

HOUSE BILL 403

Q3

(9lr2176)

ENROLLED BILL

— Ways and Means/Budget and Taxation —

Introduced by **Delegates Ebersole and P. Young**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Income Tax Credit – Qualified Farms – Food Donation Pilot Program –**
3 **Expansion and Extension**

4 FOR the purpose of altering the definition of “qualified farms”, for purposes of a certain
5 credit against the State income tax for certain food donations, to include farm
6 businesses located in ~~the State rather than certain counties~~ Baltimore County ~~the~~
7 State rather than certain counties; altering the taxable years for which a qualified
8 farm may claim the credit; altering the maximum amount of tax credit certificates
9 that may be issued for certain fiscal years; extending the period of time during which
10 the State Department of Agriculture may issue certain tax credit certificates;
11 extending the period of time for which the Secretary of Agriculture, in consultation
12 with the Comptroller, shall submit a certain report; declaring the intent of the
13 General Assembly with regard to the expenditure of certain funds by the Department
14 for certain purposes; and generally relating to a tax credit for certain food donations.

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.

Italics indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, with amendments,
 2 Article – Tax – General
 3 Section 10–745
 4 Annotated Code of Maryland
 5 (2016 Replacement Volume and 2018 Supplement)

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

8 **Article – Tax – General**

9 10–745.

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

11 (2) “Certified organic produce” means an eligible food donation that is
 12 certified under Title 10, Subtitle 14 of the Agriculture Article as an organically produced
 13 commodity.

14 (3) “Eligible food donation” means fresh farm products for human
 15 consumption.

16 (4) “Qualified farm” means a farm business that is located in ~~Anne~~
 17 ~~Arundel County, BALTIMORE COUNTY, Calvert County, Charles County, Montgomery~~
 18 ~~County, Prince George’s County, or St. Mary’s County~~ THE STATE ~~THE STATE~~.

19 (5) “Secretary” means the Secretary of Agriculture or the Secretary’s
 20 designee.

21 (6) “Tax credit certificate administrator” means a person or an
 22 organization that is authorized by the State Department of Agriculture under subsection
 23 (e) of this section to receive eligible food donations.

24 (b) (1) Subject to the limitations of this section, for a taxable year beginning
 25 after December 31, 2016, but before January 1, [2020] **2022**, a qualified farm may claim a
 26 credit against the State income tax in the amount stated on any tax credit certificates
 27 issued to the qualified farm during the taxable year.

28 (2) (i) Except as provided in subparagraph (ii) of this paragraph, for
 29 any taxable year, the aggregate amount of credits authorized under this subsection for a
 30 qualified farm may not exceed \$5,000.

31 (ii) For any taxable year, the Secretary may increase the credit
 32 limitation under subparagraph (i) of this paragraph for a qualified farm by an amount not
 33 to exceed \$5,000.

1 (3) If the credit allowed under this section exceeds the State income tax,
2 any unused credit may be carried forward and applied for succeeding taxable years until
3 the earlier of:

4 (i) the date on which the full amount of the credit is used; or

5 (ii) the date of the expiration of the 5th year after the taxable year
6 for which the credit was allowed.

7 (c) (1) A qualified farm that makes an eligible food donation is eligible for a
8 tax credit certificate with a stated tax credit amount equal to 50% of the value of the eligible
9 food donation.

10 (2) A qualified farm that makes a donation of certified organic produce is
11 eligible for a tax credit certificate with a stated tax credit amount equal to 75% of the value
12 of the donated certified organic produce.

13 (d) (1) Each week the Secretary shall establish and publish the categories and
14 value of certified organic produce and eligible food donations.

15 (2) Except as provided in paragraph (3) of this subsection, the value of each
16 category of certified organic produce and eligible food donations is the wholesale value of
17 the category established by the State Department of Agriculture and based on United
18 States Department of Agriculture reports on Maryland products sold at Maryland markets.

19 (3) If the Secretary determines that the value established under paragraph
20 (2) of this subsection is insufficient to pay for the cost of harvesting a category of certified
21 organic produce or eligible food donation, the Secretary may establish a value in excess of
22 the value under paragraph (2) of this subsection.

23 (e) (1) The Secretary, in consultation with the Comptroller, shall establish a
24 process to certify a person or an organization to act as a tax credit certificate administrator.

25 (2) A tax credit certificate administrator that receives a donation of
26 certified organic produce or an eligible food donation from a qualified farm shall issue the
27 qualified farm a tax credit certificate.

28 (3) The tax credit certificate shall:

29 (i) state the date of the donation;

30 (ii) identify the qualified farm;

31 (iii) describe the type of donation;

32 (iv) state the weight of the donation;

1 (v) identify the value of the donation;

2 (vi) state the maximum amount of the tax credit for which the
3 qualified farm is eligible; and

4 (vii) provide any other information the State Department of
5 Agriculture or Comptroller requires.

6 (4) The Secretary, in consultation with the Comptroller, shall prepare tax
7 credit certificate forms for the use of the tax credit certificate administrators.

8 (5) Within 30 days after issuing a tax credit certificate, the tax credit
9 certificate administrator shall provide a copy of the tax credit certificate to the Secretary
10 and the Comptroller.

11 (6) (i) The Secretary shall notify each tax credit certificate
12 administrator to stop issuing tax credit certificates if the amount of tax credit certificates
13 issued during the fiscal year equals or exceeds the amount of tax credit certificates
14 authorized to be issued during the fiscal year under subsection (f) of this section less
15 \$50,000.

16 (ii) The Secretary, in consultation with the Comptroller, shall adopt
17 regulations providing procedures to issue the remaining \$50,000 of tax credit certificates
18 under this paragraph.

19 (f) (1) For each fiscal year, the total amount of tax credit certificates issued
20 under this section may not exceed ~~\$250,000~~ \$100,000.

21 (2) If the total amount of tax credit certificates issued during any fiscal
22 year totals less than the maximum amount provided under paragraph (1) of this subsection,
23 any excess amount may be carried forward and issued under tax credit certificates in a
24 subsequent fiscal year.

25 (3) A tax credit certificate may not be issued after December 31, [2019]
26 **2021**.

27 (g) On or before January 1, 2018, and January 1 each year thereafter until
28 January 1, [2021] **2023**, the Secretary, in consultation with the Comptroller, shall submit
29 a report to the Governor and, subject to § 2-1246 of the State Government Article, the
30 General Assembly on the use and impact of the tax credit established under this section.

31 (h) The Secretary, in consultation with the Comptroller, shall adopt regulations
32 to administer this section.

33 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
34 Assembly that the State Department of Agriculture, in an amount consistent with the

1 amount of funding expended by the Department before the effective date of this Act in
2 administering the tax credit established under § 10–745 of the Tax – General Article, shall
3 continue to fund the marketing of the credit program and facilitate the donation of eligible
4 food donations by qualified farms in accordance with § 10–745 of the Tax – General Article,
5 as enacted by Section 1 of this Act, through the reimbursement of transportation costs or
6 direct assistance with the transportation of eligible food donations.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
8 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.