HOUSE BILL 472

Q3

7lr2880
CF SB 416

By: **Delegates Jameson and Patterson**
Introduced and read first time: January 27, 2017
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit – Qualified Farms – Food Donation Pilot Program**

3 FOR the purpose of allowing certain qualified farms a credit, up to a certain amount,
4 against the State income tax equal to a certain percentage of the value of certain food
5 donations; providing for the carry forward of the credit; providing for the calculation
6 of the amount of the credit; requiring the Secretary of Agriculture to establish certain
7 values on a weekly basis; requiring the Secretary, in consultation with the
8 Comptroller, to establish a certain certification procedure for certain tax credit
9 administrators; requiring a tax credit certificate administrator that receives a
10 certain donation to issue a certain tax credit certificate; requiring that a tax credit
11 certificate contain certain information; requiring the Secretary, in consultation with
12 the Comptroller, to prepare certain tax credit certificate forms; requiring the
13 Secretary to notify certain administrators to stop issuing certain certificates if a
14 certain limit is reached; providing that the total amount of tax credit certificates
15 issued may not exceed a certain amount for certain fiscal years; requiring the
16 Secretary, in consultation with the Comptroller, to submit a certain report by a
17 certain date in certain years; requiring the Secretary, in consultation with the
18 Comptroller, to adopt certain regulations; defining certain terms; and generally
19 relating to a tax credit for certain food donations.

20 BY adding to
21 Article – Tax – General
22 Section 10–741
23 Annotated Code of Maryland
24 (2016 Replacement Volume)

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

27 **Article – Tax – General**

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1   **10–741.**

2   (A)   (1)   IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3   INDICATED.

4   (2)   "CERTIFIED ORGANIC PRODUCE" MEANS AN ELIGIBLE FOOD
5   DONATION THAT IS CERTIFIED UNDER TITLE 10, SUBTITLE 14 OF THE
6   AGRICULTURE ARTICLE AS AN ORGANICALLY PRODUCED COMMODITY.

7   (3)   "ELIGIBLE FOOD DONATION" MEANS FRESH FARM PRODUCTS FOR
8   HUMAN CONSUMPTION.

9   (4)   "QUALIFIED FARM" MEANS A FARM BUSINESS THAT IS LOCATED
10   IN ANNE ARUNDEL COUNTY, CALVERT COUNTY, CHARLES COUNTY, MONTGOMERY
11   COUNTY, PRINCE GEORGE'S COUNTY, OR ST. MARY'S COUNTY.

12   (5)   "SECRETARY" MEANS THE SECRETARY OF AGRICULTURE OR THE
13   SECRETARY'S DESIGNEE.

14   (6)   "TAX CREDIT CERTIFICATE ADMINISTRATOR" MEANS A PERSON
15   OR AN ORGANIZATION THAT IS AUTHORIZED BY THE STATE DEPARTMENT OF
16   AGRICULTURE UNDER SUBSECTION (E) OF THIS SECTION TO RECEIVE ELIGIBLE
17   FOOD DONATIONS.

18   (B)   (1)   SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR A TAXABLE
19   YEAR BEGINNING AFTER DECEMBER 31, 2016, BUT BEFORE JANUARY 1, 2020, A
20   QUALIFIED FARM MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE
21   AMOUNT STATED ON ANY TAX CREDIT CERTIFICATES ISSUED TO THE QUALIFIED
22   FARM DURING THE TAXABLE YEAR.

23   (2)   (I)   EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
24   PARAGRAPH, FOR ANY TAXABLE YEAR, THE AGGREGATE AMOUNT OF CREDITS
25   AUTHORIZED UNDER THIS SUBSECTION FOR A QUALIFIED FARM MAY NOT EXCEED
26   $5,000.

27   (II)   FOR ANY TAXABLE YEAR, THE SECRETARY MAY INCREASE
28   THE CREDIT LIMITATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR A
29   QUALIFIED FARM BY AN AMOUNT NOT TO EXCEED $5,000.

30   (3)   IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE
31   STATE INCOME TAX, ANY UNUSED CREDIT MAY BE CARRIED FORWARD AND APPLIED
32   FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

1   **(I)**   THE DATE ON WHICH THE FULL AMOUNT OF THE CREDIT IS
2   USED; OR

3   **(II)**   THE DATE OF THE EXPIRATION OF THE **5**TH YEAR AFTER
4   THE TAXABLE YEAR FOR WHICH THE CREDIT WAS ALLOWED.

5   **(C)**   **(1)**   A QUALIFIED FARM THAT MAKES AN ELIGIBLE FOOD DONATION IS
6   ELIGIBLE FOR A TAX CREDIT CERTIFICATE WITH A STATED TAX CREDIT AMOUNT
7   EQUAL TO **50%** OF THE VALUE OF THE ELIGIBLE FOOD DONATION.

8   **(2)**   A QUALIFIED FARM THAT MAKES A DONATION OF CERTIFIED
9   ORGANIC PRODUCE IS ELIGIBLE FOR A TAX CREDIT CERTIFICATE WITH A STATED
10   TAX CREDIT AMOUNT EQUAL TO **75%** OF THE VALUE OF THE DONATED CERTIFIED
11   ORGANIC PRODUCE.

12   **(D)**   **(1)**   EACH WEEK THE SECRETARY SHALL ESTABLISH AND PUBLISH
13   THE CATEGORIES AND VALUE OF CERTIFIED ORGANIC PRODUCE AND ELIGIBLE
14   FOOD DONATIONS.

15   **(2)**   EXCEPT AS PROVIDED IN PARAGRAPH **(3)** OF THIS SUBSECTION,
16   THE VALUE OF EACH CATEGORY OF CERTIFIED ORGANIC PRODUCE AND ELIGIBLE
17   FOOD DONATIONS IS THE WHOLESALE VALUE OF THE CATEGORY ESTABLISHED BY
18   THE STATE DEPARTMENT OF AGRICULTURE AND BASED ON UNITED STATES
19   DEPARTMENT OF AGRICULTURE REPORTS ON MARYLAND PRODUCTS SOLD AT
20   MARYLAND MARKETS.

21   **(3)**   IF THE SECRETARY DETERMINES THAT THE VALUE ESTABLISHED
22   UNDER PARAGRAPH **(2)** OF THIS SUBSECTION IS INSUFFICIENT TO PAY FOR THE
23   COST OF HARVESTING A CATEGORY OF CERTIFIED ORGANIC PRODUCE OR ELIGIBLE
24   FOOD DONATION, THE SECRETARY MAY ESTABLISH A VALUE IN EXCESS OF THE
25   VALUE UNDER PARAGRAPH **(2)** OF THIS SUBSECTION.

26   **(E)**   **(1)**   THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER,
27   SHALL ESTABLISH A PROCESS TO CERTIFY A PERSON OR AN ORGANIZATION TO ACT
28   AS A TAX CREDIT CERTIFICATE ADMINISTRATOR.

29   **(2)**   A TAX CREDIT CERTIFICATE ADMINISTRATOR THAT RECEIVES A
30   DONATION OF CERTIFIED ORGANIC PRODUCE OR AN ELIGIBLE FOOD DONATION
31   FROM A QUALIFIED FARM SHALL ISSUE THE QUALIFIED FARM A TAX CREDIT
32   CERTIFICATE.

33   **(3)**   THE TAX CREDIT CERTIFICATE SHALL:

34   **(I)**   STATE THE DATE OF THE DONATION;

1   **(II)**   **IDENTIFY THE QUALIFIED FARM;**

2   **(III)**   **DESCRIBE THE TYPE OF DONATION;**

3   **(IV)**   **STATE THE WEIGHT OF THE DONATION;**

4   **(V)**   **IDENTIFY THE VALUE OF THE DONATION;**

5   **(VI)**   **STATE THE MAXIMUM AMOUNT OF THE TAX CREDIT FOR**
6 **WHICH THE QUALIFIED FARM IS ELIGIBLE; AND**

7   **(VII) PROVIDE   ANY   OTHER   INFORMATION   THE   STATE**
8 **DEPARTMENT OF AGRICULTURE OR COMPTROLLER REQUIRES.**

9   **(4)   THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER,**
10 **SHALL PREPARE TAX CREDIT CERTIFICATE FORMS FOR THE USE OF THE TAX CREDIT**
11 **CERTIFICATE ADMINISTRATORS.**

12   **(5)   WITHIN 30 DAYS AFTER ISSUING A TAX CREDIT CERTIFICATE, THE**
13 **TAX CREDIT CERTIFICATE ADMINISTRATOR SHALL PROVIDE A COPY OF THE TAX**
14 **CREDIT CERTIFICATE TO THE SECRETARY AND THE COMPTROLLER.**

15   **(6)   (I)   THE SECRETARY SHALL NOTIFY EACH TAX CREDIT**
16 **CERTIFICATE ADMINISTRATOR TO STOP ISSUING TAX CREDIT CERTIFICATES IF THE**
17 **AMOUNT OF TAX CREDIT CERTIFICATES ISSUED DURING THE FISCAL YEAR EQUALS**
18 **OR EXCEEDS THE AMOUNT OF TAX CREDIT CERTIFICATES AUTHORIZED TO BE**
19 **ISSUED DURING THE FISCAL YEAR UNDER SUBSECTION (F) OF THIS SECTION LESS**
20 **$50,000.**

21   **(II)   THE   SECRETARY,   IN   CONSULTATION   WITH   THE**
22 **COMPTROLLER, SHALL ADOPT REGULATIONS PROVIDING PROCEDURES TO ISSUE**
23 **THE REMAINING $50,000 OF TAX CREDIT CERTIFICATES UNDER THIS PARAGRAPH.**

24 **(F)   (1)   FOR EACH FISCAL YEAR, THE TOTAL AMOUNT OF TAX CREDIT**
25 **CERTIFICATES ISSUED UNDER THIS SECTION MAY NOT EXCEED $250,000.**

26   **(2)   IF THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES ISSUED**
27 **DURING ANY FISCAL YEAR TOTALS LESS THAN THE MAXIMUM AMOUNT PROVIDED**
28 **UNDER PARAGRAPH (1) OF THIS SUBSECTION, ANY EXCESS AMOUNT MAY BE**
29 **CARRIED FORWARD AND ISSUED UNDER TAX CREDIT CERTIFICATES IN A**
30 **SUBSEQUENT FISCAL YEAR.**

1 **(3) A TAX CREDIT CERTIFICATE MAY NOT BE ISSUED AFTER**
2 **DECEMBER 31, 2019.**

3 **(G) ON OR BEFORE JANUARY 1, 2018, AND JANUARY 1 EACH YEAR**
4 **THEREAFTER UNTIL JANUARY 1, 2021, THE SECRETARY, IN CONSULTATION WITH**
5 **THE COMPTROLLER, SHALL SUBMIT A REPORT TO THE GOVERNOR AND, SUBJECT**
6 **TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON**
7 **THE USE AND IMPACT OF THE TAX CREDIT ESTABLISHED UNDER THIS SECTION.**

8 **(H) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER, SHALL**
9 **ADOPT REGULATIONS TO ADMINISTER THIS SECTION.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
11 1, 2017.