

SENATE BILL 138

Q3

3lr0623

By: **Senators Manno and Mathias**

Introduced and read first time: January 16, 2013

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Build Maryland Tax Credit Act**

3 FOR the purpose of allowing individuals and corporations to claim a credit against the
4 State income tax for certain commercial real estate investment expenses;
5 authorizing the Department of Business and Economic Development to issue a
6 certain amount of credit certificates each fiscal year; providing for the total
7 amount of credit certificates that may be issued and the total amount of credits
8 that may be claimed; allowing any excess credit to be claimed as a refund;
9 requiring the Comptroller at the end of each fiscal year to transfer a certain
10 amount from a certain reserve fund to the General Fund; establishing the
11 Infrastructure Investment Income Tax Credit Reserve Fund as a special,
12 nonlapsing fund; specifying the purpose of the Reserve Fund; requiring the
13 Secretary of Business and Economic Development to administer the Reserve
14 Fund; requiring the State Treasurer to hold the Reserve Fund and the
15 Comptroller to account for the Reserve Fund; specifying the contents of the
16 Reserve Fund; specifying the purpose for which the Reserve Fund may be used;
17 providing for the investment of money in and expenditures from the Reserve
18 Fund; requiring the Governor to appropriate at least certain amounts to the
19 Reserve Fund for certain fiscal years; requiring the Secretary, in consultation
20 with the Comptroller, to issue certain regulations; requiring certain Maryland
21 income tax addition modifications under certain circumstances; defining certain
22 terms; providing for the application of this Act; and generally relating to
23 allowing a credit against the State income tax for certain commercial real estate
24 investment expenses.

25 BY adding to

26 Article – Tax – General
27 Section 10–204(l) and 10–733
28 Annotated Code of Maryland
29 (2010 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Tax – General
3 Section 10–305(d)
4 Annotated Code of Maryland
5 (2010 Replacement Volume and 2012 Supplement)

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

8 **Article – Tax – General**

9 10–204.

10 **(L) IF A CREDIT IS ALLOWED FOR A TAXPAYER UNDER § 10–733 OF THIS**
11 **TITLE FOR COMMERCIAL REAL ESTATE INVESTMENT EXPENSES, THE ADDITION**
12 **UNDER SUBSECTION (A) OF THIS SECTION INCLUDES, FOR EACH OF THE 5**
13 **CONSECUTIVE TAXABLE YEARS BEGINNING WITH THE YEAR IN WHICH THE**
14 **CREDIT IS ALLOWED, AN AMOUNT EQUAL TO THE AMOUNT OF THE**
15 **DEPRECIATION DEDUCTION ALLOWED FOR THE TAXABLE YEAR FOR**
16 **COMMERCIAL REAL ESTATE INVESTMENT EXPENSES, TO THE EXTENT THE**
17 **CREDIT WAS ALLOWED FOR THOSE EXPENSES UNDER § 10–733 OF THIS TITLE.**

18 10–305.

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

21 (1) § 10–204(b) of this title (Dividends and interest from another state
22 or local obligation);

23 (2) § 10–204(c)(2) of this title (Federal tax–exempt income);

24 (3) § 10–204(e) of this title (Oil percentage depletion allowance);

25 (4) § 10–204(i) of this title (Deduction for qualified production
26 activities income); [and]

27 (5) § 10–204(j) of this title (Deduction for costs for security clearance
28 administrative expenses and construction and equipment costs incurred to construct
29 or renovate a sensitive compartmented information facility); **AND**

30 **(6) § 10–204(L) OF THIS TITLE (DEPRECIATION DEDUCTION FOR**
31 **COMMERCIAL REAL ESTATE INVESTMENT EXPENSES).**

32 **10–733.**

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

3 **(2) (I) “COMMERCIAL REAL ESTATE INVESTMENT EXPENSES”**
4 **MEANS COSTS INCURRED RELATED TO THE DEVELOPMENT OF COMMERCIAL**
5 **REAL ESTATE.**

6 **(II) “COMMERCIAL REAL ESTATE INVESTMENT EXPENSES”**
7 **DO NOT INCLUDE FIXTURES.**

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

10 **(4) “PRIORITY FUNDING AREA” MEANS AN AREA DESIGNATED AS**
11 **A PRIORITY FUNDING AREA UNDER § 5-7B-03 OF THE STATE FINANCE AND**
12 **PROCUREMENT ARTICLE.**

13 **(5) “RESERVE FUND” MEANS THE INFRASTRUCTURE**
14 **INVESTMENT INCOME TAX CREDIT RESERVE FUND ESTABLISHED UNDER THIS**
15 **SECTION.**

16 **(6) “SECRETARY” MEANS THE SECRETARY OF BUSINESS AND**
17 **ECONOMIC DEVELOPMENT.**

18 **(B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, THE**
19 **DEPARTMENT SHALL ISSUE A CREDIT CERTIFICATE TO EACH INDIVIDUAL OR**
20 **CORPORATION THAT APPLIES FOR A CREDIT CERTIFICATE AND HAS**
21 **COMMERCIAL REAL ESTATE INVESTMENT EXPENSES IN A PRIORITY FUNDING**
22 **AREA.**

23 **(2) THE CREDIT CERTIFICATE SHALL STATE THE AMOUNT OF THE**
24 **TAX CREDIT FOR WHICH THE INDIVIDUAL OR CORPORATION IS ELIGIBLE.**

25 **(3) THE CREDIT CERTIFICATE ISSUED FOR ANY INDIVIDUAL OR**
26 **CORPORATION SHALL EQUAL THE LESSER OF:**

27 **(I) 25% OF THE TOTAL DEPRECIATION TO BE ALLOWED TO**
28 **THE INDIVIDUAL OR CORPORATION UNDER THE INTERNAL REVENUE CODE FOR**
29 **THE COMMERCIAL REAL ESTATE INVESTMENT EXPENSES FOR 5 YEARS**
30 **BEGINNING WITH THE YEAR IN WHICH THE EXPENSES ARE INCURRED; OR**

31 **(II) \$25,000.**

1 **(C) (1) THE DEPARTMENT SHALL ALLOW AN INDIVIDUAL OR A**
2 **CORPORATION TO APPLY FOR THE CREDIT CERTIFICATES.**

3 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
4 **PARAGRAPH, DURING EACH FISCAL YEAR, THE TOTAL AMOUNT OF CREDIT**
5 **CERTIFICATES THE DEPARTMENT MAY ISSUE MAY NOT EXCEED THE AMOUNT**
6 **APPROPRIATED IN THE STATE BUDGET TO THE RESERVE FUND.**

7 **(II) IF THE AGGREGATE CREDIT AMOUNTS UNDER THE**
8 **CREDIT CERTIFICATES ISSUED DURING THE APPLICATION PERIOD TOTAL LESS**
9 **THAN THE TOTAL AMOUNT THE DEPARTMENT MAY ISSUE UNDER**
10 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, ANY EXCESS AMOUNT SHALL REMAIN**
11 **IN THE RESERVE FUND AND MAY BE ISSUED UNDER CREDIT CERTIFICATES**
12 **DURING THE NEXT FISCAL YEAR.**

13 **(3) THE DEPARTMENT SHALL ISSUE CREDIT CERTIFICATES ON A**
14 **FIRST-COME, FIRST-SERVED BASIS.**

15 **(D) AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST**
16 **THE STATE INCOME TAX IN AN AMOUNT EQUAL TO THE CREDIT CERTIFICATE**
17 **ISSUED BY THE DEPARTMENT.**

18 **(E) IF THE CREDIT ALLOWABLE UNDER THIS SECTION EXCEEDS THE**
19 **STATE INCOME TAX FOR THE TAXABLE YEAR, THE INDIVIDUAL OR**
20 **CORPORATION MAY CLAIM THE EXCESS AS A REFUND.**

21 **(F) (1) WITHIN 15 DAYS AFTER THE END OF EACH FISCAL YEAR, THE**
22 **DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO THE AMOUNT OF EACH**
23 **CREDIT CERTIFICATE ISSUED DURING THE FISCAL YEAR.**

24 **(2) THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO**
25 **THE CREDIT AMOUNT STATED IN THE CREDIT CERTIFICATES FROM THE**
26 **RESERVE FUND TO THE GENERAL FUND.**

27 **(G) (1) THERE IS AN INFRASTRUCTURE INVESTMENT INCOME TAX**
28 **CREDIT RESERVE FUND.**

29 **(2) THE PURPOSE OF THE RESERVE FUND IS TO PROVIDE A**
30 **BUDGETARY LIMIT ON THE AMOUNT OF TAX CREDITS THE DEPARTMENT MAY**
31 **ISSUE EACH FISCAL YEAR.**

32 **(3) THE SECRETARY SHALL ADMINISTER THE RESERVE FUND.**

1 **(4) (I) THE RESERVE FUND IS A SPECIAL, NONLAPSING FUND**
2 **THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT**
3 **ARTICLE.**

4 **(II) THE STATE TREASURER SHALL HOLD THE RESERVE**
5 **FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE**
6 **RESERVE FUND.**

7 **(5) (I) THE RESERVE FUND CONSISTS OF MONEY**
8 **APPROPRIATED IN THE STATE BUDGET TO THE RESERVE FUND.**

9 **(II) FOR FISCAL YEAR 2015 AND FISCAL YEAR 2016, THE**
10 **GOVERNOR SHALL APPROPRIATE AT LEAST \$4,000,000 TO THE RESERVE FUND.**

11 **(6) THE RESERVE FUND MAY BE USED ONLY TO REIMBURSE THE**
12 **GENERAL FUND FOR THE AMOUNT OF CREDIT CERTIFICATES ISSUED UNDER**
13 **SUBSECTION (C) OF THIS SECTION.**

14 **(7) (I) THE STATE TREASURER SHALL INVEST THE MONEY OF**
15 **THE RESERVE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE**
16 **INVESTED.**

17 **(II) ANY INVESTMENT EARNINGS OF THE RESERVE FUND**
18 **SHALL BE CREDITED TO THE GENERAL FUND.**

19 **(H) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER,**
20 **SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING**
21 **DETERMINING COSTS THAT QUALIFY AS COMMERCIAL REAL ESTATE**
22 **INVESTMENT EXPENSES.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2013, and shall be applicable to all taxable years beginning after December 31,
25 2012.