

Chapter 569

(House Bill 764)

AN ACT concerning

Tax Credit Evaluation Act

FOR the purpose of establishing a legislative review and evaluation process for certain credits allowed against certain taxes; establishing dates for review and other legislative action with regard to certain tax credits; ~~providing for termination of certain tax credits under certain circumstances~~; repealing certain obsolete tax credits; providing for the construction of certain provisions of this Act; and generally relating to a legislative review and evaluation process for certain credits allowed against certain taxes.

BY adding to

Article – Tax – General

Section 1–301 through 1–311 to be under the new subtitle “Subtitle 3. Tax Credit Evaluation Act”

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

BY repealing

Article – Labor and Employment

Section ~~11–704~~; and 11–1101 through 11–1107 and the subtitle “Subtitle 11. Job Creation and Recovery Tax Credit”

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

BY repealing

Article – Tax – General

Section 10–704.9, ~~10–704.10~~, 10–713, 10–719, and 10–728

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

SUBTITLE 3. TAX CREDIT EVALUATION ACT.

1–301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "EVALUATION" MEANS THE PROCESS OF LEGISLATIVE REVIEW OF A TAX CREDIT FOR WHICH THIS SUBTITLE PROVIDES.

(C) "EVALUATION COMMITTEE" MEANS A COMMITTEE THAT IS APPOINTED TO CARRY OUT AN EVALUATION.

(D) "EVALUATION DATE" MEANS THE DATE ON WHICH AN EVALUATION OF A TAX CREDIT IS TO BE COMPLETED.

~~(E) "TAX CREDIT" MEANS:~~

~~(1) A CREDIT ALLOWED AGAINST THE PUBLIC SERVICE COMPANY FRANCHISE TAX UNDER § 8-406(B), § 8-411, § 8-412, § 8-413, OR § 8-415 OF THIS ARTICLE;~~

~~(2) A CREDIT ALLOWED AGAINST THE INCOME TAX UNDER TITLE 10, SUBTITLE 7 OF THIS ARTICLE, NOT INCLUDING A CREDIT ALLOWED UNDER § 10-701 OR § 10-701.1 OF THIS ARTICLE;~~

~~(3) A CREDIT ALLOWED AGAINST THE INSURANCE PREMIUM TAX UNDER TITLE 6, SUBTITLE 1 OF THE INSURANCE ARTICLE;~~

~~(4) A CREDIT ALLOWED UNDER TITLE 6, SUBTITLE 3 OR SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE;~~

~~(5) A CREDIT ALLOWED UNDER § 21-309 OR § 21-501 OF THE EDUCATION ARTICLE;~~

~~(6) THE CREDIT ALLOWED UNDER § 2-901 OF THE ENVIRONMENT ARTICLE;~~

~~(7) THE CREDIT ALLOWED UNDER § 6-404 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE;~~

~~(8) THE CREDIT ALLOWED UNDER § 11-404 OF THE LABOR AND EMPLOYMENT ARTICLE;~~

~~(9) THE CREDIT ALLOWED UNDER § 5A-303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND~~

~~(10) A CREDIT ALLOWED UNDER § 9 103, § 9 230, § 9 317(E), § 9 318(D), OR § 9 326 OF THE TAX PROPERTY ARTICLE.~~

1-302.

THE PURPOSES OF THIS SUBTITLE ARE TO:

(1) ESTABLISH A SYSTEM OF LEGISLATIVE REVIEW THAT WILL DETERMINE WHETHER A TAX CREDIT IS NECESSARY FOR THE PUBLIC INTEREST; AND

(2) ENSURE THAT THE LEGISLATIVE REVIEW TAKES PLACE BY ESTABLISHING, BY STATUTE, DATES FOR REVIEW AND OTHER LEGISLATIVE ACTION.

1-303.

(A) (1) IF A TAX CREDIT HAS A TERMINATION DATE PROVIDED FOR BY LAW, AN EVALUATION SHALL BE MADE OF THAT CREDIT ON OR BEFORE JULY 1 OF THE YEAR PRECEDING THE CALENDAR YEAR OF THE TERMINATION DATE.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS ON OR BEFORE THE DATES SPECIFIED IN SUBSECTIONS (B) THROUGH (E) OF THIS SECTION.

(B) ON OR BEFORE JULY 1, ~~2013~~ 2014, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

(1) § 10-702 OF THIS ARTICLE (WAGES PAID IN AN ENTERPRISE ZONE) AND § 9-103 OF THE TAX - PROPERTY ARTICLE (QUALIFIED PROPERTY IN AN ENTERPRISE ZONE); AND

(2) TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE, § 6-119 OF THE INSURANCE ARTICLE, AND § 10-714 OF THIS ARTICLE (ONE MARYLAND ECONOMIC DEVELOPMENT).

~~(2) § 10 703 OF THIS ARTICLE (TAX PAID BY INDIVIDUAL TO ANOTHER STATE);~~

~~(3) § 10 703.2 OF THIS ARTICLE (TAX PAID BY INDIVIDUAL TO ANOTHER STATE ON INSTALLMENT SALE);~~

~~(4) § 10 704 OF THIS ARTICLE (EARNED INCOME);~~

~~(5) §§ 8 406(B) AND 10 704.1 OF THIS ARTICLE (PURCHASE OF MARYLAND MINED COAL); § 10 730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY);~~

~~(6) TITLE 6, SUBTITLE 3 OF THE ECONOMIC DEVELOPMENT ARTICLE, § 6 114 OF THE INSURANCE ARTICLE, AND §§ 8 411 AND 10 704.4 OF THIS ARTICLE (JOB CREATION);~~

~~(7) § 5A 303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, § 6 105.2 OF THE INSURANCE ARTICLE, AND § 10 704.5 OF THIS ARTICLE (SUSTAINABLE COMMUNITIES); AND~~

~~(8) § 6 404 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE, § 6 105 OF THE INSURANCE ARTICLE, AND §§ 8 412 AND 10 704.6 OF THIS ARTICLE (NEIGHBORHOOD AND COMMUNITY ASSISTANCE CONTRIBUTIONS).~~

~~(B)~~ (C) ON OR BEFORE JULY 1, ~~2014~~ 2015, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

~~(1) § 10-704 OF THIS ARTICLE (EARNED INCOME); AND~~

~~(2) § 10-730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY).~~

~~(1) § 21 309 OF THE EDUCATION ARTICLE, § 6 115 OF THE INSURANCE ARTICLE, AND §§ 8 413 AND 10 704.7 OF THIS ARTICLE (QUALIFIED EMPLOYEES WITH DISABILITIES);~~

~~(2) § 11 704 OF THE LABOR AND EMPLOYMENT ARTICLE AND § 10 704.10 OF THIS ARTICLE (QUALIFIED EX-FELON EMPLOYEES) §§ 8 406(B) AND 10 704.1 OF THIS ARTICLE (PURCHASE OF MARYLAND MINED COAL);~~

~~(3) § 9 230 OF THE TAX PROPERTY ARTICLE, § 6 116 OF THE INSURANCE ARTICLE, AND § 10 704.8 OF THIS ARTICLE (NEW JOB-CREATING BUSINESSES);~~

~~(4) §§ 9 317(E), 9 318(D), AND 9 326 OF THE TAX PROPERTY ARTICLE AND § 10 707 OF THIS ARTICLE (RESIDENTIAL REAL ESTATE PROPERTY);~~

~~(5) § 10 708 OF THIS ARTICLE (TELECOMMUNICATION BUSINESS);~~

~~(6) § 10-709 OF THIS ARTICLE (LOW INCOME); AND~~

~~(7) § 6-117 OF THE INSURANCE ARTICLE AND §§ 8-415 AND 10-710 OF THIS ARTICLE (EMPLOYER PROVIDED LONG TERM CARE INSURANCE).~~

~~(C)~~ **(D)** ON OR BEFORE JULY 1, ~~2015~~ **2016**, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

(1) § 5A-303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, § 6-105.2 OF THE INSURANCE ARTICLE, AND § 10-704.5 OF THIS ARTICLE (SUSTAINABLE COMMUNITIES); AND

(2) § 10-721 OF THIS ARTICLE (QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES).

~~(1) § 21-501 OF THE EDUCATION ARTICLE, § 6-118 OF THE INSURANCE ARTICLE, AND § 10-711 OF THIS ARTICLE (WORK BASED LEARNING);~~

~~(2) TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE, § 6-119 OF THE INSURANCE ARTICLE, AND § 10-714 OF THIS ARTICLE (ONE MARYLAND ECONOMIC DEVELOPMENT);~~

~~(3) § 2-901 OF THE ENVIRONMENT ARTICLE, § 6-120 OF THE INSURANCE ARTICLE, AND § 10-715 OF THIS ARTICLE (EMPLOYEE COMMUTER BENEFITS);~~

~~(4) § 10-716 OF THIS ARTICLE (CHILD CARE OR DEPENDENT CARE);~~

~~(5) § 10-717 OF THIS ARTICLE (CLASSROOM TEACHER ADVANCED EDUCATION);~~

~~(6) § 10-718 OF THIS ARTICLE (LONG TERM CARE PREMIUMS);~~
AND

~~(7) § 10-720 OF THIS ARTICLE (ELECTRICITY PRODUCED FROM QUALIFIED ENERGY RESOURCES).~~

~~(D)~~ **(E)** ON OR BEFORE JULY 1, ~~2016~~ **2017**, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

(1) § 9-230 OF THE TAX – PROPERTY ARTICLE, § 6-116 OF THE INSURANCE ARTICLE, AND § 10-704.8 OF THIS ARTICLE (NEW JOB CREATING BUSINESSES); AND

(2) § 10-726 OF THIS ARTICLE (BIOTECHNOLOGY INVESTMENT INCENTIVE)

~~(1) § 10-721 OF THIS ARTICLE (QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES);~~

~~(2) § 10-722 OF THIS ARTICLE (GREEN BUILDINGS);~~

~~(3) § 10-723 OF THIS ARTICLE (PRESERVATION AND CONSERVATION EASEMENTS);~~

~~(4) § 10-724 OF THIS ARTICLE (AQUACULTURE OYSTER FLOATS);~~

~~(5) § 10-725 OF THIS ARTICLE (BIOTECHNOLOGY INVESTMENT INCENTIVE);~~

~~(6) § 10-726 OF THIS ARTICLE (CELLULOSIC ETHANOL TECHNOLOGY);~~

~~(7) § 10-727 OF THIS ARTICLE (BIO HEATING OIL); AND~~

~~(8) § 10-729 OF THIS ARTICLE (ELECTRIC VEHICLE RECHARGING EQUIPMENT); AND~~

~~(9) § 10-730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY).~~

1-304.

(A) EVALUATION OF A TAX CREDIT SHALL BE COMPLETED BY AN EVALUATION COMMITTEE APPOINTED JOINTLY BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE.

(B) EACH EVALUATION COMMITTEE FOR A TAX CREDIT SHALL BE APPOINTED ON OR BEFORE MAY 31 OF THE YEAR BEFORE THE EVALUATION DATE OF THAT TAX MODIFICATION OR TAX EXEMPTION.

(C) AN EVALUATION COMMITTEE SHALL INCLUDE AT LEAST ONE MEMBER OF THE SENATE BUDGET AND TAXATION COMMITTEE AND AT LEAST ONE MEMBER OF THE HOUSE COMMITTEE ON WAYS AND MEANS.

1-305.

ON OR BEFORE JUNE 30 OF THE YEAR BEFORE THE EVALUATION DATE OF A TAX CREDIT, EACH EVALUATION COMMITTEE FOR THAT TAX CREDIT SHALL:

(1) CONSULT WITH:

(I) THE DEPARTMENT OF BUDGET AND MANAGEMENT;

(II) THE DEPARTMENT OF LEGISLATIVE SERVICES; ~~AND~~

(III) THE COMPTROLLER; AND

(IV) THE SECRETARY, OR THE SECRETARY'S DESIGNEE, OF THE DEPARTMENT THAT ADMINISTERS THE TAX CREDIT UNDER EVALUATION; AND

(2) PREPARE A PLAN FOR THE EVALUATION.

1-306.

DURING AN EVALUATION, THE COMPTROLLER AND THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL:

(1) PROVIDE PROMPTLY ANY INFORMATION THAT THE DEPARTMENT OF LEGISLATIVE SERVICES OR AN EVALUATION COMMITTEE REQUESTS; AND

(2) OTHERWISE COOPERATE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES AND THE EVALUATION COMMITTEE.

1-307.

(A) (1) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE OCTOBER 31 OF THE YEAR BEFORE THE EVALUATION DATE OF A TAX CREDIT, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL SUBMIT TO THE GENERAL ASSEMBLY AN EVALUATION REPORT ON THE TAX CREDIT.

(2) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL MAKE COPIES OF THE REPORT AVAILABLE TO THE PUBLIC.

(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL DISCUSS:

- (1) THE PURPOSE FOR WHICH THE TAX CREDIT WAS ESTABLISHED;
- (2) WHETHER THE ORIGINAL INTENT OF THE TAX CREDIT IS STILL APPROPRIATE;
- (3) WHETHER THE TAX CREDIT IS MEETING ITS OBJECTIVES;
- (4) WHETHER THE PURPOSES OF THE TAX CREDIT COULD BE MORE EFFICIENTLY AND EFFECTIVELY CARRIED OUT THROUGH ALTERNATIVE METHODS; AND
- (5) THE COSTS OF PROVIDING THE TAX CREDIT, INCLUDING THE ADMINISTRATIVE COST TO THE STATE AND LOST REVENUES TO THE STATE AND LOCAL GOVERNMENTS.

1-308.

ON OR BEFORE DECEMBER 14 OF THE YEAR BEFORE THE EVALUATION DATE OF A TAX CREDIT, THE EVALUATION COMMITTEE SHALL HOLD A PUBLIC HEARING TO RECEIVE, FROM THE COMPTROLLER AND THE PUBLIC, TESTIMONY REGARDING THE EVALUATION REPORT.

1-309.

(A) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE THE 20TH DAY OF THE REGULAR SESSION OF THE GENERAL ASSEMBLY IN THE YEAR OF THE EVALUATION DATE OF A TAX CREDIT, THE EVALUATION COMMITTEE FOR THE TAX CREDIT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY.

(B) (1) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL RECOMMEND WHETHER THE TAX CREDIT SHOULD BE ~~REESTABLISHED, WITH OR WITHOUT CHANGES, OR ALLOWED TO TERMINATE~~ CONTINUED, WITH OR WITHOUT CHANGES, OR TERMINATED.

(2) THE REPORT SHALL BE ACCOMPANIED BY ~~EACH BILL~~ ANY LEGISLATION THAT IS NEEDED TO ACCOMPLISH THE RECOMMENDATIONS IN THE REPORT.

1-310.

~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF A TAX CREDIT IS NOT REESTABLISHED BY LAW ON OR BEFORE THE DATE FOR ITS EVALUATION UNDER § 1-303 OF THIS SUBTITLE, IT SHALL TERMINATE.~~

~~(B) THE REESTABLISHMENT CONTINUATION OF A TAX CREDIT DESIGNATED FOR EVALUATION UNDER THIS SUBTITLE IS FOR A 5-YEAR PERIOD AND IS SUBJECT TO REEVALUATION 5 YEARS AFTER THE PREVIOUS EVALUATION, UNLESS THE LAW THAT PROVIDES FOR REESTABLISHMENT SETS ANOTHER PERIOD IS SET BY LAW.~~

~~(C) AFTER THE PERIOD OF REESTABLISHMENT EXPIRES, THE TAX CREDIT TERMINATES AS PROVIDED BY LAW UNLESS THE TAX CREDIT IS REESTABLISHED.~~

1-311.

THIS SUBTITLE MAY BE CITED AS THE “TAX CREDIT EVALUATION ACT”.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 11-704; and 11-1101 through 11-1107 and the subtitle “Subtitle 11. Job Creation and Recovery Tax Credit” of Article – Labor and Employment of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 10-704.9, 10-704.10, 10-713, 10-719, and 10-728 of Article – Tax – General of the Annotated Code of Maryland be repealed.

SECTION 4. AND BE IT FURTHER ENACTED, That ~~the termination of a credit in accordance with the provisions of Title 1, Subtitle 3 of the Tax – General Article, as enacted by Section 1 of this Act, or~~ the repeal of an obsolete tax credit under Section 2 or Section 3 of this Act may not be construed to prevent the filing, after the date of the repeal of the credit, of a tax return that is filed to claim or carry forward a credit earned before the date of the ~~termination or~~ repeal of the credit in accordance with the provisions of law governing the credit as in effect immediately before the date of the ~~termination or~~ repeal of the credit.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.