

SENATE BILL 289

Q3

2lr1284
CF HB 27

By: **Senators McCray and Hester**

Introduced and read first time: January 19, 2022

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Historic Revitalization Tax Credit – Funding and Extension**

3 FOR the purpose of establishing the Small Commercial Project Trust Account within the
4 Historic Revitalization Tax Credit Reserve Fund; requiring the Governor, in certain
5 fiscal years, to include in the annual State budget an appropriation of at least a
6 certain amount for the Reserve Fund and the Trust Account; altering the aggregate
7 amount of initial tax credit certificates that may be issued for small commercial
8 projects; extending for a certain number of years the termination date of the tax
9 credit; and generally relating to the historic revitalization tax credit.

10 BY repealing and reenacting, with amendments,
11 Article – State Finance and Procurement
12 Section 5A–303(d), (e), and (j)
13 Annotated Code of Maryland
14 (2021 Replacement Volume)

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

17 **Article – State Finance and Procurement**

18 5A–303.

19 (d) (1) **(I)** In this subsection[,] **THE FOLLOWING WORDS HAVE THE**
20 **MEANINGS INDICATED.**

21 **(II)** “Reserve Fund” means the Historic Revitalization Tax Credit
22 Reserve Fund established under paragraph (2) of this subsection.

23 **(III)** “**TRUST ACCOUNT**” **MEANS THE SMALL COMMERCIAL**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **PROJECT TRUST ACCOUNT ESTABLISHED UNDER PARAGRAPH (4) OF THIS**
2 **SUBSECTION.**

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

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

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

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

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

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

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

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

33 4. For any fiscal year, if funds are transferred from the
34 Reserve Fund under the authority of any provision of law other than paragraph [(4)] (5) of
35 this subsection, the maximum credit amounts in the aggregate for which the Director may
36 issue initial credit certificates shall be reduced by the amount transferred.

37 5. In each fiscal year, the Director shall estimate the amount

1 of fees to be collected based on the amount appropriated to the Reserve Fund and reserve
2 the difference between the estimated fees and estimated directly related administrative
3 costs of the Program to be used to administer the Program.

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

8 (iv) 1. Subject to [subsubparagraph 2] **SUBSUBPARAGRAPHS 2**
9 **THROUGH 5** of this subparagraph, for each of fiscal years 2018 through [2024] **2031**, the
10 Governor shall include in the budget bill an appropriation to the Reserve Fund.

11 2. For each of fiscal years 2023 and 2024, the Governor shall
12 include in the budget bill an appropriation to the Reserve Fund of at least \$12,000,000.

13 **3. FOR EACH OF FISCAL YEARS 2025 AND 2026, THE**
14 **GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE**
15 **RESERVE FUND OF AT LEAST \$24,000,000.**

16 **4. FOR EACH OF FISCAL YEARS 2027 THROUGH 2031,**
17 **THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE**
18 **RESERVE FUND OF AT LEAST \$36,000,000.**

19 **5. THE AMOUNTS DESCRIBED UNDER**
20 **SUBSUBPARAGRAPHS 2 THROUGH 4 OF THIS SUBPARAGRAPH SHALL BE IN ADDITION**
21 **TO THE APPROPRIATIONS TO THE TRUST ACCOUNT REQUIRED UNDER PARAGRAPH**
22 **(4) OF THIS SUBSECTION.**

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

26 (vi) The Director may not issue an initial credit certificate for any
27 fiscal year after fiscal year [2024] **2031**.

28 **(4) (I) WITHIN THE RESERVE FUND, THERE IS A SMALL**
29 **COMMERCIAL PROJECT TRUST ACCOUNT.**

30 **(II) 1. THE TRUST ACCOUNT IS ESTABLISHED FOR THE**
31 **ISSUANCE OF TAX CREDIT CERTIFICATES FOR SMALL COMMERCIAL PROJECTS.**

32 **2. FUNDS IN THE TRUST ACCOUNT SHALL BE USED**
33 **ONLY FOR TRANSFERS FROM THE RESERVE FUND TO THE GENERAL FUND IN**
34 **ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION WITH RESPECT TO TAX**

1 **CREDIT CERTIFICATES ISSUED FOR SMALL COMMERCIAL PROJECTS.**

2 **(III) THE TRUST ACCOUNT CONSISTS OF:**

3 **1. MONEY APPROPRIATED IN THE STATE BUDGET FOR**
4 **THE TRUST ACCOUNT; AND**

5 **2. ANY OTHER MONEY FROM ANY OTHER SOURCE**
6 **ACCEPTED FOR THE BENEFIT OF THE TRUST ACCOUNT.**

7 **(IV) FOR EACH OF FISCAL YEARS 2024 THROUGH 2031, THE**
8 **GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE**
9 **TRUST ACCOUNT OF AT LEAST \$4,000,000.**

10 **[(4)] (5)** (i) Except as provided in this paragraph, money appropriated
11 to the Reserve Fund shall remain in the Fund.

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

15 A. the maximum credit amount stated in the initial credit
16 certificate for the project; and

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

18 2. On notification that a project has been certified, the
19 Comptroller shall transfer an amount equal to the maximum credit amount stated in the
20 initial credit certificate for the project from the Reserve Fund to the General Fund.

21 (iii) 1. On or before October 1 of each year, the Trust shall notify
22 the Comptroller as to the maximum credit amount stated in the initial credit certificate for
23 each commercial rehabilitation for which the initial credit certificate has expired under
24 subsection (c)(3) of this section as of the end of the prior fiscal year.

25 2. On notification that the initial credit certificate for a
26 project has expired under subsection (c)(3) of this section, the Comptroller shall transfer an
27 amount equal to the maximum credit amount stated in the initial credit certificate for the
28 project from the Reserve Fund to the General Fund.

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

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

1 (3) (i) **[The] BEFORE FISCAL YEAR 2024, THE** Director may not issue
2 an initial credit certificate under this subsection after the aggregate amount of initial credit
3 certificates issued for small commercial projects totals \$5,000,000.

4 (ii) **[For] BEFORE FISCAL YEAR 2024, FOR** a targeted project, the
5 Director may not issue an initial credit certificate under this subsection:

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

8 2. after the aggregate amount of initial credit certificates
9 issued for post–World War II structures totals \$1,000,000.

10 **(III) BEGINNING FISCAL YEAR 2024 AND EACH FISCAL YEAR**
11 **THEREAFTER, THE DIRECTOR MAY NOT ISSUE INITIAL CREDIT CERTIFICATES FOR**
12 **SMALL COMMERCIAL PROJECTS UNDER THIS SUBSECTION FOR CREDIT AMOUNTS IN**
13 **THE AGGREGATE TOTALING MORE THAN THE AMOUNT OF FUNDS IN THE SMALL**
14 **COMMERCIAL PROJECT TRUST ACCOUNT ESTABLISHED UNDER SUBSECTION (D)(4)**
15 **OF THIS SECTION.**

16 (j) (1) Subject to the provisions of this subsection, the provisions of this section
17 and the tax credit authorized under this section shall terminate as of July 1, **[2024] 2031**.

18 (2) On and after July 1, **[2024] 2031**:

19 (i) the tax credit authorized under this section may be claimed for:

20 1. a rehabilitation project, other than a commercial
21 rehabilitation, for which an application for approval of a plan of proposed rehabilitation
22 was received by the Director on or before June 30, **[2024] 2031**; or

23 2. a commercial rehabilitation for which an initial credit
24 certificate has been awarded under subsection (d) of this section; and

25 (ii) the Director shall continue to report to the Governor and the
26 General Assembly as required under subsection (i) of this section for as long as any
27 rehabilitation project for which the tax credit may be claimed remains incomplete.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2022.