

# HOUSE BILL 862

Q3

0lr2596  
CF 0lr1461

---

By: **Delegates Smith, Buckel, and Lierman**

Introduced and read first time: February 3, 2020

Assigned to: Ways and Means

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Historic Revitalization Tax Credit – Transferability, Funding, and Extension**  
3 **(Historic Revitalization Tax Credit Improvement Act of 2020)**

4 FOR the purpose of making a certain tax credit for commercial rehabilitations under the  
5 historic revitalization tax credit program transferable and refundable under certain  
6 circumstances; requiring the Director of the Maryland Historical Trust, in  
7 consultation with the Smart Growth Subcabinet, to adopt certain regulations;  
8 requiring the Governor, in certain fiscal years, to include in the annual State budget  
9 an appropriation of at least a certain amount for the tax credit reserve fund;  
10 extending for a certain number of years the termination date of the tax credit;  
11 providing for the application of this Act; and generally relating to the historic  
12 revitalization tax credit.

13 BY adding to

14 Article – State Finance and Procurement  
15 Section 5A–303(b)(1)(xi) and (c)(6)  
16 Annotated Code of Maryland  
17 (2015 Replacement Volume and 2019 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – State Finance and Procurement  
20 Section 5A–303(b)(1)(xi) and (xii), (d), and (j)  
21 Annotated Code of Maryland  
22 (2015 Replacement Volume and 2019 Supplement)

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

25 **Article – State Finance and Procurement**

26 5A–303.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (XI) FOR COMMERCIAL REHABILITATIONS, ESTABLISH  
4 PROCEDURES FOR THE TRANSFER OF THE TAX CREDIT UNDER SUBSECTION (C)(6)  
5 OF THIS SECTION;

6 [(xi)] (XII) for small commercial projects:

7 1. establish conditions regarding the percentage of the  
8 structure that may be used for residential rental purposes if the structure is used for both  
9 commercial and residential rental purposes;

10 2. specify criteria for determining whether a certified historic  
11 structure is:

12 A. an agricultural structure; or

13 B. a post–World War II structure; and

14 3. specify criteria and procedures for the issuance of initial  
15 credit certificates under subsection (e) of this section; and

16 [(xii)] (XIII) specify criteria and procedures for approval of enhanced  
17 benefits under this section for Level 1 and Level 2 opportunity zone projects.

18 (c) (6) (I) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE  
19 DIRECTOR UNDER THIS SECTION, THE AMOUNT OF THE STATE TAX CREDIT  
20 ALLOWED BUT NOT USED FOR COMMERCIAL REHABILITATIONS UNDER THIS  
21 SECTION MAY BE TRANSFERRED IN WHOLE OR IN PART TO ANY INDIVIDUAL OR  
22 BUSINESS ENTITY.

23 (II) 1. FOR THE TAXABLE YEAR OF ANY TRANSFER UNDER  
24 THIS PARAGRAPH, THE TRANSFEREE UNDER SUBPARAGRAPH (I) OF THIS  
25 PARAGRAPH MAY APPLY THE TAX CREDIT AGAINST THE TOTAL TAX OTHERWISE  
26 PAYABLE BY THE TRANSFEREE IN THAT TAXABLE YEAR.

27 2. IF THE TAX CREDIT EXCEEDS THE STATE INCOME TAX  
28 OF THE TRANSFEREE IN ANY TAXABLE YEAR, THE TRANSFEREE:

29 A. MAY CLAIM A REFUND IN THE AMOUNT OF THE  
30 EXCESS; OR

31 B. MAY TRANSFER THE REMAINDER OF THE TAX CREDIT

1 **TO ANY INDIVIDUAL OR BUSINESS ENTITY.**

2 (d) (1) In this subsection, "Reserve Fund" means the Historic Revitalization  
3 Tax Credit Reserve Fund established under paragraph (2) of this subsection.

4 (2) (i) There is a Historic Revitalization Tax Credit Reserve Fund that  
5 is a continuing, nonlapsing special fund that is not subject to § 7-302 of this article.

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

8 (iii) If the fees paid in any fiscal year are less than the directly related  
9 administrative costs of operating the Historic Revitalization Tax Credit Program, funds in  
10 the Reserve Fund shall be used for the directly related administrative costs of the Program.

11 (3) (i) Subject to the provisions of this subsection, the Director shall  
12 issue an initial credit certificate for each commercial rehabilitation for which a plan of  
13 proposed rehabilitation is approved and the fees charged under subsection (b)(7)(i) of this  
14 section are paid.

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

18 (iii) 1. Except as otherwise provided in this subparagraph and in  
19 subsection (b)(7)(v) of this section, for any fiscal year, the Director may not issue initial  
20 credit certificates for credit amounts in the aggregate totaling more than the amount  
21 appropriated to the Reserve Fund for that fiscal year in the State budget as approved by  
22 the General Assembly.

23 2. If the aggregate credit amounts under initial credit  
24 certificates issued in a fiscal year total less than the amount appropriated to the Reserve  
25 Fund for that fiscal year as a result of the limitation under subsection (b)(6) of this section,  
26 any excess amount may be issued under initial credit certificates for projects in a county or  
27 Baltimore City in the same fiscal year, without regard to the limitation under subsection  
28 (b)(6) of this section.

29 3. Subject to subsubparagraph 2 of this subparagraph, if the  
30 aggregate credit amounts under initial credit certificates issued in a fiscal year total less  
31 than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount  
32 shall remain in the Reserve Fund and may be issued under initial credit certificates for the  
33 next fiscal year.

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

1                   5.     In each fiscal year, the Director shall estimate the amount  
2 of fees to be collected based on the amount appropriated to the Reserve Fund and reserve  
3 the difference between the estimated fees and estimated directly related administrative  
4 costs of the Program to be used to administer the Program.

5                   6.     If the reservation of funds to administer the Program  
6 under subparagraph 5 of this subparagraph is not necessary to cover the directly related  
7 administrative costs of the Program, any excess amount shall remain in the Reserve Fund  
8 and may be issued under initial credit certificates for the next fiscal year.

9                   (iv)   1.     [For] **SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS**  
10 **SUBPARAGRAPH, FOR** each of fiscal years 2018 through [2024] **2028**, the Governor shall  
11 include in the budget bill an appropriation to the Reserve Fund.

12                   2.     **THE GOVERNOR SHALL INCLUDE IN THE BUDGET**  
13 **BILL AN APPROPRIATION TO THE RESERVE FUND OF AT LEAST THE FOLLOWING**  
14 **AMOUNTS:**

15                   A.     **FOR FISCAL YEAR 2022, \$15,000,000;**

16                   B.     **FOR FISCAL YEAR 2023, \$20,000,000;**

17                   C.     **FOR FISCAL YEAR 2024, \$25,000,000; AND**

18                   D.     **FOR FISCAL YEAR 2025, \$30,000,000.**

19                   (v)   Notwithstanding the provisions of § 7–213 of this article, the  
20 Governor may not reduce an appropriation for the Reserve Fund in the State budget as  
21 approved by the General Assembly.

22                   (vi)   The Director may not issue an initial credit certificate for any  
23 fiscal year after fiscal year [2024] **2028**.

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

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

29                   A.     the maximum credit amount stated in the initial credit  
30 certificate for the project; and

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

