

SENATE BILL 952

Q3

3lr3058

By: **Senator McCray**

Introduced and read first time: February 24, 2023

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Historic Revitalization Tax Credit – Credit Amounts and Funding – Alterations**

3 FOR the purpose of altering the calculation of and certain limitations on a certain credit
4 against the State income tax for certain rehabilitation projects under the historic
5 revitalization tax credit program; altering the amount of certain appropriations that
6 the Governor, in certain fiscal years, is required to include in the annual budget bill
7 for the Historic Revitalization Tax Credit Reserve Fund and the Small Commercial
8 Project Trust Account within the Reserve Fund; and generally relating to the historic
9 revitalization tax credit program.

10 BY repealing and reenacting, without amendments,
11 Article – State Finance and Procurement
12 Section 5A–303(a)(1), (8), (16), (18), (19), (28), and (30) and (e)
13 Annotated Code of Maryland
14 (2021 Replacement Volume and 2022 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – State Finance and Procurement
17 Section 5A–303(c)(1) and (2) and (d)(3)(iv) and (4)
18 Annotated Code of Maryland
19 (2021 Replacement Volume and 2022 Supplement)

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

22 **Article – State Finance and Procurement**

23 5A–303.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (ii) “Commercial rehabilitation” does not include a small commercial
4 project.

5 (16) “High performance building” means a building that:

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

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

13 (18) “Level 1 opportunity zone project” means a small commercial project or
14 commercial rehabilitation completed by a qualified opportunity zone business if the
15 following information is provided to the Director:

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

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

19 (iii) the address and census tract of the qualified opportunity zone
20 business and the qualified opportunity fund;

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

23 (v) an impact report, including both qualitative and quantitative
24 data on the qualified opportunity fund’s investment in the opportunity zone project and its
25 progress; and

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

27 (19) “Level 2 opportunity zone project” means a small commercial project or
28 commercial rehabilitation completed by a qualified opportunity zone business if:

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

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

1 2. a community benefits agreement is negotiated and agreed
2 to by community groups or strategic industry partnerships, as defined under § 11–701 of
3 the Labor and Employment Article, in the opportunity zone and the qualified opportunity
4 zone business that specifies a range of community benefits that the business agrees to
5 provide as part of the development project; and

6 (iii) 1. for an opportunity zone project located entirely within a
7 municipal corporation, the municipal corporation, by resolution or by letter, delivered to
8 the Director by the municipal corporation’s authorized designee, approves the provision
9 within the municipal corporation of the enhanced tax credits under this section; or

10 2. for an opportunity zone project that is not located entirely
11 within a municipal corporation, the county, by resolution or by letter, delivered to the
12 Director by the county’s authorized designee, approves the provision within the county of
13 the enhanced tax credits under this section.

14 (28) “Qualified rehabilitation expenditure” means any amount that:

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

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

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

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

22 1. State or local grant;

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

26 3. State tax credit other than the tax credit under this
27 section; or

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

32 (30) “Small commercial project” means a rehabilitation of a structure if:

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

34 and

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

3 2. the structure:

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

6 B. is sold as part of a development project for exclusive
7 occupancy to, and occupied by, the resident;

8 3. the structure is a targeted project; or

9 4. the structure is a condominium or cooperative project and
10 the rehabilitation targets only the common elements of the condominium or cooperative
11 project.

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

16 (ii) For a commercial rehabilitation, an individual or business entity
17 may claim an additional tax credit in an amount equal to ~~[5%]~~ **10%** of the individual's or
18 business entity's qualified rehabilitation expenditures if the certified rehabilitation is a
19 certified historic structure and:

20 1. is a high performance building; or

21 2. qualifies as affordable housing or a Level 1 opportunity
22 zone project.

23 (iii) For a commercial rehabilitation, a business entity may claim an
24 additional tax credit in an amount equal to ~~[7.5%]~~ **12.5%** of the business entity's qualified
25 rehabilitation expenditures if the certified rehabilitation is a certified historic structure
26 and qualifies as a Level 2 opportunity zone project.

27 (2) (i) For any commercial rehabilitation, the State tax credit allowed
28 under this section may not exceed the lesser of:

29 1. A. ~~[\$5,000,000]~~ **\$10,000,000** for any commercial
30 rehabilitation other than a Level 1 or Level 2 opportunity zone project;

31 B. ~~[\$5,250,000]~~ **\$10,500,000** for a Level 1 opportunity zone
32 project; or

1 C. ~~[\$5,500,000]~~ **\$11,000,000** for a Level 2 opportunity zone
2 project; or

3 2. the maximum amount specified under the initial credit
4 certificate issued for the rehabilitation.

5 (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]~~ **\$100,000** for a rehabilitation other than a Level
8 1 or Level 2 opportunity zone project;

9 2. ~~[\$55,000]~~ **\$110,000** for a Level 1 opportunity zone project;
10 or

11 3. ~~[\$60,000]~~ **\$120,000** for a Level 2 opportunity zone project.

12 (iii) For the purposes of the limitation under subparagraph (i) of this
13 paragraph, the following shall be treated as a single commercial rehabilitation:

14 1. the phased rehabilitation of the same structure or
15 property; or

16 2. the separate rehabilitation of different components of the
17 same structure or property.

18 (d) (3) (iv) 1. Subject to subparagraph 2 of this subparagraph, for
19 each of fiscal years 2018 through 2031, the Governor shall include in the budget bill an
20 appropriation to the Reserve Fund.

21 2. **A.** For each of fiscal years 2023 [through 2031] **AND**
22 **2024**, the Governor shall include in the budget bill an appropriation to the Reserve Fund
23 of at least \$20,000,000.

24 **B. FOR EACH OF FISCAL YEARS 2025 THROUGH 2031,**
25 **THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE**
26 **RESERVE FUND OF AT LEAST \$50,000,000.**

27 3. The amount described under subparagraph 2 of this
28 subparagraph shall be in addition to the appropriations to the Trust Account required
29 under paragraph (4) of this subsection.

30 (4) (i) Within the Reserve Fund, there is a Small Commercial Project
31 Trust Account.

1 (ii) 1. The Trust Account is established for the issuance of tax
2 credit certificates for small commercial projects.

3 2. Funds in the Trust Account shall be used only for transfers
4 from the Reserve Fund to the General Fund in accordance with paragraph (5) of this
5 subsection with respect to tax credit certificates issued for small commercial projects.

6 (iii) The Trust Account consists of:

7 1. money appropriated in the State budget for the Trust
8 Account; and

9 2. any other money from any other source accepted for the
10 benefit of the Trust Account.

11 (iv) 1. For [each of] fiscal [years] YEAR 2024 [through 2031], the
12 Governor shall include in the budget bill an appropriation to the Trust Account of at least
13 \$2,000,000.

14 2. **FOR EACH OF FISCAL YEARS 2025 THROUGH 2031,**
15 **THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE**
16 **TRUST ACCOUNT OF AT LEAST \$20,000,000.**

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

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

22 (3) (i) Before fiscal year 2024, the Director may not issue an initial
23 credit certificate under this subsection after the aggregate amount of initial credit
24 certificates issued for small commercial projects totals \$5,000,000.

25 (ii) Before fiscal year 2024, for a targeted project, the Director may
26 not issue an initial credit certificate under this subsection:

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

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

31 (iii) Beginning fiscal year 2024 and each fiscal year thereafter, the
32 Director may not issue initial credit certificates for small commercial projects under this
33 subsection for credit amounts in the aggregate totaling more than the amount of funds in

1 the Small Commercial Project Trust Account established under subsection (d)(4) of this
2 section.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2023, and shall be applicable to all taxable years beginning after December 31, 2022.