

# SENATE BILL 656

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By: **Senator Ferguson**

Introduced and read first time: February 4, 2019

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Heritage Structure Rehabilitation Tax Credit – Alterations – Opportunity Zones,**  
3 **Targeted Projects, and Transferability**

4 FOR the purpose of authorizing a certain additional tax credit under the heritage structure  
5 rehabilitation tax credit program for certain commercial rehabilitations that qualify  
6 as opportunity zone projects; altering the definition of “small commercial project” to  
7 include certain residential structures sold as part of a development project and  
8 certain targeted projects; requiring the Director of the Maryland Historical Trust, in  
9 consultation with the Smart Growth Subcabinet, to adopt certain regulations;  
10 increasing by a certain amount the maximum tax credit allowed for rehabilitations  
11 other than commercial rehabilitations; making the tax credit transferable and  
12 refundable under certain circumstances; requiring the Governor to include in the  
13 annual State budget an appropriation of at least a certain amount for the tax credit  
14 reserve fund; increasing the aggregate amount of initial tax credit certificates the  
15 Director may issue for small commercial projects; prohibiting the Director from  
16 issuing initial tax credit certificates for targeted projects before a certain date and  
17 for more than a certain amount; altering the name of the heritage structure  
18 rehabilitation tax credit; extending for a certain number of years the termination  
19 date of the tax credit; requiring the Department of Planning to conduct and report  
20 the findings of a certain feasibility study to the Governor and the General Assembly  
21 on or before a certain date; making stylistic changes; providing for the application of  
22 this Act; defining certain terms; making conforming changes; and generally relating  
23 to the heritage structure rehabilitation tax credit.

24 BY repealing and reenacting, with amendments,  
25 Article – State Finance and Procurement  
26 Section 5A–303  
27 Annotated Code of Maryland  
28 (2015 Replacement Volume and 2018 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – State Finance and Procurement**

3 5A–303.

4 (a) (1) In this section the following words have the meanings indicated.

5 (2) “Affordable housing” means a project or undertaking that has received  
6 an allocation of federal low–income housing tax credits by the Department of Housing and  
7 Community Development.

8 **(3) “AGRICULTURAL STRUCTURE” MEANS A CERTIFIED HISTORIC**  
9 **STRUCTURE THAT IS USED OR WAS USED AS AN AGRICULTURAL FACILITY OR FOR**  
10 **PURPOSES RELATED TO AGRICULTURE.**

11 **[(3)] (4)** “Business entity” means:

12 (i) a person conducting or operating a trade or business in the State;  
13 or

14 (ii) an organization operating in Maryland that is exempt from  
15 taxation under § 501(c)(3) of the Internal Revenue Code.

16 **[(4)] (5)** “Certified heritage area” has the meaning stated in § 13–1101 of  
17 the Financial Institutions Article.

18 **[(5)] (6)** (i) “Certified historic structure” means a structure that is  
19 located in the State and is:

20 1. listed in the National Register of Historic Places;

21 2. designated as a historic property under local law and  
22 determined by the Director to be eligible for listing on the National Register of Historic  
23 Places;

24 3. A. located in a historic district listed on the National  
25 Register of Historic Places or in a local historic district that the Director determines is  
26 eligible for listing on the National Register of Historic Places; and

27 B. certified by the Director as contributing to the significance  
28 of the district; or

29 4. located in a certified heritage area and certified by the  
30 Maryland Heritage Areas Authority as contributing to the significance of the certified  
31 heritage area.

1 (ii) “Certified historic structure” does not include a structure that is  
2 owned by the State, a political subdivision of the State, or the federal government.

3 **[(6)] (7)** “Certified rehabilitation” means a completed rehabilitation of a  
4 certified historic structure that the Director certifies is a substantial rehabilitation in  
5 conformance with the rehabilitation standards of the United States Secretary of the  
6 Interior.

7 **[(7)] (8)** (i) “Commercial rehabilitation” means a rehabilitation of a  
8 structure other than a single-family, owner-occupied residence.

9 (ii) “Commercial rehabilitation” does not include a small commercial  
10 project.

11 **[(8)] (9)** “Director” means the Director of the Maryland Historical Trust.

12 **[(9)] (10)** “Financial assistance” means action by the State or a State unit  
13 to award grants, loans, loan guarantees, or insurance to a public or private entity to finance,  
14 wholly or partly, a project that involves or may result in building construction, building  
15 alteration, or land disturbance.

16 **[(10)] (11)** “High performance building” means a building that:

17 (i) meets or exceeds the current version of the U.S. Green Building  
18 Council’s LEED (Leadership in Energy and Environmental Design) green building rating  
19 system gold rating; or

20 (ii) achieves at least a comparable numeric rating according to a  
21 nationally recognized, accepted, and appropriate numeric sustainable development rating  
22 system, guideline, or standard approved by the Secretaries of Budget and Management and  
23 General Services under § 3-602.1 of this article.

24 **[(11)] (12)** (i) “Historic property” means a district, site, building,  
25 structure, monument, or object significant to:

26 1. the prehistory or history of the State; or

27 2. the upland or underwater archeology, architecture,  
28 engineering, or culture of the State.

29 (ii) “Historic property” includes related artifacts, records, and  
30 remains.

31 **[(12)] (13)** “Local historic district” means a district that the governing body  
32 of a county or municipal corporation, or the Mayor and City Council of Baltimore, has

1 designated under local law as historic.

2 **[(13)] (14)** “National register structure” means a structure that is:

3 (i) listed on the National Register of Historic Places; or

4 (ii) located in a historic district listed on the National Register of  
5 Historic Places and certified by the Director as contributing to the significance of the  
6 district.

7 **(15) “OPPORTUNITY ZONE PROJECT” MEANS A CERTIFIED**  
8 **REHABILITATION WITHIN A GEOGRAPHICAL AREA DESIGNATED AND IN EFFECT AS A**  
9 **QUALIFIED OPPORTUNITY ZONE IN THE STATE UNDER § 1400Z–1 OF THE INTERNAL**  
10 **REVENUE CODE.**

11 **[(14)] (16)** “Political subdivision” means a county or municipal corporation  
12 of the State.

13 **(17) “POST–WORLD WAR II STRUCTURE” MEANS A CERTIFIED**  
14 **HISTORIC STRUCTURE THAT WAS BUILT AFTER DECEMBER 31, 1944, BUT BEFORE**  
15 **JANUARY 1, 1970.**

16 **[(15)] (18)** “Qualified rehabilitation expenditure” means any amount that:

17 (i) is properly chargeable to a capital account;

18 (ii) is expended in the rehabilitation of a structure that by the end of  
19 the calendar year in which the certified rehabilitation is completed is a certified historic  
20 structure;

21 (iii) is expended in compliance with a plan of proposed rehabilitation  
22 that has been approved by the Director; and

23 (iv) is not funded, financed, or otherwise reimbursed by any:

24 1. State or local grant;

25 2. grant made from the proceeds of tax–exempt bonds issued  
26 by the State, a political subdivision of the State, or an instrumentality of the State or of a  
27 political subdivision of the State;

28 3. State tax credit other than the tax credit under this  
29 section; or

30 4. other financial assistance from the State or a political  
31 subdivision of the State, other than a loan that must be repaid at an interest rate that is

1 greater than the interest rate on general obligation bonds issued by the State at the most  
2 recent bond sale prior to the time the loan is made.

3 **[(16)] (19)** (i) “Single-family, owner-occupied residence” means a  
4 structure or a portion of a structure occupied by the owner and the owner’s immediate  
5 family as their primary or secondary residence.

6 (ii) “Single-family, owner-occupied residence” includes:

7 1. a residential unit in a cooperative project owned by or  
8 leased to a cooperative housing corporation, as defined in § 5-6B-01 of the Corporations  
9 and Associations Article, and leased for exclusive occupancy to, and occupied by, a member  
10 of the corporation and the member’s immediate family under a proprietary lease; or

11 2. a small commercial project.

12 **[(17)] (20)** **[(i)]** “Small commercial project” means a rehabilitation of a  
13 structure **[primarily used for commercial, income-producing purposes]** if:

14 **(I)** the qualified rehabilitation expenditures do not exceed  
15 \$500,000; AND

16 **(II) 1. THE STRUCTURE IS PRIMARILY USED FOR**  
17 **COMMERCIAL, INCOME-PRODUCING PURPOSES;**

18 **2. THE STRUCTURE:**

19 **A. IS A RESIDENTIAL UNIT IN A CONSECUTIVE SERIES OF**  
20 **SIMILAR RESIDENTIAL UNITS THAT ARE ARRANGED IN A ROW, SIDE BY SIDE; AND**

21 **B. IS SOLD AS PART OF A DEVELOPMENT PROJECT FOR**  
22 **EXCLUSIVE OCCUPANCY TO, AND OCCUPIED BY, THE RESIDENT; OR**

23 **3. THE STRUCTURE IS A TARGETED PROJECT.**

24 **[(ii)]** “Small commercial project” includes a structure that is used for  
25 both commercial and residential rental purposes.

26 (iii) “Small commercial project” does not include a structure that is  
27 used solely for residential purposes.]

28 **[(18)] (21)** “Smart Growth Subcabinet” means the Smart Growth  
29 Subcabinet established under Title 9, Subtitle 14 of the State Government Article.

30 **[(19)] (22)** “State unit” has the meaning stated in § 11-101 of the State

1 Government Article.

2 **[(20)] (23)** “Substantial rehabilitation” means rehabilitation of a structure  
 3 for which the qualified rehabilitation expenditures, during the 24-month period selected  
 4 by the individual or business entity ending with or within the taxable year, exceed:

5 (i) for single-family, owner-occupied residential property, \$5,000;  
 6 or

7 (ii) for all other property, the greater of:

8 1. the adjusted basis of the structure; or

9 2. \$25,000.

10 **(24) “TARGETED PROJECT” MEANS A REHABILITATION OF:**

11 **(I) AN AGRICULTURAL STRUCTURE; OR**

12 **(II) A POST-WORLD WAR II STRUCTURE.**

13 (b) (1) The Director, in consultation with the Smart Growth Subcabinet, shall  
 14 adopt regulations to:

15 (i) establish procedures and standards for certifying historic  
 16 structures and rehabilitations under this section;

17 (ii) for commercial rehabilitations, establish an application process  
 18 for the award of initial credit certificates for [heritage structure rehabilitation] **HISTORIC**  
 19 **REVITALIZATION** tax credits consistent with the requirements of this subsection;

20 (iii) for commercial rehabilitations, establish criteria, consistent with  
 21 the requirements of this subsection, for evaluating, comparing, and rating plans of proposed  
 22 rehabilitation that have been determined by the Director to conform with the rehabilitation  
 23 standards of the United States Secretary of the Interior;

24 (iv) for commercial rehabilitations, establish a competitive award  
 25 process for the award of initial credit certificates for [heritage structure rehabilitation]  
 26 **HISTORIC REVITALIZATION** tax credits that favors the award of tax credits for  
 27 rehabilitation projects that:

28 1. are consistent with and promote current growth and  
 29 development policies and programs of the State;

30 2. are located in areas targeted by the State for additional  
 31 revitalization and economic development opportunities due to the focusing of State

1 resources and incentives;

2 3. are located in areas where the political subdivision has  
3 implemented regulatory streamlining or other development incentives that foster  
4 redevelopment and revitalization in priority funding areas, as defined in Title 5, Subtitle  
5 7B of this article, and the appropriate local governing body or the planning board or  
6 commission, if designated by the local governing body, has certified to the Smart Growth  
7 Subcabinet those regulatory streamlining or other development incentives; and

8 4. include affordable and workforce housing options;

9 (v) for commercial rehabilitations, establish procedures to announce  
10 to the public the selection of a rehabilitation project for an award of an initial credit  
11 certificate not later than 60 days after the selection is made;

12 (vi) for commercial rehabilitations, determine whether the certified  
13 rehabilitation:

14 1. is a high performance building; or

15 2. qualifies as affordable housing **OR AN OPPORTUNITY**  
16 **ZONE PROJECT**;

17 (vii) for commercial rehabilitations, establish a required external  
18 marker or, at a minimum, an internal marker for the rehabilitation project that identifies  
19 that the rehabilitation was funded by [heritage structure rehabilitation] **HISTORIC**  
20 **REVITALIZATION** tax credits;

21 (viii) as provided in paragraph (7) of this subsection, charge  
22 reasonable fees to certify historic structures and rehabilitations under this subtitle;

23 (ix) for commercial rehabilitations, require documentation that the  
24 applicant has ownership or site control of the structure in order to demonstrate the ability  
25 to meet the requirement to begin work as required under subsection (c)(3)(i)1 of this section;

26 (x) for commercial rehabilitations, provide a time limit for approval  
27 of the additional tax credit for high performance buildings [or], affordable housing, **OR**  
28 **OPPORTUNITY ZONE PROJECTS** provided for in subsection (c)(1)(ii) of this section; [and]

29 **(XI) FOR COMMERCIAL REHABILITATIONS, ESTABLISH**  
30 **PROCEDURES FOR THE TRANSFER OF THE TAX CREDIT UNDER SUBSECTION (C)(6)**  
31 **OF THIS SECTION; AND**

32 [(xi)] **(XII)** for small commercial projects:

33 1. establish conditions regarding the percentage of the

1 structure that may be used for residential rental purposes if the structure is used for both  
 2 commercial and residential rental purposes; [and]

3 **2. SPECIFY CRITERIA FOR DETERMINING WHETHER A**  
 4 **CERTIFIED HISTORIC STRUCTURE IS:**

5 **A. AN AGRICULTURAL STRUCTURE; OR**

6 **B. A POST-WORLD WAR II STRUCTURE; AND**

7 **[2.] 3.** specify criteria and procedures for the issuance of  
 8 initial credit certificates under subsection (e) of this section.

9 (2) The Director may not certify that a rehabilitation is a certified  
 10 rehabilitation eligible for a tax credit provided under this section unless the individual or  
 11 business entity seeking certification states under oath the amount of the individual's or  
 12 business entity's qualified rehabilitation expenditures.

13 (3) Each year, the Director may accept applications for approval of plans of  
 14 proposed commercial rehabilitations and for the award of initial credit certificates for the  
 15 fiscal year that begins July 1 of that year.

16 (4) (i) Except as provided in subsection (e) of this section, a small  
 17 commercial project shall be treated as a single-family, owner-occupied residential  
 18 property, including the limitation on the amount of the tax credit provided in subsection  
 19 (c)(2)(ii) of this section.

20 (ii) A small commercial project is subject to the credit recapture  
 21 provision in subsection (f) of this section.

22 (5) (i) For commercial rehabilitations, the Director may not accept an  
 23 application for approval of plans of proposed rehabilitation if:

24 1. any substantial part of the proposed rehabilitation work  
 25 has begun; or

26 2. the applicant for a commercial rehabilitation has  
 27 previously submitted three or more applications for commercial rehabilitations with total  
 28 proposed rehabilitations exceeding \$500,000 in that year.

29 (ii) For commercial rehabilitations, the Director may accept an  
 30 application for approval of plans of a proposed rehabilitation for which a substantial part  
 31 of the proposed rehabilitation work has begun if the rehabilitation work has been approved  
 32 under the federal historic tax credit.

33 (6) Except as provided in subsection (d)(3)(iii) of this section, not more than



1 60% of the total credit amounts under initial credit certificates issued for any fiscal year  
2 may be issued for projects in a single county or Baltimore City.

3 (7) (i) The Director shall adopt regulations to charge reasonable fees to  
4 certify historic structures and rehabilitations under this section which shall include:

5 1. a minimum fee for the second phase of the application  
6 process;

7 2. for a commercial rehabilitation project, a final fee that  
8 may not exceed 3% of the amount of the award of an initial credit certificate; and

9 3. for any other rehabilitation project, a final fee that may  
10 not exceed 3% of the amount of the credit for which the rehabilitation would be eligible  
11 based on the greater of the estimated or final qualified rehabilitation expenditures for the  
12 rehabilitation.

13 (ii) The Director shall set the level of the fees so that the projected  
14 proceeds from the fees will cover the costs to the Trust of administering the credit under  
15 this section and the federal historic tax credit.

16 (iii) If a fee charged for a commercial rehabilitation is not received by  
17 the Trust within 90 days after the Trust sends notice to the applicant that the fee is due,  
18 the Trust may not:

19 1. issue an initial credit certificate for the commercial  
20 rehabilitation; or

21 2. accept an application for a commercial rehabilitation from  
22 the applicant during the 3 fiscal years following the fiscal year in which the fee was not  
23 received.

24 (iv) The proceeds from the fees shall be deposited in a special fund,  
25 to be used only for the purposes of paying the costs of administering the credit under this  
26 section and the federal historic tax credit.

27 (v) Any unused balance of the fund at the end of each fiscal year  
28 shall be transferred to the Reserve Fund established under subsection (d) of this section  
29 and shall increase the amount of the initial credit certificates that the Trust may issue for  
30 the following fiscal year.

31 (8) If an initial credit certificate expires or is otherwise unclaimed as  
32 provided for under this section, the amount of the credit certificate shall:

33 (i) remain in the Reserve Fund established under subsection (d) of  
34 this section; and

1 (ii) increase the amount of the initial credit certificates that the  
2 Trust may issue for the following fiscal year.

3 (c) (1) (i) Except as otherwise provided in this section, for the taxable year  
4 in which a certified rehabilitation is completed, an individual or business entity may claim  
5 a tax credit in an amount equal to 20% of the individual's or business entity's qualified  
6 rehabilitation expenditures for the rehabilitation.

7 (ii) For a commercial rehabilitation, an individual or business entity  
8 may claim an additional tax credit in an amount equal to 5% of the individual's or business  
9 entity's qualified rehabilitation expenditures if the certified rehabilitation is a certified  
10 historic structure and:

- 11 1. is a high performance building; or  
12 2. qualifies as affordable housing **OR AN OPPORTUNITY**  
13 **ZONE PROJECT.**

14 (2) (i) For any commercial rehabilitation, the State tax credit allowed  
15 under this section may not exceed the lesser of:

- 16 1. \$3,000,000; or  
17 2. the maximum amount specified under the initial credit  
18 certificate issued for the rehabilitation.

19 (ii) For a rehabilitation other than a commercial rehabilitation, the  
20 State tax credit allowed under this section may not exceed **[\$50,000] \$75,000.**

21 (iii) For the purposes of the limitation under subparagraph (i) of this  
22 paragraph, the following shall be treated as a single commercial rehabilitation:

- 23 1. the phased rehabilitation of the same structure or  
24 property; or  
25 2. the separate rehabilitation of different components of the  
26 same structure or property.

27 (3) (i) Subject to subparagraph (ii) of this paragraph, the initial credit  
28 certificate for a proposed commercial rehabilitation shall expire and the credit under this  
29 section may not be claimed if:

- 30 1. within 18 months after the initial credit certificate was  
31 issued, the applicant has not notified the Trust, in writing, that the commercial  
32 rehabilitation has begun;  
33 2. the commercial rehabilitation is not completed within 30

1 months after the initial credit certificate was issued; or

2 3. the applicant does not submit to the Trust a request for  
3 final certification of the commercial rehabilitation within 12 months after:

4 A. the 30-month expiration date under subparagraph (i)2 of  
5 this paragraph; or

6 B. the date to which the Director postponed the expiration  
7 date under subparagraph (ii) of this paragraph.

8 (ii) For reasonable cause, the Director may postpone:

9 1. the 30-month expiration date under subparagraph (i)2 of  
10 this paragraph for an initial credit certificate for a commercial rehabilitation; or

11 2. if the commercial rehabilitation was completed prior to the  
12 expiration of the initial credit certificate, the deadline under subparagraph (i)3 of this  
13 paragraph for submission of a request for final certification.

14 (4) If the tax credit allowed under this section in any taxable year exceeds  
15 the total tax otherwise payable by the business entity or the individual for that taxable  
16 year, the individual or business entity may claim a refund in the amount of the excess.

17 (5) The State credit allowed under this section may be allocated among the  
18 partners, members, or shareholders of an entity in any manner agreed to by those persons  
19 in writing.

20 **(6) (I) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE**  
21 **DIRECTOR UNDER THIS SECTION, THE AMOUNT OF THE STATE TAX CREDIT**  
22 **ALLOWED, BUT NOT USED, FOR COMMERCIAL REHABILITATIONS UNDER THIS**  
23 **SECTION MAY BE TRANSFERRED IN WHOLE OR IN PART TO ANY INDIVIDUAL OR**  
24 **BUSINESS ENTITY.**

25 **(II) 1. FOR THE TAXABLE YEAR OF ANY TRANSFER UNDER**  
26 **THIS PARAGRAPH, THE TRANSFEREE UNDER SUBPARAGRAPH (I) OF THIS**  
27 **PARAGRAPH MAY APPLY THE TAX CREDIT AGAINST THE TOTAL TAX OTHERWISE**  
28 **PAYABLE BY THE TRANSFEREE IN THAT TAXABLE YEAR.**

29 **2. IF THE TAX CREDIT EXCEEDS THE STATE INCOME TAX**  
30 **OF THE TRANSFEREE IN ANY TAXABLE YEAR, THE TRANSFEREE:**

31 **A. MAY CLAIM A REFUND IN THE AMOUNT OF THE**  
32 **EXCESS; OR**

1                                   **B.     MAY TRANSFER THE REMAINDER OF THE TAX CREDIT**  
2 **TO ANY INDIVIDUAL OR BUSINESS ENTITY.**

3           (d)   (1)   In this subsection, “Reserve Fund” means the [Heritage Structure  
4 Rehabilitation] **HISTORIC REVITALIZATION** Tax Credit Reserve Fund established under  
5 paragraph (2) of this subsection.

6                   (2)   (i)   There is a [Heritage Structure Rehabilitation] **HISTORIC**  
7 **REVITALIZATION** Tax Credit Reserve Fund that is a continuing, nonlapsing special fund  
8 that is not subject to § 7–302 of this article.

9                           (ii)   The money in the Fund shall be invested and reinvested by the  
10 Treasurer, and interest and earnings shall be credited to the General Fund.

11                                   (iii)   If the fees paid in any fiscal year are less than the directly related  
12 administrative costs of operating the [Heritage Structure Rehabilitation] **HISTORIC**  
13 **REVITALIZATION** Tax Credit Program, funds in the Reserve Fund shall be used for the  
14 directly related administrative costs of the Program.

15                   (3)   (i)   Subject to the provisions of this subsection, the Director shall  
16 issue an initial credit certificate for each commercial rehabilitation for which a plan of  
17 proposed rehabilitation is approved and the fees charged under subsection (b)(7)(i) of this  
18 section are paid.

19                                   (ii)   An initial credit certificate issued under this subsection shall  
20 state the maximum amount of credit under this section for which the commercial  
21 rehabilitation may qualify.

22   (iii)   1.   Except as otherwise provided in this subparagraph and in  
23 subsection (b)(7)(v) of this section, for any fiscal year, the Director may not issue initial  
24 credit certificates for credit amounts in the aggregate totaling more than the amount  
25 appropriated to the Reserve Fund for that fiscal year in the State budget as approved by  
26 the General Assembly.

27   2.   If the aggregate credit amounts under initial credit  
28 certificates issued in a fiscal year total less than the amount appropriated to the Reserve  
29 Fund for that fiscal year as a result of the limitation under subsection (b)(6) of this section,  
30 any excess amount may be issued under initial credit certificates for projects in a county or  
31 Baltimore City in the same fiscal year, without regard to the limitation under subsection  
32 (b)(6) of this section.

33   3.   Subject to subparagraph 2 of this subparagraph, if the  
34 aggregate credit amounts under initial credit certificates issued in a fiscal year total less  
35 than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount  
36 shall remain in the Reserve Fund and may be issued under initial credit certificates for the  
37 next fiscal year.

1                   4. For any fiscal year, if funds are transferred from the  
2 Reserve Fund under the authority of any provision of law other than paragraph (4) of this  
3 subsection, the maximum credit amounts in the aggregate for which the Director may issue  
4 initial credit certificates shall be reduced by the amount transferred.

5                   5. In each fiscal year, the Director shall estimate the amount  
6 of fees to be collected based on the amount appropriated to the Reserve Fund and reserve  
7 the difference between the estimated fees and estimated directly related administrative  
8 costs of the Program to be used to administer the Program.

9                   6. If the reservation of funds to administer the Program  
10 under subparagraph 5 of this subparagraph is not necessary to cover the directly related  
11 administrative costs of the Program, any excess amount shall remain in the Reserve Fund  
12 and may be issued under initial credit certificates for the next fiscal year.

13                   (iv) For each of fiscal years 2018 through ~~[2022]~~ **2024**, the Governor  
14 shall include in the budget bill an appropriation ~~[to]~~ **OF AT LEAST \$20,000,000 FOR** the  
15 Reserve Fund.

16                   (v) Notwithstanding the provisions of § 7-213 of this article, the  
17 Governor may not reduce an appropriation ~~[to]~~ **FOR** the Reserve Fund in the State budget  
18 as approved by the General Assembly.

19                   (vi) The Director may not issue an initial credit certificate for any  
20 fiscal year after fiscal year ~~[2022]~~ **2024**.

21                   (4) (i) Except as provided in this paragraph, money appropriated to the  
22 Reserve Fund shall remain in the Fund.

23                   (ii) 1. Within 15 days after the end of each calendar quarter, the  
24 Trust shall notify the Comptroller as to each commercial rehabilitation completed and  
25 certified during the quarter:

26                   A. the maximum credit amount stated in the initial credit  
27 certificate for the project; and

28                   B. the final certified credit amount for the project.

29                   2. On notification that a project has been certified, the  
30 Comptroller shall transfer an amount equal to the maximum credit amount stated in the  
31 initial credit certificate for the project from the Reserve Fund to the General Fund.

32                   (iii) 1. On or before October 1 of each year, the Trust shall notify  
33 the Comptroller as to the maximum credit amount stated in the initial credit certificate for  
34 each commercial rehabilitation for which the initial credit certificate has expired under  
35 subsection (c)(3) of this section as of the end of the prior fiscal year.



1                   1.     is performed on a certified rehabilitation; and

2                   2.     if performed as part of the rehabilitation certified under  
3 this section, would have made the rehabilitation ineligible for certification.

4                   (2)    The credit allowed under this section shall be recaptured as provided in  
5 paragraph (3) of this subsection if, during the taxable year in which a certified  
6 rehabilitation is completed or any of the 4 taxable years succeeding the taxable year in  
7 which the certified rehabilitation is completed:

8                   (i)    any disqualifying work is performed on the certified  
9 rehabilitation; or

10                  (ii)   for a commercial rehabilitation, the certified rehabilitation is  
11 complete and has been disposed of.

12                  (3)    (i)    1.     If the disqualifying work is performed or the certified  
13 rehabilitation is disposed of during the taxable year in which the certified rehabilitation  
14 was completed, 100% of the credit shall be recaptured.

15                               2.     If the disqualifying work is performed or the certified  
16 rehabilitation is disposed of during the first full year succeeding the taxable year in which  
17 the certified rehabilitation was completed, 80% of the credit shall be recaptured.

18                               3.     If the disqualifying work is performed or the certified  
19 rehabilitation is disposed of during the second full year succeeding the taxable year in  
20 which the certified rehabilitation was completed, 60% of the credit shall be recaptured.

21                               4.     If the disqualifying work is performed or the certified  
22 rehabilitation is disposed of during the third full year succeeding the taxable year in which  
23 the certified rehabilitation was completed, 40% of the credit shall be recaptured.

24                               5.     If the disqualifying work is performed or the certified  
25 rehabilitation is disposed of during the fourth full year succeeding the taxable year in which  
26 the certified rehabilitation was completed, 20% of the credit shall be recaptured.

27                   (ii)    The individual or business entity that claimed the tax credit shall  
28 pay the amount to be recaptured as determined under subparagraph (i) of this paragraph  
29 as taxes payable to the State for the taxable year in which the disqualifying work is  
30 performed or the certified rehabilitation is disposed of.

31                  (g)    (1)    The Comptroller may determine, under the process for return  
32 examination and audit under §§ 13–301 and 13–302 of the Tax – General Article:

33                               (i)    the amount of rehabilitation expenditures used in calculating the  
34 credit;

1 (ii) whether such expenditures are qualified rehabilitation  
2 expenditures under this section; and

3 (iii) whether the credit is allowable as claimed.

4 (2) The authority of the Comptroller to examine and audit a tax return does  
5 not limit the authority of the Director to determine whether a rehabilitation qualifies as a  
6 certified rehabilitation or whether a certificate of certified rehabilitation has been properly  
7 issued.

8 (3) The Comptroller may adopt regulations to require that an entity other  
9 than a corporation claim the tax credit on the tax return filed by that entity.

10 (4) (i) Except as otherwise provided in this paragraph, the credit under  
11 this section may be claimed for the year a certified rehabilitation is completed, only if the  
12 Director has, by the time the return is filed, issued a certificate of completion for the  
13 certified rehabilitation.

14 (ii) A taxpayer claiming the credit may amend a return for the year  
15 the certified rehabilitation was completed to account for a certificate issued subsequent to  
16 the filing of the original return.

17 (iii) An amended return shall be filed within the period allowed under  
18 the Tax – General Article for filing refund claims.

19 (iv) The provisions of this paragraph do not extend the period in  
20 which a certified rehabilitation must be completed to be eligible for a tax credit under this  
21 section.

22 (v) An amended return may account for an amended certification  
23 issued by the Director for a certified rehabilitation.

24 (h) A refund payable under subsection (c) of this section:

25 (1) operates to reduce the income tax revenue from corporations if the  
26 person entitled to the refund is a corporation subject to the income tax under Title 10 of the  
27 Tax – General Article;

28 (2) operates to reduce insurance premium tax revenues if the person  
29 entitled to the refund is subject to taxation under Title 6 of the Insurance Article; and

30 (3) operates to reduce the income tax revenue from individuals if the  
31 person entitled to the refund is:

32 (i) an individual subject to the income tax under Title 10 of the Tax  
33 – General Article; or



1 (ii) an organization exempt from taxation under § 501(c)(3) of the  
2 Internal Revenue Code.

3 (i) (1) On or before December 15 of each fiscal year, the Director shall report  
4 to the Governor and, subject to § 2-1246 of the State Government Article, to the General  
5 Assembly, on:

6 (i) the initial credit certificates awarded for commercial  
7 rehabilitations and small commercial projects under this section for that fiscal year;

8 (ii) the tax credits awarded for certified rehabilitations completed in  
9 the preceding fiscal year;

10 (iii) whether the tax credits awarded for certified rehabilitations  
11 completed in the preceding fiscal year were located in:

12 1. a local historic district; or

13 2. a national register district; and

14 (iv) the estimated amount of directly related administrative costs  
15 reserved in the Reserve Fund, the estimated amount of fees to be collected, the actual  
16 directly related administrative costs, and the actual amount of fees collected.

17 (2) The report required under paragraph (1) of this subsection shall include  
18 for each initial credit certificate awarded for the fiscal year for a commercial rehabilitation:

19 (i) the name of the owner or developer of the commercial  
20 rehabilitation;

21 (ii) the name and address of the proposed or certified rehabilitation  
22 and the county where the project is located;

23 (iii) the dates of receipt and approval by the Director of all  
24 applications regarding the project, including applications:

25 1. for certification that a structure or property will qualify as  
26 a certified historic structure; and

27 2. for approval of the proposed rehabilitation; and

28 (iv) the maximum amount of the credit stated in the initial credit  
29 certificate for the project and the estimated rehabilitation expenditures stated in the  
30 application for approval of the plan of proposed rehabilitation.

31 (3) The report required under paragraph (1) of this subsection shall include

1 for each certified commercial rehabilitation completed during the preceding fiscal year:

2 (i) the name of the owner or developer of the commercial  
3 rehabilitation;

4 (ii) the name and address of the certified rehabilitation and the  
5 county where the project is located;

6 (iii) the dates of receipt and approval by the Director of all  
7 applications regarding the project; and

8 (iv) 1. the maximum amount of the credit stated in the initial  
9 credit certificate for the project and the estimated rehabilitation expenditures stated in the  
10 application for approval of the plan of proposed rehabilitation; and

11 2. the actual qualified rehabilitation expenditures and the  
12 final amount of the credit for which the project qualified.

13 (4) The report required under paragraph (1) of this subsection shall  
14 summarize for each category of certified rehabilitations:

15 (i) the total number of applicants for:

16 1. certification that a structure or property will qualify as a  
17 certified historic structure;

18 2. approval of plans of proposed rehabilitations; or

19 3. certification of the completed rehabilitations;

20 (ii) the number of proposed projects for which plans of proposed  
21 rehabilitation were approved; and

22 (iii) the total estimated rehabilitation expenditures stated in  
23 approved applications for approval of plans of proposed rehabilitation and the total  
24 qualified rehabilitation expenditures for completed rehabilitations certified.

25 (5) The information required under paragraph (4) of this subsection shall  
26 be provided in the aggregate and separately for each of the following categories of certified  
27 rehabilitations:

28 (i) owner-occupied single family residential structures;

29 (ii) small commercial projects; and

30 (iii) commercial rehabilitations.

1           (j)     (1)     Subject to the provisions of this subsection, the provisions of this section  
2 and the tax credit authorized under this section shall terminate as of July 1, [2022] **2024**.

3                   (2)     On and after July 1, [2022] **2024**:

4                           (i)     the tax credit authorized under this section may be claimed for:

5                                   1.     a rehabilitation project, other than a commercial  
6 rehabilitation, for which an application for approval of a plan of proposed rehabilitation  
7 was received by the Director on or before June 30, [2022] **2024**; or

8                                   2.     a commercial rehabilitation for which an initial credit  
9 certificate has been awarded under subsection (d) of this section; and

10                                   (ii)    the Director shall continue to report to the Governor and the  
11 General Assembly as required under subsection (i) of this section for as long as any  
12 rehabilitation project for which the tax credit may be claimed remains incomplete.

13           SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Planning  
14 shall:

15                   (1)     conduct a feasibility study on the development of an online application  
16 for the historic revitalization tax credit that integrates with applications administered by  
17 the Department of Housing and Community Development for the Community Legacy  
18 Program and the Baltimore Regional Neighborhood Initiative Program; and

19                   (2)     report the findings of the feasibility study to the Governor and, in  
20 accordance with § 2–1246 of the State Government Article, to the General Assembly on or  
21 before July 1, 2020.

22           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
23 1, 2019, and shall be applicable to all taxable years beginning after December 31, 2019.