SB 783

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 783 (Senator Hester)

Education, Energy, and the Environment and Budget and Taxation | Ways and Means

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Preservation and Reuse of Historic Complexes Study and Alterations to the Income Tax Credit for Catalytic Revitalization Projects

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This bill makes various alterations to the catalytic revitalization project tax credit. Specifically, the bill (1) authorizes the Secretary of Housing and Community Development to issue multiple final tax credit certificates for a project that is to be completed in phases if specified requirements are met and (2) specifies the circumstances under which an initial tax credit certificate may be transferred. The bill also requires the Smart Growth Subcabinet to study and make recommendations about an implementation plan to address the preservation and reuse of historic complexes in the State; a report of its findings and recommendations must be submitted to the Governor and the General Assembly by December 31, 2023.

Fiscal Summary

State Effect: The bill potentially accelerates the timing of credits claimed against the State income tax, as discussed below; any related impact on State revenues cannot be reliably predicted but may be significant in a given year. The Smart Growth Subcabinet can complete the required study and report with existing budgeted resources.

Local Effect: Local highway user revenues are potentially affected, as discussed below.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Catalytic Revitalization Project Tax Credit Alterations

The Secretary of Housing and Community Development may issue multiple final tax credit certificates for a project that is issued an initial tax credit certificate if:

- the project has been determined by the Secretary to be in phases;
- a phase of the project has been completed;
- a final tax credit certificate is not issued for more than 20% of the project's eligible expenses to date; and
- a final tax credit certificate is not issued that would exceed the aggregated limit of a project's tax credit.

The original recipient of an initial tax credit may transfer the initial tax credit certificate to one or more other individuals, nonprofit organizations, or business entities; the transfer need not involve a transfer of the catalytic revitalization project, as specified. However, an initial tax credit certificate may *not* be transferred (1) to another person without the express written consent of the original recipient or (2) as part of the involuntary transfer of the real property ownership interest in an entity that owns the real property without the prior written consent of the original recipient of the certificate and the Secretary of Housing and Community Development.

Smart Growth Subcabinet Study, Recommendations, and Related Report

In conducting the mandated study and making recommendations, the subcabinet must (1) evaluate relevant studies and publications; (2) analyze the economic impact of the implementation plan; (3) identify regulatory and policy issues for the implementation plan; and (4) solicit input from interested parties, including government agencies and relevant public and private organizations.

Current Law:

Catalytic Revitalization Project Tax Credit

Chapter 332 of 2021 established a refundable credit against the State income tax equal to 20% of the rehabilitation and new construction costs incurred for a qualified catalytic revitalization project in the State. The credit is administered by the Department of Housing and Community Development. "Catalytic revitalization project" means the substantial rehabilitation of a property in the State (1) that was formerly owned by the State or federal government; (2) the rehabilitation of which will foster economic, housing, and community development within the community in which the property is located; and (3) that is out of service and was formerly used as a college or university, K-12 school, hospital, mental health facility, or military facility or installation. For purposes of calculating the credit, new construction costs must be related to the construction of new structures that connect, expand, or integrate the existing structures to be rehabilitated and may not exceed 50% of the total costs of the catalytic revitalization project.

The Secretary of Housing and Community Development may not award an initial credit certificate for more than one catalytic revitalization project within a two-year period and may not issue tax credit certificates totaling more than $15.0 million for any project. A final tax credit certificate is issued upon completion of a catalytic revitalization project for which an initial tax credit certificate has been issued. (*Under the bill,* the Secretary may issue a final tax credit upon completion of a *phase* of the catalytic revitalization project, as specified.)

An individual, nonprofit organization, or business entity awarded a tax credit certificate must claim the credit over the course of five consecutive tax years beginning with the tax year in which the catalytic revitalization project is completed. Any unclaimed amount may be transferred, by written instrument, in whole or in part, to any individual, nonprofit organization, or business entity, as specified. The Comptroller or the Secretary of Housing and Community Development may not recapture a tax credit if (1) the catalytic revitalization project is transferred, in whole or in part, by fee simple transfer of real property or by transfer of an ownership interest in the entity that owns the project to a new owner and (2) the Secretary has issued a final tax credit certificate for the catalytic revitalization project.

The Secretary may not issue additional tax credit certificates on or after January 1, 2031. After this termination date, previously issued tax credit certificates may continue to be claimed, refunded, carried forward, or transferred in accordance with existing provisions.

Smart Growth Subcabinet

The Smart Growth Subcabinet, comprised of the Special Secretary of Smart Growth and the secretaries of specified State agencies (including the Secretary of Planning) and staffed by the Maryland Department of Planning (MDP), works to promote smart growth policy in the State. The subcabinet must:

- provide a forum for discussion of interdepartmental issues relating to activities that affect growth, development, neighborhood conservation, and resource management;
- work together to promote the understanding of smart growth;

- work together to create, enhance, support, and revitalize sustainable communities;
- meet at least biannually with county and municipal elected leaders and planning officials to discuss local government issues relating to activities that affect smart growth, development, neighborhood conservation, and resource management;
- make recommendations to specified State agencies;
- evaluate and report annually to the Governor and the General Assembly on the implementation of the State's smart growth policy; and
- perform other duties assigned by the Governor.

Study on the Adaptive Reuse of Historic Properties

Chapter 334 of 2019 required the Secretary of Planning to contract with a consultant to conduct a study on the adaptive reuse of historic properties located within the State that are or were owned by the State or the federal government. Among other things, the report must identify key success factors and primary obstacles to the preservation and redevelopment of historic properties, in addition to develop a historic resource package of existing, new, and altered enticements, programs, and resources that could be applied to support projects. The report was submitted to the General Assembly on January 28, 2020.

Identification, Protection, and Use of Historic Properties

The Maryland Historical Trust (MHT), an agency within MDP, must compile a Maryland Inventory of Historic Properties that consists of districts, sites, buildings, structures, and other objects of known or potential value to the prehistory, history, upland and underwater archeology, architecture, engineering, and culture of the State. That inventory may be viewed and searched here.

In cooperation with MHT and subject to available resources, each State unit must (1) establish a program to identify, document, and nominate to MHT each property owned or controlled by the State unit that appears to qualify for the National Register of Historic Places; (2) ensure that no property listed in or eligible to be sold in the Historic Register is inadvertently transferred, sold, demolished, destroyed, substantially altered, or allowed to deteriorate significantly; and (3) use any available historic buildings under its control to the extent prudent and practicable before acquiring, constructing, or leasing a building to carry out its responsibilities. If it is prudent, practicable, and in the State’s interest to do so, a State unit that transfers a surplus property listed in or eligible to be listed in the Historic Register must ensure that the transfer provides for the preservation or enhancement of the property.

State/Local Fiscal Effect: As discussed above, the bill authorizes, beginning October 1, 2023, the Secretary of Housing and Community Development to issue multiple final tax credit certificates for a project that is to be completed in phases if specified requirements are met. The Secretary may not issue a final tax credit that exceeds 20% of a project's eligible expenses to date or that would exceed the aggregated limit of a project's tax credit. Thus, while it is assumed that the change does not affect the *overall* amount of tax credits claimed, to the extent the Secretary issues multiple final tax credit certificates for multi-phase projects, the bill potentially (1) accelerates the timing of when credit is claimed against the State income tax and (2) extends the period of time over which total credit is claimed. Any related impact on general fund revenues cannot be reliably predicted but may be significant in a given year. To the extent the bill affects the timing of credit claimed against the corporate income tax, Higher Education Investment Fund revenues, Transportation Trust Fund revenues and expenditures, and local highway user revenues are also affected.

Otherwise, the bill's provisions relating to the transfer of initial tax credit certificates are not expected to materially affect State finances.

Additional Information

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

Designated Cross File: None.

Information Source(s): Department of Commerce; Comptroller's Office; Maryland State Treasurer's Office; Maryland Department of the Environment; Department of General Services; Department of Housing and Community Development; Maryland Department of Labor; Department of Natural Resources; Department of Legislative Services

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