

SENATE BILL 296

Q3

2lr1275
CF HB 1248

By: **Senators Manno, Miller, Astle, Benson, Brinkley, Colburn, Conway, Currie, DeGrange, Edwards, Forehand, Garagiola, Glassman, Jacobs, Jones-Rodwell, Kasemeyer, King, Klausmeier, Mathias, McFadden, Peters, Pipkin, Pugh, Ramirez, Reilly, Robey, Stone, and Young**

Introduced and read first time: January 26, 2012

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2012

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;

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.



~~requiring the Comptroller to transfer the amount stated in the credit certificate from a certain Reserve Fund to the General Fund; establishing the Security Clearance Income Tax Credit Reserve Fund as a special, nonlapsing fund; requiring the Secretary of Business and Economic Development to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; providing for the investment of money in and expenditures from the Fund; requiring the Governor to make certain appropriations in certain fiscal years;~~ requiring the Department, in consultation with the Comptroller, to adopt certain regulations; requiring the Department to report to the Governor and the General Assembly on or before a certain date each year; defining certain terms; providing for the application of this Act; and generally relating to a credit against the State income tax for certain costs ~~incurred to obtain~~ related to federal security clearances.

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

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

BY repealing and reenacting, with amendments,
 Article – Tax – General
 Section 10–305(d)
 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

10–204.

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

(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES ANY AMOUNT DEDUCTED FOR ~~THE COSTS INCURRED TO OBTAIN A FEDERAL SECURITY CLEARANCE~~ COSTS, AS DEFINED UNDER § 10–731 OF THIS TITLE, FOR

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

5 10-305.

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

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

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

13 (2) § 10-204(c)(2) of this title (Federal tax-exempt income);

14 (3) § 10-204(e) of this title (Oil percentage depletion allowance); [and]

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

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

22 10-731.

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

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

27 (I) SECURITY CLEARANCE ADMINISTRATIVE EXPENSES
 28 INCURRED WITH REGARD TO AN EMPLOYEE IN THE STATE INCLUDING, BUT NOT
 29 LIMITED TO:

30 1. PROCESSING APPLICATION REQUESTS FOR
 31 CLEARANCES FOR EMPLOYEES IN THE STATE;

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

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

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

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

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

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

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

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

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

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

1 **(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR A TAXABLE**
2 **YEAR BEGINNING AFTER DECEMBER 31, 2012, BUT BEFORE JANUARY 1, 2019,**
3 **AN INDIVIDUAL OR A CORPORATION MAY CLAIM CREDITS AGAINST THE STATE**
4 **INCOME TAX FOR:**

5 **(1) SECURITY CLEARANCE ADMINISTRATIVE EXPENSES, NOT TO**
6 **EXCEED \$100,000; AND**

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

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

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

20 **(2) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE**
21 **DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION MAY NOT EXCEED**
22 **\$2,000,000 FOR ANY CALENDAR YEAR.**

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

30 **1. THE NUMERATOR OF WHICH IS THE MAXIMUM**
31 **SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND**

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

1 **(3) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE**
 2 **END OF THE TAXABLE YEAR IN WHICH THE COSTS WERE INCURRED, THE**
 3 **DEPARTMENT SHALL CERTIFY TO THE INDIVIDUAL OR CORPORATION THE**
 4 **AMOUNT OF TAX CREDITS APPROVED BY THE DEPARTMENT FOR THE**
 5 **INDIVIDUAL OR CORPORATION UNDER THIS SECTION.**

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

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

10 **(II) ATTACH A COPY OF THE DEPARTMENT'S**
 11 **CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME**
 12 **TAX RETURN. ~~IN PROPORTION TO THE VALUE OF THE CREDIT CERTIFICATES~~**
 13 **APPLIED FOR DURING THE APPLICATION PERIOD.**

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

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

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

26 **~~(2) (1) WITHIN 15 DAYS AFTER THE END OF EACH~~**
 27 **~~APPLICATION PERIOD, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER~~**
 28 **~~OF THE MAXIMUM AMOUNT STATED IN EACH CREDIT CERTIFICATE ISSUED~~**
 29 **~~DURING THE APPLICATION PERIOD.~~**

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

33 **~~(E) (1) THERE IS A SECURITY CLEARANCE INCOME TAX CREDIT~~**
 34 **~~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.~~

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.