

HOUSE BILL 790

Q3

0lr1055

By: **Delegate Wilkins**

Introduced and read first time: February 3, 2020

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Green Buildings Tax Credit – Multifamily Housing**

3 FOR the purpose of allowing a credit against the State income tax for certain costs, paid or
4 incurred after a certain date by an owner of certain multifamily housing to meet
5 certain energy and water efficiency standards; allowing unused credits to be claimed
6 for a certain number of subsequent taxable years under certain circumstances;
7 requiring the owner to obtain a certain eligibility certificate in order to claim the
8 credit; requiring the Maryland Energy Administration to issue an initial tax credit
9 certificate on application of the owner under certain circumstances and subject to
10 certain limitations; providing for the form and content of the application and the
11 initial tax credit certificate; prohibiting the Administration from issuing tax credit
12 certificates totaling more than a certain amount in the aggregate; requiring the
13 Administration to give priority to certain applications and to issue a final tax credit
14 certificate under certain circumstances; establishing certain procedures for claiming
15 the credit; prohibiting the final credit amount from exceeding a certain percentage
16 of certain costs; authorizing the Administration and the Comptroller to adopt certain
17 regulations; requiring the Administration to provide certain information to the
18 Comptroller on or before a certain date each year; requiring the Administration and
19 the Comptroller to report to the General Assembly on or before a certain date each
20 year in a certain manner; defining certain terms; providing for the application of this
21 Act; and generally relating to an income tax credit for owners of certain multifamily
22 housing that meets certain energy and water efficiency standards.

23 BY adding to

24 Article – Tax – General

25 Section 10–722.1

26 Annotated Code of Maryland

27 (2016 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Tax – General

10-722.1.

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

(2) “ADMINISTRATION” MEANS THE MARYLAND ENERGY ADMINISTRATION.

(3) “ALLOWABLE COSTS” MEANS AMOUNTS PAID OR INCURRED BY AN INDIVIDUAL OR A CORPORATION, ON OR AFTER JULY 1, 2020, FOR THE CONSTRUCTION OF A GREEN BUILDING OR THE CONVERSION OF AN ELIGIBLE BUILDING INTO A GREEN BUILDING.

(4) “ELIGIBLE BUILDING” MEANS A RESIDENTIAL MULTIFAMILY BUILDING LOCATED IN THE STATE THAT CONTAINS AT LEAST 10 DWELLING UNITS.

(5) “GREEN BUILDING” MEANS AN ELIGIBLE BUILDING FOR WHICH AN ARCHITECT OR ENGINEER LICENSED TO PRACTICE IN THE STATE ISSUES AN ELIGIBILITY CERTIFICATE, CERTIFYING THAT:

(I) FOR AN ELIGIBLE BUILDING THAT IS NEWLY CONSTRUCTED, UNDERGOES A GUT REHABILITATION, OR IS CONVERTED FROM NONRESIDENTIAL USE TO RESIDENTIAL USE, THE BUILDING QUALIFIES AS A GREEN BUILDING UNDER THE CURRENT VERSION OF THE FOLLOWING RATING SYSTEMS:

1. A. ENERGY STAR NEW HOMES;

B. ENERGY STAR MULTIFAMILY NEW CONSTRUCTION;

OR

C. ENERGY STAR MULTIFAMILY HIGH RISE; AND

2. A. ENTERPRISE GREEN COMMUNITIES;

B. U.S. GREEN BUILDING COUNCIL’S LEED V4 (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN);

C. NATIONAL ASSOCIATION OF HOME BUILDERS’ ICC-700 NATIONAL GREEN BUILDING STANDARD;

D. SOUTHFACE’S EARTHCRAFT MULTIFAMILY V5; OR

1 **E. INTERNATIONAL LIVING FUTURE INSTITUTE’S**
2 **LIVING BUILDING CHALLENGE; OR**

3 **(II) FOR AN EXISTING ELIGIBLE BUILDING THAT UNDERGOES**
4 **IMPROVEMENTS FOR ENERGY AND WATER CONSERVATION PURPOSES, THE**
5 **IMPROVEMENTS REDUCE THE BUILDING’S PROJECTED ANNUAL ENERGY AND**
6 **WATER USAGE BY AT LEAST 30%, WITH AT LEAST A 15% REDUCTION IN ENERGY**
7 **USAGE.**

8 **(6) “GUT REHABILITATION” MEANS THE DEMOLITION OF A BUILDING,**
9 **FOR ENERGY CONSERVATION PURPOSES, TO THE BUILDING’S EXTERIOR WALL**
10 **STRUCTURAL FRAME AND REMOVING AND REPLACING THE EXISTING MECHANICAL,**
11 **ELECTRICAL, AND PLUMBING SYSTEMS OF THE BUILDING.**

12 **(B) (1) FOR THE TAXABLE YEAR IN WHICH AN ELIGIBLE BUILDING IS**
13 **CERTIFIED AS A GREEN BUILDING, AN INDIVIDUAL OR A CORPORATION THAT OWNS**
14 **THE GREEN BUILDING MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX AS**
15 **PROVIDED UNDER THIS SECTION.**

16 **(2) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE**
17 **STATE INCOME TAX, ANY UNUSED CREDIT MAY BE CARRIED FORWARD AND APPLIED**
18 **FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:**

19 **(I) THE FULL AMOUNT OF THE CREDIT IS USED; OR**

20 **(II) THE EXPIRATION OF THE 5TH YEAR AFTER THE TAXABLE**
21 **YEAR FOR WHICH THE CREDIT WAS ALLOWED.**

22 **(3) (I) TO CLAIM THE CREDIT UNDER THIS SECTION, THE OWNER**
23 **SHALL OBTAIN AN ELIGIBILITY CERTIFICATE FROM AN ARCHITECT OR A**
24 **PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE STATE.**

25 **(II) AN ELIGIBILITY CERTIFICATE ISSUED UNDER THIS**
26 **PARAGRAPH SHALL:**

27 **1. CONSIST OF A CERTIFICATION, UNDER THE SEAL OF**
28 **THE ARCHITECT OR ENGINEER, THAT THE ELIGIBLE BUILDING IS A GREEN**
29 **BUILDING;**

30 **2. SET FORTH THE SPECIFIC FINDINGS ON WHICH THE**
31 **CERTIFICATION WAS BASED; AND**

3. INCLUDE ANY OTHER INFORMATION THAT THE
ADMINISTRATION OR THE COMPTROLLER REQUIRES BY REGULATION.

(C) (1) (I) SUBJECT TO THE LIMITATIONS OF PARAGRAPH (3) OF THIS
SUBSECTION, THE ADMINISTRATION SHALL ISSUE AN INITIAL CREDIT CERTIFICATE
ON APPLICATION BY AN OWNER OF AN ELIGIBLE BUILDING IF THE OWNER
DEMONSTRATES THAT THE OWNER IS LIKELY WITHIN A REASONABLE TIME TO
OBTAIN AN ELIGIBILITY CERTIFICATE AS PROVIDED UNDER SUBSECTION (B) OF
THIS SECTION.

(II) THE APPLICATION SHALL:

1. BE IN THE FORM THE ADMINISTRATION REQUIRES;
AND
2. INCLUDE A DETAILED ESTIMATE OF THE ALLOWABLE
COSTS.

(2) THE INITIAL CREDIT CERTIFICATE ISSUED UNDER THIS
PARAGRAPH SHALL STATE:

(I) THE EARLIEST TAXABLE YEAR FOR WHICH THE CREDIT MAY
BE CLAIMED; AND

(II) THE MAXIMUM AMOUNT OF THE TAX CREDIT ALLOWABLE
UNDER THIS SECTION.

(3) (I) FOR ANY TAXABLE YEAR, THE ADMINISTRATION MAY NOT
ISSUE INITIAL TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE
AGGREGATE TOTALING MORE THAN \$1,000,000.

(II) THE ADMINISTRATION SHALL GIVE PRIORITY TO
APPLICATIONS FOR ELIGIBLE BUILDINGS:

1. IN WHICH A MAJORITY OF CURRENT OR FUTURE
TENANTS QUALIFY AS LOW OR MODERATE INCOME;
2. LOCATED IN AN OPPORTUNITY ZONE IN THE STATE;
OR
3. LOCATED IN A QUALIFIED CENSUS TRACT AS DEFINED
IN § 42 OF THE INTERNAL REVENUE CODE.

1 (4) (I) THE ADMINISTRATION SHALL ISSUE A FINAL TAX CREDIT
2 CERTIFICATE FOR THE TAXABLE YEAR IN WHICH THE OWNER HAS OBTAINED AND
3 FILED AN INITIAL CREDIT CERTIFICATE AND ELIGIBILITY CERTIFICATE ISSUED
4 UNDER SUBSECTION (B) OF THIS SECTION.

5 (II) THE FINAL CREDIT AMOUNT MAY NOT EXCEED 25% OF THE
6 ACTUAL ALLOWABLE COSTS.

7 (III) IN ORDER TO CLAIM THE CREDIT, THE OWNER SHALL
8 ATTACH THE ELIGIBILITY CERTIFICATE AND THE FINAL TAX CREDIT CERTIFICATE
9 TO THE OWNER'S INCOME TAX RETURN AND FILE DUPLICATE COPIES OF THE
10 ELIGIBILITY CERTIFICATE WITH THE ADMINISTRATION.

11 (D) THE COMPTROLLER AND THE ADMINISTRATION MAY ADOPT
12 REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

13 (E) ON OR BEFORE JANUARY 1, 2021, AND EACH YEAR THEREAFTER, THE
14 ADMINISTRATION SHALL:

15 (1) PROVIDE TO THE COMPTROLLER A LIST OF ALL OWNERS IN THE
16 PRIOR TAXABLE YEAR THAT HAVE BEEN ISSUED AN INITIAL TAX CREDIT
17 CERTIFICATE UNDER THIS SECTION; AND

18 (2) SPECIFY FOR EACH OWNER THE EARLIEST TAXABLE YEAR FOR
19 WHICH THE CREDIT MAY BE CLAIMED AND THE MAXIMUM AMOUNT OF THE CREDIT
20 ALLOWABLE UNDER THIS SECTION.

21 (F) (1) ON OR BEFORE APRIL 1, 2021, AND EACH YEAR THEREAFTER, THE
22 COMPTROLLER AND THE ADMINISTRATION SHALL SUBMIT TO THE GOVERNOR AND,
23 IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, TO THE
24 GENERAL ASSEMBLY A WRITTEN REPORT REGARDING:

25 (I) THE NUMBER OF CERTIFICATIONS AND OWNERS CLAIMING
26 THE CREDIT UNDER THIS SECTION;

27 (II) THE AMOUNT OF THE CREDITS CLAIMED;

28 (III) THE BASIS FOR WHICH THE CREDITS ARE CLAIMED; AND

29 (IV) ANY OTHER AVAILABLE INFORMATION THE
30 ADMINISTRATION DETERMINES TO BE MEANINGFUL AND APPROPRIATE.

1 **(2) THE COMPTROLLER AND THE ADMINISTRATION SHALL ENSURE**
2 **THAT THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS**
3 **PRESENTED AND CLASSIFIED IN A MANNER CONSISTENT WITH THE**
4 **CONFIDENTIALITY OF TAX RETURN INFORMATION.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.