

# SENATE BILL 552

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CF HB 547

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By: **The President (By Request – Administration) and Senators King, Augustine, Benson, Carter, Ellis, Hettleman, Jackson, Kagan, Lam, Rosapepe, Smith, Sydnor, Waldstreicher, Watson, ~~and West~~ West, Guzzone, McCray, and Zucker**

Introduced and read first time: February 6, 2023

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Family Prosperity Act of 2023**

3 FOR the purpose of altering, beginning with a certain taxable year, the percentage of the  
4 federal earned income tax credit used for determining the amount that an individual  
5 may claim as a refund under the Maryland earned income tax credit under certain  
6 circumstances; repealing a certain limitation on the amount certain individuals may  
7 claim as a refund under the earned income tax credit; altering the definition of  
8 “qualified child” and income eligibility requirements for purposes of qualifying for a  
9 certain credit against the State income tax for certain dependent children; repealing  
10 a certain provision of law reducing the amount of the credit under certain  
11 circumstances; allowing certain residents to continue to claim the credits after a  
12 certain taxable year; and generally relating to credits against the State income tax  
13 for earned income and dependent children.

14 BY repealing and reenacting, with amendments,

15 Article – Tax – General

16 Section 10–704 and 10–751

17 Annotated Code of Maryland

18 (2022 Replacement Volume)

19 BY repealing and reenacting, with amendments,

20 Chapter 40 of the Acts of the General Assembly of 2021

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### 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.



1 Section 2 and 3

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

4 **Article – Tax – General**

5 10–704.

6 (a) In this section, “taxpayer” means:

7 (1) an individual filing an income tax return; or

8 (2) a married couple filing a joint income tax return.

9 (b) (1) A resident who is a taxpayer may claim a credit against the State  
10 income tax for a taxable year in the amount determined under subsection (c) of this section  
11 for earned income.

12 (2) A resident who is a taxpayer may claim a credit against the county  
13 income tax for a taxable year in the amount determined under subsection (d) of this section  
14 for earned income.

15 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection and  
16 subject to subsection (e) of this section, the credit allowed against the State income tax  
17 under subsection (b)(1) of this section is the lesser of:

18 (i) 50% of the earned income credit allowable for the taxable year  
19 under § 32 of the Internal Revenue Code or that would have been allowable but for the  
20 limitation under § 32(m) of the Internal Revenue Code; or

21 (ii) the State income tax for the taxable year.

22 (2) (i) Subject to subparagraph (iii) of this paragraph and subsection (e)  
23 of this section, a resident may claim a refund in the amount, if any, by which the applicable  
24 percentage specified in subparagraph (ii) of this paragraph of the earned income credit  
25 allowable for the taxable year under § 32 of the Internal Revenue Code exceeds the State  
26 income tax for the taxable year.

27 (ii) Subject to subparagraph (iii) of this paragraph, the applicable  
28 percentage of the earned income credit allowable under § 32 of the Internal Revenue Code  
29 to be used for purposes of determining the refund provided under this paragraph is:

30 1. 25% for a taxable year beginning after December 31, 2013,  
31 but before January 1, 2015;

1                                   2.     25.5% for a taxable year beginning after December 31,  
2 2014, but before January 1, 2016;

3                                   3.     26% for a taxable year beginning after December 31, 2015,  
4 but before January 1, 2017;

5                                   4.     27% for a taxable year beginning after December 31, 2016,  
6 but before January 1, 2018;

7                                   5.     28% for a taxable year beginning after December 31, 2017,  
8 but before January 1, 2020; AND

9                                   6.     45% for a taxable year beginning after December 31,  
10 2019[, but before January 1, 2023; and

11                                  7.     28% for a taxable year beginning after December 31,  
12 2022].

13                                   (iii) For purposes of determining the refund provided under this  
14 paragraph, the earned income credit allowable under § 32 of the Internal Revenue Code is  
15 calculated without regard to the limitation under § 32(m) of the Internal Revenue Code.

16                                   (3) (i) For purposes of this section for an individual without a qualifying  
17 child, the credit allowable for a taxable year under § 32 of the Internal Revenue Code is  
18 calculated without regard to:

19                                   1.     the minimum age requirement under § 32(c)(1)(A)(ii)(II) of  
20 the Internal Revenue Code; or

21                                   2.     the limitation under § 32(m) of the Internal Revenue Code.

22                                   (ii) ~~Subject to subparagraph (iii) of this paragraph, for~~ ~~FOR a~~  
23 ~~taxable year beginning after December 31, 2019[, but before January 1, 2023],~~ the credit  
24 allowed against the State income tax under subsection (b)(1) of this section for an individual  
25 without a qualifying child is equal to 100% of the earned income credit allowable for a  
26 taxable year under § 32 of the Internal Revenue Code.

27                                   (iii) ~~The~~ **FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER**  
28 **31, 2019, BUT BEFORE JANUARY 1, 2023, THE** tax credit allowed under this paragraph  
29 may not exceed \$530 for a taxable year.

30                                   (iv) If the tax credit allowed under this paragraph in any taxable year  
31 exceeds the total tax otherwise payable by the individual without a qualifying child for that  
32 taxable year, the individual may claim a refund in the amount of the excess.

1 (d) (1) Except as provided in paragraph (2) of this subsection and subject to  
2 subsection (e) of this section, the credit allowed against the county income tax under  
3 subsection (b)(2) of this section is the lesser of:

4 (i) the earned income credit allowable for the taxable year under §  
5 32 of the Internal Revenue Code or that would have been allowable but for the limitation  
6 under § 32(m) of the Internal Revenue Code multiplied by 10 times the county income tax  
7 rate for the taxable year; or

8 (ii) the county income tax for the taxable year.

9 (2) (i) A county may provide, by law, for a refundable county earned  
10 income credit as provided in this paragraph.

11 (ii) If a county provides for a refundable county earned income credit  
12 under this paragraph, on or before July 1 prior to the beginning of the first taxable year for  
13 which it is applicable, the county shall give the Comptroller notice of the refundable county  
14 earned income credit.

15 (iii) If a county provides for a refundable county earned income credit  
16 under this paragraph, a resident may claim a refund of the amount, if any, by which the  
17 product of multiplying the credit allowable for the taxable year under § 32 of the Internal  
18 Revenue Code or that would have been allowable but for the limitation under § 32(m) of  
19 the Internal Revenue Code by 5 times the county income tax rate for the taxable year  
20 exceeds the county income tax for the taxable year.

21 (iv) The amount of any refunds payable under a refundable county  
22 earned income credit operates to reduce the income tax revenue from individuals  
23 attributable to the county income tax for that county.

24 (e) (1) Subject to paragraph (2) of this subsection, for an individual who is a  
25 resident of the State for only a part of the year, the amount of the credit or refund allowed  
26 under this section shall be determined based on the part of the earned income credit  
27 allowable for the taxable year under § 32 of the Internal Revenue Code that is attributable  
28 to Maryland, determined by multiplying the federal earned income credit by a fraction:

29 (i) the numerator of which is the Maryland adjusted gross income of  
30 the individual; and

31 (ii) the denominator of which is the federal adjusted gross income of  
32 the individual.

33 (2) For purposes of determining the amount of the credit or refund under  
34 paragraph (1) of this subsection, the part of the earned income credit allowable for the  
35 taxable year under § 32 of the Internal Revenue Code is calculated without regard to the  
36 limitation under § 32(m) of the Internal Revenue Code.

1 10–751.

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

3 (2) “Qualified child” means a dependent of a taxpayer, if the dependent:

4 (i) is a dependent for purposes of § 152 of the Internal Revenue  
5 Code; and

6 (ii) 1. **IS UNDER THE AGE OF 6 YEARS; OR**

7 **2. A.** is under the age of 17 years; and

8 **[2.] B.** is a child with a disability, as defined under § 8–401  
9 of the Education Article.

10 (3) “Taxpayer” means:

11 (i) an individual filing an income tax return; or

12 (ii) a married couple filing a joint income tax return.

13 (b) A taxpayer who **IS A RESIDENT AND** has federal adjusted gross income for  
14 the taxable year of **[\$6,000] \$15,000** or less may claim a credit against the State income  
15 tax for each qualified child in an amount equal to \$500.

16 (c) **[The amount of the credit allowed under subsection (b) of this section for a**  
17 **qualified child shall be reduced, but not below zero, by the amount of any federal child tax**  
18 **credit claimed against the federal income tax for the qualified child under § 24 of the**  
19 **Internal Revenue Code.**

20 (d) **If the credit allowed under this section in any taxable year exceeds the State**  
21 **income tax for that taxable year, the taxpayer may claim a refund in the amount of the**  
22 **excess.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
24 as follows:

25 **Chapter 40 of the Acts of 2021**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applicable to  
27 all taxable years beginning after December 31, 2019[, but before January 1, 2023].

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
29 measure, is necessary for the immediate preservation of the public health or safety, has  
30 been passed by a ye and nay vote supported by three–fifths of all the members elected to

1 each of the two Houses of the General Assembly, and shall take effect from the date it is  
2 enacted. [It shall remain effective through June 30, 2023, and, at the end of June 30, 2023,  
3 this Act, with no further action required by the General Assembly, shall be abrogated and  
4 of no further force and effect.]

5 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be  
6 applicable to all taxable years beginning after December 31, 2022.

7 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
8 1, 2023.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.