only certain
7 common elements of the condominiums or cooperative projects; requiring the
8 Director of the Maryland Historical Trust, in consultation with the Smart Growth
9 Subcabinet, to adopt certain regulations; defining and altering certain terms;
10 providing for the application of this Act; and generally relating to the historic
11 revitalization tax credit.

12 BY repealing and reenacting, with amendments,
13 Article – State Finance and Procurement
14 Section 5A–303(a) and (b)(1)(xi)
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – State Finance and Procurement
19 Section 5A–303(b)(4), (c)(1)(i), (2)(ii), and (4), and (e)
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2019 Supplement)

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

3 **Article – State Finance and Procurement**

4 5A–303.

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

6 (2) “Affordable housing” means a project or undertaking that has received
7 an allocation of federal low–income housing tax credits by the Department of Housing and
8 Community Development.

9 (3) “Agricultural structure” means a certified historic structure that is used
10 or was used as an agricultural facility or for purposes related to agriculture.

11 (4) (I) “Business entity” means:

12 [(i)] 1. a person conducting or operating a trade or business in the
13 State; or

14 [(ii)] 2. an organization operating in Maryland that is exempt
15 from taxation under § 501(c)(3) of the Internal Revenue Code.

16 (II) **“BUSINESS ENTITY” INCLUDES THE GOVERNING BODY OF A**
17 **CONDOMINIUM OR COOPERATIVE HOUSING CORPORATION.**

18 (5) “Certified heritage area” has the meaning stated in § 13–1101 of the
19 Financial Institutions Article.

20 (6) (i) “Certified historic structure” means a structure that is located in
21 the State and is:

22 1. listed in the National Register of Historic Places;

23 2. designated as a historic property under local law and
24 determined by the Director to be eligible for listing on the National Register of Historic
25 Places;

26 3. A. located in a historic district listed on the National
27 Register of Historic Places or in a local historic district that the Director determines is
28 eligible for listing on the National Register of Historic Places; and

29 B. certified by the Director as contributing to the significance
30 of the district; or

1 4. located in a certified heritage area and certified by the
2 Maryland Heritage Areas Authority as contributing to the significance of the certified
3 heritage area.

4 (ii) “Certified historic structure” does not include a structure that is
5 owned by the State, a political subdivision of the State, or the federal government.

6 (7) “Certified rehabilitation” means a completed rehabilitation of a
7 certified historic structure that the Director certifies is a substantial rehabilitation in
8 conformance with the rehabilitation standards of the United States Secretary of the
9 Interior.

10 (8) (i) “Commercial rehabilitation” means a rehabilitation of a
11 structure other than a single-family, owner-occupied residence.

12 (ii) “Commercial rehabilitation” does not include a small commercial
13 project.

14 (9) “COMMON ELEMENTS” ~~HAS THE MEANING STATED IN § 11-101 OF~~
15 ~~THE REAL PROPERTY ARTICLE~~ MEANS:

16 (I) ALL OF THE CONDOMINIUM EXCEPT THE UNITS, AS DEFINED
17 IN § 11-101 OF THE REAL PROPERTY ARTICLE; OR

18 (II) ALL OF THE COOPERATIVE PROJECT EXCEPT THE UNITS, AS
19 DEFINED IN § 5-6B-01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

20 (10) “CONDOMINIUM” HAS THE MEANING STATED IN § 11-101 OF THE
21 REAL PROPERTY ARTICLE.

22 (11) “COOPERATIVE HOUSING CORPORATION” HAS THE MEANING
23 STATED IN § 5-6B-01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

24 (12) “COOPERATIVE PROJECT” HAS THE MEANING STATED IN §
25 5-6B-01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

26 [(9)] ~~(11)~~ (13) “Director” means the Director of the Maryland Historical
27 Trust.

28 [(10)] ~~(12)~~ (14) “Financial assistance” means action by the State or a State
29 unit to award grants, loans, loan guarantees, or insurance to a public or private entity to
30 finance, wholly or partly, a project that involves or may result in building construction,
31 building alteration, or land disturbance.

32 ~~(13)~~ (15) “GOVERNING BODY”, UNLESS THE CONTEXT REQUIRES
33 OTHERWISE, HAS:

1 (I) WITH RESPECT TO A COOPERATIVE HOUSING
 2 CORPORATION, THE MEANING STATED IN § 5-6B-01 OF THE CORPORATIONS AND
 3 ASSOCIATIONS ARTICLE; OR

4 (II) WITH RESPECT TO A CONDOMINIUM, THE MEANING STATED
 5 IN § 11-101 OF THE REAL PROPERTY ARTICLE.

6 [(11)] ~~(14)~~ **(16)** “High performance building” means a building that:

7 (i) meets or exceeds the current version of the U.S. Green Building
 8 Council’s LEED (Leadership in Energy and Environmental Design) green building rating
 9 system gold rating; or

10 (ii) achieves at least a comparable numeric rating according to a
 11 nationally recognized, accepted, and appropriate numeric sustainable development rating
 12 system, guideline, or standard approved by the Secretaries of Budget and Management and
 13 General Services under § 3-602.1 of this article.

14 [(12)] ~~(15)~~ **(17)** (i) “Historic property” means a district, site, building,
 15 structure, monument, or object significant to:

16 1. the prehistory or history of the State; or

17 2. the upland or underwater archeology, architecture,
 18 engineering, or culture of the State.

19 (ii) “Historic property” includes related artifacts, records, and
 20 remains.

21 [(13)] ~~(16)~~ **(18)** “Level 1 opportunity zone project” means a small
 22 commercial project or commercial rehabilitation completed by a qualified opportunity zone
 23 business if the following information is provided to the Director:

24 (i) the date of the qualified opportunity fund’s investment in the
 25 opportunity zone project and the amount of the investment;

26 (ii) the total project or business investment, including any leverage;

27 (iii) the address and census tract of the qualified opportunity zone
 28 business and the qualified opportunity fund;

29 (iv) the North American Industrial Classification System Code for
 30 the qualified opportunity zone business;

1 (v) an impact report, including both qualitative and quantitative
2 data on the qualified opportunity fund's investment in the opportunity zone project and its
3 progress; and

4 (vi) any other information requested by the Director.

5 ~~[(14)]~~ ~~(17)~~ **(19)** "Level 2 opportunity zone project" means a small
6 commercial project or commercial rehabilitation completed by a qualified opportunity zone
7 business if:

8 (i) the requirements for a Level 1 opportunity zone project are met;

9 (ii) 1. accountability to residents of the communities in the
10 qualified opportunity zone is maintained through their representation on any governing
11 board or any advisory board of the qualified opportunity zone business; or

12 2. a community benefits agreement is negotiated and agreed
13 to by community groups or strategic industry partnerships, as defined under § 11-701 of
14 the Labor and Employment Article, in the opportunity zone and the qualified opportunity
15 zone business that specifies a range of community benefits that the business agrees to
16 provide as part of the development project; and

17 (iii) 1. for an opportunity zone project located entirely within a
18 municipal corporation, the municipal corporation, by resolution or by letter, delivered to
19 the Director by the municipal corporation's authorized designee, approves the provision
20 within the municipal corporation of the enhanced tax credits under this section; or

21 2. for an opportunity zone project that is not located entirely
22 within a municipal corporation, the county, by resolution or by letter, delivered to the
23 Director by the county's authorized designee, approves the provision within the county of
24 the enhanced tax credits under this section.

25 ~~[(15)]~~ ~~(18)~~ **(20)** "Local historic district" means a district that the governing
26 body of a county or municipal corporation, or the Mayor and City Council of Baltimore, has
27 designated under local law as historic.

28 ~~[(16)]~~ ~~(19)~~ **(21)** "National register structure" means a structure that is:

29 (i) listed on the National Register of Historic Places; or

30 (ii) located in a historic district listed on the National Register of
31 Historic Places and certified by the Director as contributing to the significance of the
32 district.

33 ~~[(17)]~~ ~~(20)~~ **(22)** "Opportunity zone project" means a certified
34 rehabilitation within a geographical area designated and in effect as a qualified opportunity
35 zone in the State under § 1400Z-1 of the Internal Revenue Code.

1 [(18)] ~~(21)~~ **(23)** “Political subdivision” means a county or municipal
2 corporation of the State.

3 [(19)] ~~(22)~~ **(24)** “Post–World War II structure” means a certified historic
4 structure that was built after December 31, 1944, but before January 1, 1970.

5 [(20)] ~~(23)~~ **(25)** “Qualified opportunity fund” has the meaning stated in §
6 6–1001 of the Economic Development Article.

7 [(21)] ~~(24)~~ **(26)** “Qualified opportunity zone” has the meaning stated in §
8 6–1001 of the Economic Development Article.

9 [(22)] ~~(25)~~ **(27)** “Qualified opportunity zone business” has the meaning
10 stated in § 6–1001 of the Economic Development Article.

11 [(23)] ~~(26)~~ **(28)** “Qualified rehabilitation expenditure” means any amount
12 that:

13 (i) is properly chargeable to a capital account;

14 (ii) is expended in the rehabilitation of a structure that by the end of
15 the calendar year in which the certified rehabilitation is completed is a certified historic
16 structure;

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

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

20 1. State or local grant;

21 2. grant made from the proceeds of tax–exempt bonds issued
22 by the State, a political subdivision of the State, or an instrumentality of the State or of a
23 political subdivision of the State;

24 3. State tax credit other than the tax credit under this
25 section; or

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

1 [(24)] ~~(27)~~ **(29)** (i) “Single-family, owner-occupied residence” means a
 2 structure or a portion of a structure occupied by the owner and the owner’s immediate
 3 family as their primary or secondary residence.

4 (ii) “Single-family, owner-occupied residence” includes:

5 1. a residential unit in a cooperative project owned by or
 6 leased to a cooperative housing corporation, ~~as defined in § 5-6B-01 of the Corporations~~
 7 ~~and Associations Article~~, and leased for exclusive occupancy to, and occupied by, a member
 8 of the corporation and the member’s immediate family under a proprietary lease; or

9 2. a small commercial project.

10 [(25)] ~~(28)~~ **(30)** “Small commercial project” means a rehabilitation of a
 11 structure if:

12 (i) the qualified rehabilitation expenditures do not exceed \$500,000;
 13 and

14 (ii) 1. the structure is primarily used for commercial,
 15 income-producing purposes;

16 2. the structure:

17 A. is a residential unit in a consecutive series of similar
 18 residential units that are arranged in a row, side by side; and

19 B. is sold as part of a development project for exclusive
 20 occupancy to, and occupied by, the resident; [or]

21 3. the structure is a targeted project; **OR**

22 4. **THE STRUCTURE IS A CONDOMINIUM OR**
 23 **COOPERATIVE PROJECT AND THE REHABILITATION TARGETS ONLY THE COMMON**
 24 **ELEMENTS OF THE CONDOMINIUM OR COOPERATIVE PROJECT.**

25 [(26)] ~~(29)~~ **(31)** “Smart Growth Subcabinet” means the Smart Growth
 26 Subcabinet established under Title 9, Subtitle 14 of the State Government Article.

27 [(27)] ~~(30)~~ **(32)** “State unit” has the meaning stated in § 11-101 of the
 28 State Government Article.

29 [(28)] ~~(31)~~ **(33)** “Substantial rehabilitation” means rehabilitation of a
 30 structure for which the qualified rehabilitation expenditures, during the 24-month period
 31 selected by the individual or business entity ending with or within the taxable year, exceed:

1 (i) for single-family, owner-occupied residential property, \$5,000;
2 or

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

4 1. the adjusted basis of the structure; or

5 2. \$25,000.

6 [(29)] ~~(32)~~ (34) "Targeted project" means a rehabilitation of:

7 (i) an agricultural structure; or

8 (ii) a post-World War II structure.

9 (b) (1) The Director, in consultation with the Smart Growth Subcabinet, shall
10 adopt regulations to:

11 (xi) for small commercial projects:

12 1. establish conditions regarding the percentage of the
13 structure that may be used for residential rental purposes if the structure is used for both
14 commercial and residential rental purposes;

15 **2. ESTABLISH APPLICATION PROCEDURES FOR**
16 **GOVERNING BODIES OF CONDOMINIUMS AND COOPERATIVE HOUSING**
17 **CORPORATIONS AND CONDITIONS REGARDING THE REHABILITATION OF COMMON**
18 **ELEMENTS OF CONDOMINIUMS AND COOPERATIVE PROJECTS;**

19 [2.] **3.** specify criteria for determining whether a certified
20 historic structure is:

21 A. an agricultural structure; or

22 B. a post-World War II structure; and

23 [3.] **4.** specify criteria and procedures for the issuance of
24 initial credit certificates under subsection (e) of this section; and

25 (4) (i) Except as provided in subsection (e) of this section, a small
26 commercial project shall be treated as a single-family, owner-occupied residential
27 property, including the limitation on the amount of the tax credit provided in subsection
28 (c)(2)(ii) of this section.

29 (ii) A small commercial project is subject to the credit recapture
30 provision in subsection (f) of this section.

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

5 (2) (ii) For a rehabilitation other than a commercial rehabilitation, the
6 State tax credit allowed under this section may not exceed:

7 1. \$50,000 for a rehabilitation other than a Level 1 or Level
8 2 opportunity zone project;

9 2. \$55,000 for a Level 1 opportunity zone project; or

10 3. \$60,000 for a Level 2 opportunity zone project.

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

14 (e) (1) Subject to the provisions of this subsection, the Director shall issue an
15 initial credit certificate for each approved small commercial project on a first-come,
16 first-served basis.

17 (2) An initial credit certificate issued under this subsection shall state the
18 maximum amount of tax credit for which the applicant is eligible.

19 (3) (i) The Director may not issue an initial credit certificate under this
20 subsection after the aggregate amount of initial credit certificates issued for small
21 commercial projects totals \$4,000,000.

22 (ii) For a targeted project, the Director may not issue an initial credit
23 certificate under this subsection:

24 1. after the aggregate amount of initial credit certificates
25 issued for agricultural structures totals \$1,000,000; or

26 2. after the aggregate amount of initial credit certificates
27 issued for post-World War II structures totals \$1,000,000.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.