

SENATE BILL 638

Q3, C2
HB 1061/09 – W&M

0lr1002
CF HB 755

By: **Senators Madaleno, Conway, Currie, Frosh, Harrington, Jones, Kelley, Lenett, Middleton, Pinsky, Pugh, and Raskin**
Introduced and read first time: February 5, 2010
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Earned Income Credit Information Act**

3 FOR the purpose of requiring the Comptroller to publish certain information relating
4 to eligibility for the State earned income tax credit; requiring the Comptroller to
5 prepare and make available to employers of the State a certain notice; requiring
6 an employer to provide certain notification to an employee who may be eligible
7 for the State earned income tax credit; providing that an employee may not
8 pursue a private cause of action against an employer for the employer's failure
9 to provide certain notice; providing for the effective date of this Act; and
10 generally relating to employee notification of the State earned income tax credit.

11 BY repealing and reenacting, without amendments,
12 Article – Tax – General
13 Section 10–905(a), (b), and (f)
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2009 Supplement)

16 BY adding to
17 Article – Tax – General
18 Section 10–913
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2009 Supplement)

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

23 **Article – Tax – General**

24 10–905.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (a) In this Part II of this subtitle the following words have the meanings
2 indicated.

3 (b) (1) “Employer” has the meaning stated in § 3401 of the Internal
4 Revenue Code.

5 (2) “Employer” includes:

6 (i) the federal government;

7 (ii) the State;

8 (iii) a county, municipal corporation, political subdivision, or
9 instrumentality of the State;

10 (iv) another state to the extent that functions of its government
11 are carried on or performed in this State; and

12 (v) if the employer is a corporation:

13 1. any officer of the corporation who exercises direct
14 control over its fiscal management; and

15 2. any agent of the corporation who has a duty to
16 withhold income tax from wages.

17 (f) (1) Except as provided in paragraph (2) of this subsection, “wages”
18 means salary, wages, or compensation for personal services of any kind as defined in
19 §§ 3401 and 3402(o)(2)(A) of the Internal Revenue Code.

20 (2) “Wages” includes remuneration paid for services described in §
21 3401(a)(5) and (6) of the Internal Revenue Code.

22 **10-913.**

23 (A) (1) ON OR BEFORE JANUARY 1 OF EACH CALENDAR YEAR, THE
24 COMPTROLLER SHALL PUBLISH THE MAXIMUM INCOME ELIGIBILITY FOR THE
25 EARNED INCOME TAX CREDIT UNDER § 10-704 OF THIS TITLE FOR THE
26 CALENDAR YEAR.

27 (2) THE COMPTROLLER SHALL PREPARE A NOTICE THAT MEETS
28 THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION AND MAKE THE
29 NOTICE AVAILABLE TO EMPLOYERS.

30 (B) (1) ON OR BEFORE DECEMBER 31 OF EACH CALENDAR YEAR, AN
31 EMPLOYER SHALL PROVIDE ELECTRONIC OR WRITTEN NOTICE TO AN

1 EMPLOYEE WHO MAY BE ELIGIBLE FOR THE EARNED INCOME TAX CREDIT
2 UNDER § 10-704 OF THIS TITLE THAT:

3 (I) THE EMPLOYEE MAY BE ELIGIBLE FOR THE FEDERAL
4 EARNED INCOME TAX CREDIT UNDER § 32 OF THE INTERNAL REVENUE CODE;

5 (II) THE EMPLOYEE MAY BE ELIGIBLE FOR THE EARNED
6 INCOME TAX CREDIT UNDER § 10-704 OF THIS TITLE;

7 (III) THE EMPLOYEE MUST FILE AN INCOME TAX RETURN TO
8 RECEIVE THE EARNED INCOME TAX CREDIT EVEN IF THE EMPLOYEE DOES NOT
9 OWE ANY TAXES; AND

10 (IV) A PORTION OF THE EARNED INCOME TAX CREDIT MAY
11 BE REFUNDABLE.

12 (2) AN EMPLOYER MAY PROVIDE THE NOTICE REQUIRED UNDER
13 THIS SUBSECTION TO:

14 (I) ALL EMPLOYEES; OR

15 (II) EMPLOYEES WITH WAGES THAT ARE LESS THAN OR
16 EQUAL TO THE MAXIMUM INCOME ELIGIBILITY PUBLISHED UNDER SUBSECTION
17 (A) OF THIS SECTION.

18 (C) AN EMPLOYEE MAY NOT PURSUE A PRIVATE CAUSE OF ACTION
19 AGAINST AN EMPLOYER FOR THE EMPLOYER'S FAILURE TO PROVIDE THE
20 NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 January 1, 2011.