SB 952

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 952 (Senator McCray)
Budget and Taxation Ways and Means

Historic Revitalization Tax Credit – Credit Amounts and Funding – Alterations

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This bill makes various alterations to the Maryland Historic Revitalization Tax Credit Program. Specifically, the bill (1) increases existing mandated appropriations to the Historic Revitalization Tax Credit Reserve Fund and Small Commercial Project Trust Account by a total of $8 million annually in fiscal 2025 through 2031; (2) increases the value of existing enhanced credits for specified commercial rehabilitations; and (3) increases the maximum value of the tax credit for all eligible project types. **The bill takes effect July 1, 2023, and applies to tax year 2023 and beyond.**

Fiscal Summary

State Effect: General fund expenditures increase by $8.0 million annually in FY 2025 through 2031. General fund revenues may decrease by an indeterminate amount beginning in FY 2024. As discussed below, special fund revenues and expenditures for the Maryland Department of Planning (MDP) potentially increase beginning as early as FY 2025 (not shown below). **This bill increases mandated appropriations beginning in FY 2025.**

($ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	$0	$8.0	$8.0	$8.0	$8.0
Net Effect	(-)	(-)	(-)	(-)	(-)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local highway user revenues decrease in FY 2025 through 2031 to the extent additional credits are claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Current Law/Bill Summary: The Historic Revitalization Tax Credit Program, administered by the Maryland Historical Trust (MHT) within MDP, offers refundable tax credits for commercial, small commercial, and owner-occupied residential property rehabilitations. The program has been extended and altered by various legislation in recent years, including legislation enacted during the 2019, 2020, 2021, and 2022 sessions. Most recently, Chapters 449 and 450 of 2022 extended the tax credit program through fiscal 2031 and made specified enhancements to the commercial and small commercial credit programs.

The value of the credit is generally equal to 20% of qualified rehabilitation expenditures. As discussed below, certain additional credits are available for specified commercial rehabilitations. The issuance of tax credit certificates for the commercial rehabilitations and small commercial rehabilitations is subject to available funding in the Historic Revitalization Tax Credit Reserve Fund and Small Commercial Project Trust Account, respectively, as discussed below. There is no limit on the amount of tax credit certificates that may be awarded for rehabilitations of single-family, owner-occupied residences.

MHT must adopt reasonable fees for certifying historic structures and rehabilitations under the program; fees must be set at a level to cover the costs of administering the tax credit program.

Mandated Funding

Among other things, Chapters 449 and 450:

- required the Governor to provide an annual appropriation of at least $20 million to the Historic Revitalization Tax Credit Reserve Fund for fiscal 2023 through 2031;
- established a Small Commercial Project Trust Account within the reserve fund for the issuance of tax credit certificates for small commercial projects; and
- required the Governor to provide an annual appropriation of at least $2 million to the trust account for fiscal 2024 through 2031 (in addition to the required appropriations to the reserve fund).

Under the bill, for fiscal 2025 through 2031, the annual mandated appropriation to the reserve fund is increased from $20 million to $25 million, and the annual mandated appropriation to the trust account is increased from $2 million to $5 million. Thus, in total, mandated funding related to the historic revitalization tax credit increases by $8 million annually in fiscal 2025 through 2031.

Additional Credit for Specified Commercial Rehabilitations

As noted above, the value of the historic revitalization tax credit is generally equal to 20% of the qualified rehabilitation expenditures. However, additional credit is available for a commercial rehabilitation that:

- is a high-performance building (a building that meets or exceeds the current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design green building rating system gold rating or achieves at least a comparable rating according to a numeric sustainable development rating system, guideline, or standard approved by the Secretaries of Budget and Management and the General Services, as specified);
- qualifies as affordable housing (a project or undertaking that has received an allocation of federal low-income housing tax credits by the Department of Housing and Community Development); or
- qualifies as a Level 1 or Level 2 opportunity zone project. A small commercial project or commercial rehabilitation may qualify as a Level 1 opportunity zone project if it is completed by a qualified opportunity zone business and meets specified information requirements. A project that meets the requirements of a Level 1 opportunity zone project may qualify as a Level 2 opportunity zone project if (1) residents of the communities in the qualified opportunity zone are represented on any governing board or advisory board of the qualified opportunity zone business; (2) a specified community benefits agreement is negotiated and agreed to by community groups or strategic industry partnerships; and (3) the provision of the enhanced tax credit is approved by the applicable municipal corporation or county, as specified.

Additional 5% Credit: An individual or business entity may claim an additional credit equal to 5% of the qualified rehabilitation expenditures if the certified rehabilitation is a certified historic structure and (1) is a high performance building or (2) qualifies as affordable housing or a Level 1 opportunity zone project. *Under the bill*, the value of this additional credit is increased to 7.5% of the individual or business entity's qualified rehabilitation expenditures.

Additional 7.5% Credit: A business entity may claim an additional credit equal to 7.5% of the qualified rehabilitation expenditures if the certified rehabilitation is a certified historic structure and qualifies as a Level 2 opportunity zone project. *Under the bill*, the value of this additional credit is increased to 10% of the business entity's qualified rehabilitation expenditures.

Maximum Credit Amounts

Exhibit 1 shows the maximum tax credit amounts under current law and under the bill.

Exhibit 1
Maximum Credit Amounts
Current Law vs. the Bill

	Under Current Law	Under the Bill
Commercial Credit	$5,000,000	$7,500,000
Level 1 Opportunity Zone Project	5,250,000	7,750,000
Level 2 Opportunity Zone Project	5,500,000	8,000,000
Small Commercial and Homeowner Credits[1]	50,000	75,000
Level 1 Opportunity Zone Project	55,000	80,000
Level 2 Opportunity Zone Project	60,000	85,000

[1] Opportunity zone enhancements are not available under the homeowner credit program, which provides credits for certified single-family, owner-occupied residential property rehabilitations.

Source: Department of Legislative Services

State Revenues: As discussed above, the bill increases tax credit amounts for all project types, including single-family, owner-occupied residential property rehabilitations. Unlike the commercial and small commercial credits, which are subject to availability of budgeted funds, there is no limit on the amount of tax credit certificates that may be awarded for rehabilitations of single-family, owner-occupied residences.

Thus, general fund revenues decrease beginning as early as fiscal 2024 to the extent the bill results in an increase in the amount of homeowner credits claimed against the personal income tax. MHT advises that, in the past five fiscal years, approximately 2% of certified owner-occupied projects received the maximum $50,000 credit allowable under existing law. Over this same time period, MHT has awarded on average $1.4 million in credits annually under the homeowner credit program. *Under one set of assumptions*, general fund revenues may decrease by $75,000 annually beginning as early as fiscal 2024, assuming that (1) the annual number of certified projects with sufficient qualified expenditures to exceed the existing $50,000 credit cap remains consistent with the average in recent years and (2) these projects are eligible for the full $50,000 increase in the maximum value of the credit. However, actual revenue losses may differ to the extent the bill encourages program participation by property owners undertaking larger rehabilitation projects.

To the extent MHT incurs additional administrative expenses as a result of the bill's expansion of the commercial and small commercial credit programs, special fund fee revenues for MHT increase beginning as early as fiscal 2025.

State Expenditures:

Mandated Appropriations

As noted above, the bill increases the amount of the required appropriations to the reserve fund and trust account by $5 million and $3 million, respectively. Thus, general fund expenditures increase by $8 million annually in fiscal 2025 through 2031 to meet the bill's funding requirements. In total, general fund expenditures increase by $56 million over fiscal 2025 through 2031.

Maryland Historical Trust Administrative Expenses

MHT advises that it is unknown at this time whether additional staffing increases, beyond those currently planned to accommodate the increased workload associated with Chapters 449 and 450, will be needed as a result of the bill. According to MHT, the Historic Revitalization Tax Credit Program is currently supported by three full-time positions, and MHT plans to hire two additional full-time contractual employees. While the bill substantially increases funding for the commercial and small commercial credit programs, the bill also increases per-project credit amount limits and the value of additional credits for commercial rehabilitations; thus, to the extent the bill's alterations encourage tax credit applications for larger projects, the required funding increases may not result in a proportional increase in the number and complexity of projects for which credits are approved.

However, to the extent MHT requires additional staff to support the bill's expansions to the program, special fund expenditures for MDP increase beginning as early as fiscal 2025; special fund revenues increase correspondingly as MHT assesses fees to cover these additional administrative costs.

Local Revenues: A portion of revenues from the corporate income tax support capital transportation grants to local governments (local highway user revenues). Thus, local highway user revenues decrease beginning in fiscal 2025 to the extent the bill's expansion of the commercial and small commercial credit programs results in an increase in the amount of credits claimed against the corporate income tax.

Small Business Effect: Small businesses benefit to the extent they are able to receive tax credits and/or increased credit amounts as a result of the bill's expansion of program funding and benefits.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Department of Budget and Management; Maryland Department of Planning; Department of Legislative Services

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