

# HOUSE BILL 1248

Q3

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CF SB 296

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By: **Delegates Ross, Beidle, Bohanan, James, Luedtke, Rudolph, and Valentino-Smith**

Introduced and read first time: February 10, 2012

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 21, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Income Tax Credit – Security ~~Clearance Expenses~~ Clearances – Employer**  
3 **Costs**

4 FOR the purpose of allowing an individual or a corporation to claim a credit against  
5 the State income tax for certain costs incurred to obtain federal security  
6 clearances and to construct or renovate certain sensitive compartmented  
7 information facilities; requiring the Department of Business and Economic  
8 Development to provide an application process for the credit at least a certain  
9 number of times each fiscal year; providing for the total amount of credit  
10 certificates that may be issued during a certain application period; providing for  
11 the distribution of credit certificates providing for applications to the  
12 Department of Business and Economic Development for approval of the credit  
13 and certification by the Department to taxpayers of approved credit amounts;  
14 limiting the total amount of credits that the Department may approve for any  
15 calendar year to a certain amount; requiring the Department to approve a  
16 prorated credit for each applicant if the total amount applied for exceeds the  
17 maximum that may be approved; requiring certain individuals or certain  
18 corporations to file amended tax returns in a certain manner to claim a certain  
19 tax credit; providing for the carryforward of the credit; providing that the total  
20 amount of credits that may be claimed may not exceed the amount of  
21 certificates issued to the individual or corporation; requiring the Department to  
22 notify the Comptroller of the maximum amount of each credit certificate;  
23 requiring the Comptroller to transfer the amount stated in the credit certificate  
24 from a certain Reserve Fund to the General Fund; establishing the Security

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Clearance Income Tax Credit Reserve Fund as a special, nonlapsing fund;~~  
 2 ~~requiring the Secretary of Business and Economic Development to administer~~  
 3 ~~the Fund; requiring the State Treasurer to hold the Fund and the Comptroller~~  
 4 ~~to account for the Fund; specifying the contents of the Fund; specifying the~~  
 5 ~~purpose for which the Fund may be used; providing for the investment of money~~  
 6 ~~in and expenditures from the Fund; requiring the Governor to make certain~~  
 7 ~~appropriations in certain fiscal years; requiring the Department, in consultation~~  
 8 ~~with the Comptroller, to adopt certain regulations; requiring the Department to~~  
 9 ~~report to the Governor and the General Assembly on or before a certain date~~  
 10 ~~each year; defining certain terms; providing for the application of this Act;~~  
 11 ~~providing for the termination of certain provisions of this Act; and generally~~  
 12 ~~relating to a credit against the State income tax for certain costs incurred to~~  
 13 ~~obtain related to federal security clearances.~~

14 BY repealing and reenacting, without amendments,  
 15 Article – Tax – General  
 16 Section 10–204(a) and 10–305(a)  
 17 Annotated Code of Maryland  
 18 (2010 Replacement Volume and 2011 Supplement)

19 BY adding to  
 20 Article – Tax – General  
 21 Section 10–204(j) and 10–731  
 22 Annotated Code of Maryland  
 23 (2010 Replacement Volume and 2011 Supplement)

24 BY repealing and reenacting, with amendments,  
 25 Article – Tax – General  
 26 Section 10–305(d)  
 27 Annotated Code of Maryland  
 28 (2010 Replacement Volume and 2011 Supplement)

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

31 **Article – Tax – General**

32 10–204.

33 (a) To the extent excluded from federal adjusted gross income, the amounts  
 34 under this section are added to the federal adjusted gross income of a resident to  
 35 determine Maryland adjusted gross income.

36 **(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**  
 37 **ANY AMOUNT DEDUCTED FOR ~~THE COSTS INCURRED TO OBTAIN A FEDERAL~~**  
 38 **~~SECURITY CLEARANCE~~ COSTS, AS DEFINED UNDER § 10–731 OF THIS TITLE, FOR**  
 39 **SECURITY CLEARANCE ADMINISTRATIVE EXPENSES AND CONSTRUCTION AND**

1 EQUIPMENT COSTS INCURRED TO CONSTRUCT OR RENOVATE A SENSITIVE  
 2 COMPARTMENTED INFORMATION FACILITY IF ~~THE AN~~ AMOUNT IS INCLUDED IN  
 3 THE APPLICATION FOR A CREDIT ~~CERTIFICATE~~ UNDER § 10-731 OF THIS TITLE.

4 10-305.

5 (a) To the extent excluded from federal taxable income, the amounts under  
 6 this section are added to the federal taxable income of a corporation to determine  
 7 Maryland modified income.

8 (d) The addition under subsection (a) of this section includes the additions  
 9 required for an individual under:

10 (1) § 10-204(b) of this title (Dividends and interest from another state  
 11 or local obligation);

12 (2) § 10-204(c)(2) of this title (Federal tax-exempt income);

13 (3) § 10-204(e) of this title (Oil percentage depletion allowance); [and]

14 (4) § 10-204(i) of this title (Deduction for qualified production  
 15 activities income); AND

16 (5) § 10-204(J) OF THIS TITLE (DEDUCTION FOR COSTS  
 17 ~~INCURRED TO OBTAIN A FEDERAL SECURITY CLEARANCE FOR SECURITY~~  
 18 ~~CLEARANCE ADMINISTRATIVE EXPENSES AND CONSTRUCTION AND EQUIPMENT~~  
 19 ~~COSTS INCURRED TO CONSTRUCT OR RENOVATE A SENSITIVE COMPARTMENTED~~  
 20 ~~INFORMATION FACILITY).~~

21 **10-731.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
 23 MEANINGS INDICATED.

24 (2) “COSTS” MEANS THE COSTS TO AN INDIVIDUAL OR  
 25 CORPORATION FOR:

26 (i) SECURITY CLEARANCE ADMINISTRATIVE EXPENSES  
 27 INCLUDING, BUT NOT LIMITED TO:

28 1. PROCESSING APPLICATION REQUESTS FOR  
 29 CLEARANCES;

1                   **2. MAINTAINING, UPGRADING, OR INSTALLING**  
2 **COMPUTER SYSTEMS REQUIRED TO OBTAIN FEDERAL SECURITY CLEARANCES;**  
3 **AND**

4                   **3. TRAINING EMPLOYEES TO ADMINISTER THE**  
5 **APPLICATION PROCESS; AND**

6                   **(II) CONSTRUCTION AND EQUIPMENT COSTS INCURRED TO**  
7 **CONSTRUCT OR RENOVATE A SENSITIVE COMPARTMENTED INFORMATION**  
8 **FACILITY (“SCIF”) AS REQUIRED BY THE FEDERAL GOVERNMENT.**

9                   **(2) (3) “DEPARTMENT” MEANS THE DEPARTMENT OF**  
10 **BUSINESS AND ECONOMIC DEVELOPMENT.**

11                   **(3) “RESERVE FUND” MEANS THE SECURITY CLEARANCE**  
12 **INCOME TAX CREDIT RESERVE FUND ESTABLISHED UNDER SUBSECTION (E) OF**  
13 **THIS SECTION.**

14                   **(4) “SECRETARY” MEANS THE SECRETARY OF BUSINESS AND**  
15 **ECONOMIC DEVELOPMENT.**

16                   **(B) (1) THREE TIMES EACH FISCAL YEAR THE DEPARTMENT SHALL**  
17 **ALLOW AN INDIVIDUAL OR CORPORATION TO APPLY FOR CREDIT CERTIFICATES**  
18 **FOR THE COSTS INCURRED TO OBTAIN FEDERAL SECURITY CLEARANCES.**

19                   **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
20 **PARAGRAPH, DURING EACH APPLICATION PERIOD, THE TOTAL AMOUNT OF**  
21 **CREDIT CERTIFICATES THE DEPARTMENT MAY ISSUE MAY NOT EXCEED**  
22 **ONE THIRD OF THE AMOUNT APPROPRIATED IN THE STATE BUDGET TO THE**  
23 **RESERVE FUND.**

24                   **(II) IF THE AGGREGATE CREDIT AMOUNTS UNDER THE**  
25 **CREDIT CERTIFICATES ISSUED DURING THE APPLICATION PERIOD TOTAL LESS**  
26 **THAN THE TOTAL AMOUNT THE DEPARTMENT MAY ISSUE UNDER**  
27 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, ANY EXCESS AMOUNT SHALL REMAIN**  
28 **IN THE RESERVE FUND AND MAY BE ISSUED UNDER CREDIT CERTIFICATES**  
29 **DURING THE NEXT APPLICATION PERIOD.**

30                   **(3) IF THE TOTAL AMOUNT OF CREDITS SOUGHT DURING THE**  
31 **APPLICATION PERIOD EXCEED THE AMOUNT AUTHORIZED TO BE ISSUED, THE**  
32 **DEPARTMENT SHALL APPROVE CREDIT CERTIFICATES IN AMOUNTS THAT ARE**

33                   **(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR A TAXABLE**  
34 **YEAR BEGINNING AFTER DECEMBER 31, 2012, BUT BEFORE JANUARY 1, 2019**

1 2017, AN INDIVIDUAL OR A CORPORATION MAY CLAIM CREDITS AGAINST THE  
2 STATE INCOME TAX FOR:

3 (1) SECURITY CLEARANCE ADMINISTRATIVE EXPENSES, NOT TO  
4 EXCEED \$100,000; AND

5 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,  
6 CONSTRUCTION AND EQUIPMENT COSTS INCURRED TO CONSTRUCT OR  
7 RENOVATE A SINGLE SCIF IN AN AMOUNT EQUAL TO THE LESSER OF 50% OF  
8 THE COSTS OR \$100,000.

9 (II) THE TOTAL AMOUNT OF CONSTRUCTION AND  
10 EQUIPMENT COSTS INCURRED TO CONSTRUCT OR RENOVATE MULTIPLE SCIF'S  
11 FOR WHICH AN INDIVIDUAL OR A CORPORATION IS ELIGIBLE TO CLAIM AS A  
12 CREDIT AGAINST THE STATE INCOME TAX IS \$250,000.

13 (C) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE  
14 END OF THE TAXABLE YEAR IN WHICH THE COSTS WERE INCURRED, AN  
15 INDIVIDUAL OR A CORPORATION SHALL SUBMIT AN APPLICATION TO THE  
16 DEPARTMENT FOR THE CREDITS ALLOWED UNDER SUBSECTION (B)(1) AND (2)  
17 OF THIS SECTION.

18 (2) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE  
19 DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION MAY NOT EXCEED  
20 \$2,000,000 FOR ANY CALENDAR YEAR.

21 (II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY  
22 ALL INDIVIDUALS AND CORPORATIONS UNDER SUBSECTION (B) OF THIS  
23 SECTION EXCEEDS THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF  
24 THIS PARAGRAPH, THE DEPARTMENT SHALL APPROVE A CREDIT UNDER  
25 SUBSECTION (B) OF THIS SECTION FOR EACH APPLICANT IN AN AMOUNT EQUAL  
26 TO THE PRODUCT OF MULTIPLYING THE CREDIT APPLIED FOR BY THE  
27 APPLICANT TIMES A FRACTION:

28 1. THE NUMERATOR OF WHICH IS THE MAXIMUM  
29 SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND

30 2. THE DENOMINATOR OF WHICH IS THE TOTAL OF  
31 ALL CREDITS APPLIED FOR BY ALL APPLICANTS UNDER SUBSECTION (B) OF  
32 THIS SECTION IN THE CALENDAR YEAR.

33 (3) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE  
34 END OF THE TAXABLE YEAR IN WHICH THE COSTS WERE INCURRED, THE  
35 DEPARTMENT SHALL CERTIFY TO THE INDIVIDUAL OR CORPORATION THE

1 AMOUNT OF TAX CREDITS APPROVED BY THE DEPARTMENT FOR THE  
2 INDIVIDUAL OR CORPORATION UNDER THIS SECTION.

3 (4) TO CLAIM THE APPROVED CREDITS ALLOWED UNDER THIS  
4 SECTION, AN INDIVIDUAL OR A CORPORATION SHALL:

5 (I) FILE AN AMENDED INCOME TAX RETURN FOR THE  
6 TAXABLE YEAR IN WHICH THE COSTS WERE INCURRED; AND

7 (II) ATTACH A COPY OF THE DEPARTMENT'S  
8 CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME  
9 TAX RETURN.

10 ~~IN PROPORTION TO THE VALUE OF THE CREDIT CERTIFICATES APPLIED FOR~~  
11 ~~DURING THE APPLICATION PERIOD.~~

12 ~~(C) (D) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN~~  
13 ~~INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE~~  
14 ~~INCOME TAX IN THE AMOUNT STATED IN THE CREDIT CERTIFICATE APPROVED~~  
15 ~~BY THE SECRETARY FOR COSTS AS PROVIDED UNDER THIS SECTION.~~

16 ~~(2) IF THE CREDIT ALLOWED FOR ANY TAXABLE YEAR UNDER~~  
17 ~~THIS SECTION EXCEEDS THE TOTAL TAX OTHERWISE DUE, AN INDIVIDUAL OR~~  
18 ~~CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE~~  
19 ~~INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE FULL AMOUNT OF~~  
20 ~~THE EXCESS IS USED.~~

21 ~~(D) (1) THE TOTAL AMOUNT OF CREDITS AN INDIVIDUAL OR~~  
22 ~~CORPORATION MAY CLAIM MAY NOT EXCEED THE AMOUNT OF THE CREDIT~~  
23 ~~CERTIFICATES ISSUED TO THE INDIVIDUAL OR CORPORATION.~~

24 ~~(2) (I) WITHIN 15 DAYS AFTER THE END OF EACH~~  
25 ~~APPLICATION PERIOD, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER~~  
26 ~~OF THE MAXIMUM AMOUNT STATED IN EACH CREDIT CERTIFICATE ISSUED~~  
27 ~~DURING THE APPLICATION PERIOD.~~

28 ~~(H) THE COMPTROLLER SHALL TRANSFER AN AMOUNT~~  
29 ~~EQUAL TO THE CREDIT AMOUNT STATED IN THE CREDIT CERTIFICATE FROM~~  
30 ~~THE RESERVE FUND TO THE GENERAL FUND.~~

31 ~~(E) (1) THERE IS A SECURITY CLEARANCE INCOME TAX CREDIT~~  
32 ~~RESERVE FUND.~~

1           ~~(2) THE PURPOSE OF THE RESERVE FUND IS TO PROVIDE A~~  
2 ~~BUDGETARY LIMIT ON THE AMOUNT OF TAX CREDITS THE DEPARTMENT MAY~~  
3 ~~ISSUE EACH FISCAL YEAR.~~

4           ~~(3) THE SECRETARY SHALL ADMINISTER THE RESERVE FUND.~~

5           ~~(4) (i) THE RESERVE FUND IS A SPECIAL, NONLAPSING FUND~~  
6 ~~THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT~~  
7 ~~ARTICLE.~~

8                     ~~(ii) THE STATE TREASURER SHALL HOLD THE RESERVE~~  
9 ~~FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE~~  
10 ~~RESERVE FUND.~~

11           ~~(5) (i) THE RESERVE FUND CONSISTS OF MONEY~~  
12 ~~APPROPRIATED IN THE STATE BUDGET TO THE RESERVE FUND.~~

13                     ~~(ii) FOR EACH OF FISCAL YEAR 2014 AND FISCAL YEAR~~  
14 ~~2015, THE GOVERNOR SHALL APPROPRIATE AT LEAST \$6,000,000 TO THE~~  
15 ~~RESERVE FUND.~~

16           ~~(6) THE RESERVE FUND MAY BE USED ONLY TO REIMBURSE THE~~  
17 ~~GENERAL FUND FOR THE AMOUNT OF CREDIT CERTIFICATES ISSUED UNDER~~  
18 ~~THIS SECTION.~~

19           ~~(7) (i) THE STATE TREASURER SHALL INVEST THE MONEY OF~~  
20 ~~THE RESERVE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE~~  
21 ~~INVESTED.~~

22                     ~~(ii) ANY INVESTMENT EARNINGS OF THE RESERVE FUND~~  
23 ~~SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.~~

24           ~~(F) (E)~~ THE DEPARTMENT, IN CONSULTATION WITH THE  
25 COMPTROLLER, SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS  
26 OF THIS SECTION ~~AND TO SPECIFY THE COSTS ELIGIBLE FOR THE INCOME TAX~~  
27 ~~CREDIT.~~

28           ~~(G) (F)~~ ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE  
29 DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §  
30 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON  
31 THE NUMBER OF ~~CREDIT CERTIFICATES ISSUED~~ CREDITS CERTIFIED IN THE  
32 PREVIOUS ~~FISCAL~~ CALENDAR YEAR.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 2012, and shall be applicable to all taxable years beginning after December 31,  
3 2011. Section 10-731 of the Tax – General Article, as enacted by this Act, shall remain  
4 effective for a period of 4 years and, at the end of June 30, 2016, with no further action  
5 required by the General Assembly, it shall be abrogated and of no further force and  
6 effect. The Secretary of Business and Economic Development may not issue credit  
7 certificates under § 10-731 of the Tax – General Article, as enacted by this Act, for any  
8 fiscal year beginning on or after July 1, 2016.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.