

Chapter 332

(Senate Bill 885)

AN ACT concerning

Economic and Community Development – Income Tax Credit for Catalytic Revitalization Projects and Historic Revitalization Tax Credit

FOR the purpose of allowing an individual, a nonprofit organization, or a business entity to claim a credit against the State income tax for certain ~~rehabilitation expenses~~ new construction costs and rehabilitation costs for certain catalytic revitalization projects in the State; prohibiting the Comptroller and the Secretary of Housing and Community Development from recapturing the credit under certain circumstances; requiring the Secretary ~~of Housing and Community Development~~, on application by an individual, a nonprofit organization, or a business entity, to issue tax credit certificates for a certain amount, subject to certain limitations; prohibiting the Secretary from awarding a credit certificate for more than one catalytic revitalization project within a certain number of years and from issuing tax credit certificates for credit amounts in the aggregate that exceed a certain amount; allowing an individual, a nonprofit organization, or a business entity to claim a refund of the credit, allocate the credit, carry forward the credit, and transfer the credit under certain circumstances; requiring the Secretary, in consultation with the Department of Commerce, to adopt certain regulations; requiring the Governor, in certain fiscal years, to include in the annual State budget an appropriation of at least a certain amount for the Historic Revitalization Tax Credit Reserve Fund; requiring a certain steering committee established under certain provisions of law to continue certain work, coordinate with the Secretary for certain purposes, and report to the Department of Housing and Community Development and the Department of Commerce on or before a certain date; defining certain terms; providing for the application and termination of certain provisions of this Act; and generally relating to the catalytic revitalization project tax credit and the historic revitalization tax credit.

BY repealing and reenacting, without amendments,
Article – Housing and Community Development
Section 1–101(a), (g), and (j)
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY adding to
Article – Housing and Community Development
Section 6–801 through 6–805 to be under the new subtitle “Subtitle 8. Catalytic Revitalization Project Tax Credit”
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 5A–303(d)(1)

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 5A–303(d)(3)(iv)

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY adding to

Article – Tax – General

Section 10–751

Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)

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

Article – Housing and Community Development

1–101.

(a) In this Division I of this article the following words have the meanings indicated.

(g) “Nonprofit organization” means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of a private shareholder or individual holding an interest in the entity.

(j) “Secretary” means the Secretary of Housing and Community Development.

SUBTITLE 8. CATALYTIC REVITALIZATION PROJECT TAX CREDIT.

6–801.

~~IN THIS SUBTITLE:~~

~~(1)~~ IN THIS SUBTITLE, “CATALYTIC REVITALIZATION PROJECT”
MEANS THE SUBSTANTIAL REHABILITATION OF A ~~HISTORIC~~ PROPERTY IN THE
STATE:

~~(H)~~ (1) THAT WAS FORMERLY OWNED BY THE STATE OR THE FEDERAL GOVERNMENT; ~~AND~~

~~(H)~~ (2) THE REHABILITATION OF WHICH WILL FOSTER ECONOMIC, HOUSING, AND COMMUNITY DEVELOPMENT WITHIN ~~2,500 FEET OF THE PROPERTY~~ THE COMMUNITY IN WHICH THE PROPERTY IS LOCATED; AND

~~(2)~~ “CATALYTIC REVITALIZATION PROJECT” INCLUDES A PROPERTY THAT WAS USED AS A COLLEGE OR UNIVERSITY, K-12 SCHOOL, HOSPITAL, MENTAL HEALTH FACILITY, OR MILITARY FACILITY OR INSTALLATION.

(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.

6-802.

(A) AN INDIVIDUAL, A NONPROFIT ORGANIZATION, OR A BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN AN AMOUNT EQUAL TO 20% OF THE AMOUNT STATED IN THE FINAL TAX CREDIT CERTIFICATE ISSUED BY THE SECRETARY UNDER § 6-803 OF THIS SUBTITLE FOR 5 CONSECUTIVE TAXABLE YEARS BEGINNING WITH THE TAXABLE YEAR IN WHICH THE CATALYTIC REVITALIZATION PROJECT IS COMPLETED.

(B) THE COMPTROLLER OR THE SECRETARY MAY NOT RECAPTURE A TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE 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 UNDER § 6-803 OF THIS SUBTITLE.

6-803.

(A) (1) SUBJECT TO THE LIMITATIONS OF PARAGRAPHS (2) AND (3) OF THIS SUBSECTION AND SUBSECTION (B) OF THIS SECTION, ON APPLICATION BY AN INDIVIDUAL, A NONPROFIT ORGANIZATION, OR A BUSINESS ENTITY, THE SECRETARY SHALL ISSUE:

~~(H)~~ (I) AN INITIAL TAX CREDIT CERTIFICATE IN AN AMOUNT EQUAL TO 20% OF THE INDIVIDUAL’S, NONPROFIT ORGANIZATION’S, OR BUSINESS ENTITY’S

ESTIMATED ~~REHABILITATION EXPENSES~~ NEW CONSTRUCTION COSTS AND REHABILITATION COSTS FOR THE PROJECT; AND

~~(2)~~ (II) ON COMPLETION OF THE CATALYTIC REVITALIZATION PROJECT, A FINAL TAX CREDIT CERTIFICATE IN AN AMOUNT EQUAL TO 20% OF THE INDIVIDUAL'S, NONPROFIT ORGANIZATION'S, OR BUSINESS ENTITY'S ACTUAL ~~REHABILITATION EXPENSES~~ NEW CONSTRUCTION COSTS AND REHABILITATION COSTS FOR THE PROJECT.

(2) FOR PURPOSES OF CALCULATING THE CREDIT AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION, NEW CONSTRUCTION COSTS:

(I) MUST BE RELATED TO THE CONSTRUCTION OF NEW STRUCTURES THAT CONNECT, EXPAND, OR INTEGRATE THE EXISTING STRUCTURES TO BE REHABILITATED; AND

(II) MAY NOT EXCEED 50% OF THE TOTAL COSTS OF THE CATALYTIC REVITALIZATION PROJECT.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE SECRETARY MAY NOT ISSUE AN INITIAL OR FINAL TAX CREDIT CERTIFICATE UNDER PARAGRAPH (1) OF THIS SUBSECTION BEFORE JANUARY 1, 2025.

(II) THE SECRETARY MAY ISSUE AN INITIAL OR FINAL TAX CREDIT CERTIFICATE UNDER PARAGRAPH (1) OF THIS SUBSECTION BEFORE JANUARY 1, 2025, IF THE COMPTROLLER DETERMINES THAT ISSUING THE TAX CREDIT CERTIFICATE WILL NOT RESULT IN A REDUCTION OR REPAYMENT OF FEDERAL FUNDS AUTHORIZED UNDER THE FEDERAL AMERICAN RESCUE PLAN ACT OF 2021.

(B) (1) THE SECRETARY MAY NOT AWARD AN INITIAL CREDIT CERTIFICATE FOR MORE THAN ONE CATALYTIC REVITALIZATION PROJECT WITHIN A 2-YEAR PERIOD.

(2) ~~FOR ANY TAXABLE YEAR~~ FOR ANY CATALYTIC REVITALIZATION PROJECT, THE SECRETARY MAY NOT ISSUE TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE THAN ~~\$10,000,000~~ \$15,000,000.

(C) IF THE TAX CREDIT ALLOWED UNDER THIS SUBTITLE IN ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE INDIVIDUAL, NONPROFIT ORGANIZATION, OR BUSINESS ENTITY FOR THAT TAXABLE YEAR, THE

INDIVIDUAL, NONPROFIT ORGANIZATION, OR BUSINESS ENTITY MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

(D) THE CREDIT ALLOWED UNDER THIS SUBTITLE MAY BE ALLOCATED AMONG THE PARTNERS, MEMBERS, OR SHAREHOLDERS OF A BUSINESS ENTITY IN ANY MANNER AGREED TO BY THOSE PERSONS IN WRITING.

(E) (1) THE AMOUNT OF THE TAX CREDIT ALLOWED, BUT NOT CLAIMED, UNDER THIS SUBTITLE MAY BE TRANSFERRED, BY WRITTEN INSTRUMENT, IN WHOLE OR IN PART, TO ANY INDIVIDUAL, NONPROFIT ORGANIZATION, OR BUSINESS ENTITY.

(2) FOR THE TAXABLE YEAR OF ANY TRANSFER UNDER THIS SUBSECTION, THE TRANSFEREE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY APPLY THE TAX CREDIT AGAINST THE TOTAL TAX OTHERWISE PAYABLE BY THE TRANSFEREE IN THAT TAXABLE YEAR.

(3) IF THE TAX CREDIT EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE TRANSFEREE IN ANY TAXABLE YEAR, THE TRANSFEREE:

(I) MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS; ~~OR~~

(II) MAY CARRY FORWARD AND APPLY THE EXCESS CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE FULL AMOUNT OF THE CREDIT IS USED; OR

~~(H)~~ (III) MAY TRANSFER THE REMAINDER OF THE TAX CREDIT TO AN INDIVIDUAL, A NONPROFIT ORGANIZATION, OR A BUSINESS ENTITY IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

6-804.

THE SECRETARY, IN CONSULTATION WITH THE DEPARTMENT OF COMMERCE, SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS THAT:

(1) ESTABLISH PROCEDURES AND STANDARDS FOR CERTIFYING ~~HISTORIC PROPERTIES AND REHABILITATIONS~~ NEW CONSTRUCTION COSTS AND REHABILITATION COSTS UNDER THIS SUBTITLE; AND

(2) ESTABLISH AN APPLICATION PROCESS FOR THE ISSUANCE OF TAX CREDIT CERTIFICATES UNDER THIS SUBTITLE, WITH AN EMPHASIS ON APPLICATIONS THAT PROMOTE AFFORDABLE HOUSING.

6-805.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE AND THE CREDIT AUTHORIZED UNDER IT SHALL TERMINATE JANUARY 1, ~~2025~~ 2031.

(B) AFTER THE TERMINATION OF THIS SUBTITLE:

(1) THE SECRETARY MAY NOT ISSUE ANY ADDITIONAL TAX CREDIT CERTIFICATES UNDER § 6-803 OF THIS SUBTITLE; AND

(2) TAX CREDIT CERTIFICATES ISSUED MAY BE CLAIMED, REFUNDED, CARRIED FORWARD, OR TRANSFERRED IN ACCORDANCE WITH §§ 6-802 AND 6-803 OF THIS SUBTITLE.

Article – State Finance and Procurement

5A-303.

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

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

2. FOR EACH OF FISCAL YEARS 2023 AND 2024, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND OF AT LEAST \$12,000,000.

Article – Tax – General

10-751.

(A) IN THIS SECTION, “NONPROFIT ORGANIZATION” HAS THE MEANING STATED IN § 1-101 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

(B) AN INDIVIDUAL, A NONPROFIT ORGANIZATION, OR A BUSINESS ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN ACCORDANCE WITH TITLE 6, SUBTITLE 8 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE FOR ~~REHABILITATION EXPENSES~~ NEW CONSTRUCTION COSTS AND REHABILITATION COSTS FOR CATALYTIC REVITALIZATION PROJECTS.

SECTION 2. AND BE IT FURTHER ENACTED, That the steering committee established under Chapter 334 of the Acts of the General Assembly of 2019 shall:

(1) continue its work in order to make recommendations based on the findings of the consultant hired by the Secretary of Planning 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;

(2) report its recommendations under item (1) of this section to the Department of Housing and Community Development and the Department of Commerce on or before December 31, 2021; and

(3) coordinate its efforts with the Secretary of Housing and Community Development in order to further the objectives of the tax credit under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2023, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021, and, except as provided in Section 3 of this Act, shall be applicable to all taxable years beginning after December 31, 2020.

Approved by the Governor, May 18, 2021.