

SENATE BILL 739

Q3, Q7

2lr2926
CF HB 764

By: **Senators Madaleno, Frosh, Glassman, Jones–Rodwell, Montgomery, Raskin, and Rosapepe**

Introduced and read first time: February 3, 2012

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2012

CHAPTER _____

1 AN ACT concerning

2 **Tax Credit Evaluation Act**

3 FOR the purpose of establishing a legislative review and evaluation process for certain
4 credits allowed against certain taxes; establishing dates for review and other
5 legislative action with regard to certain tax credits; ~~providing for termination of~~
6 ~~certain tax credits under certain circumstances~~; repealing certain obsolete tax
7 credits; providing for the construction of certain provisions of this Act; and
8 generally relating to a legislative review and evaluation process for certain
9 credits allowed against certain taxes.

10 BY adding to

11 Article – Tax – General

12 Section 1–301 through 1–311 to be under the new subtitle “Subtitle 3. Tax
13 Credit Evaluation Act”

14 Annotated Code of Maryland

15 (2010 Replacement Volume and 2011 Supplement)

16 BY repealing

17 Article – Labor and Employment

18 Section 11–704; and 11–1101 through 11–1107 and the subtitle “Subtitle 11. Job
19 Creation and Recovery Tax Credit”

20 Annotated Code of Maryland

21 (2008 Replacement Volume and 2011 Supplement)

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 BY repealing
 2 Article – Tax – General
 3 Section 10–704.9, 10–704.10, 10–713, 10–719, and 10–728
 4 Annotated Code of Maryland
 5 (2010 Replacement Volume and 2011 Supplement)

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

8 **Article – Tax – General**

9 **SUBTITLE 3. TAX CREDIT EVALUATION ACT.**

10 **1–301.**

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 12 INDICATED.

13 (B) “EVALUATION” MEANS THE PROCESS OF LEGISLATIVE REVIEW OF A
 14 TAX CREDIT FOR WHICH THIS SUBTITLE PROVIDES.

15 (C) “EVALUATION COMMITTEE” MEANS A COMMITTEE THAT IS
 16 APPOINTED TO CARRY OUT AN EVALUATION.

17 (D) “EVALUATION DATE” MEANS THE DATE ON WHICH AN EVALUATION
 18 OF A TAX CREDIT IS TO BE COMPLETED.

19 ~~(E) “TAX CREDIT” MEANS:~~

20 ~~(1) A CREDIT ALLOWED AGAINST THE PUBLIC SERVICE COMPANY~~
 21 ~~FRANCHISE TAX UNDER § 8 406(B), § 8 411, § 8 412, § 8 413, OR § 8 415 OF~~
 22 ~~THIS ARTICLE;~~

23 ~~(2) A CREDIT ALLOWED AGAINST THE INCOME TAX UNDER TITLE~~
 24 ~~10, SUBTITLE 7 OF THIS ARTICLE, NOT INCLUDING A CREDIT ALLOWED UNDER §~~
 25 ~~10 701 OR § 10 701.1 OF THIS ARTICLE;~~

26 ~~(3) A CREDIT ALLOWED AGAINST THE INSURANCE PREMIUM TAX~~
 27 ~~UNDER TITLE 6, SUBTITLE 1 OF THE INSURANCE ARTICLE;~~

28 ~~(4) A CREDIT ALLOWED UNDER TITLE 6, SUBTITLE 3 OR~~
 29 ~~SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE;~~

30 ~~(5) A CREDIT ALLOWED UNDER § 21 309 OR § 21 501 OF THE~~
 31 ~~EDUCATION ARTICLE;~~

1 ~~(6) THE CREDIT ALLOWED UNDER § 2-901 OF THE ENVIRONMENT~~
2 ~~ARTICLE;~~

3 ~~(7) THE CREDIT ALLOWED UNDER § 6-404 OF THE HOUSING AND~~
4 ~~COMMUNITY DEVELOPMENT ARTICLE;~~

5 ~~(8) THE CREDIT ALLOWED UNDER § 11-404 OF THE LABOR AND~~
6 ~~EMPLOYMENT ARTICLE;~~

7 ~~(9) THE CREDIT ALLOWED UNDER § 5A-303 OF THE STATE~~
8 ~~FINANCE AND PROCUREMENT ARTICLE; AND~~

9 ~~(10) A CREDIT ALLOWED UNDER § 9-103, § 9-230, § 9-317(E), §~~
10 ~~9-318(D), OR § 9-326 OF THE TAX PROPERTY ARTICLE.~~

11 1-302.

12 THE PURPOSES OF THIS SUBTITLE ARE TO:

13 (1) ESTABLISH A SYSTEM OF LEGISLATIVE REVIEW THAT WILL
14 DETERMINE WHETHER A TAX CREDIT IS NECESSARY FOR THE PUBLIC INTEREST;
15 AND

16 (2) ENSURE THAT THE LEGISLATIVE REVIEW TAKES PLACE BY
17 ESTABLISHING, BY STATUTE, DATES FOR REVIEW AND OTHER LEGISLATIVE
18 ACTION.

19 1-303.

20 (A) (1) IF A TAX CREDIT HAS A TERMINATION DATE PROVIDED FOR BY
21 LAW, AN EVALUATION SHALL BE MADE OF THAT CREDIT ON OR BEFORE JULY 1
22 OF THE YEAR PRECEDING THE CALENDAR YEAR OF THE TERMINATION DATE.

23 (2) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS
24 SUBSECTION, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS ON OR
25 BEFORE THE DATES SPECIFIED IN SUBSECTIONS (B) THROUGH (E) OF THIS
26 SECTION.

27 (B) ON OR BEFORE JULY 1, ~~2013~~ 2014, AN EVALUATION SHALL BE
28 MADE OF THE TAX CREDITS UNDER:

1 (1) § 10-702 OF THIS ARTICLE (WAGES PAID IN AN ENTERPRISE
 2 ZONE) AND § 9-103 OF THE TAX – PROPERTY ARTICLE (QUALIFIED PROPERTY
 3 IN AN ENTERPRISE ZONE); AND

4 (2) TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT
 5 ARTICLE, § 6-119 OF THE INSURANCE ARTICLE, AND § 10-714 OF THIS ARTICLE
 6 (ONE MARYLAND ECONOMIC DEVELOPMENT).

7 ~~(2) § 10-703 OF THIS ARTICLE (TAX PAID BY INDIVIDUAL TO~~
 8 ~~ANOTHER STATE);~~

9 ~~(3) § 10-703.2 OF THIS ARTICLE (TAX PAID BY INDIVIDUAL TO~~
 10 ~~ANOTHER STATE ON INSTALLMENT SALE);~~

11 ~~(4) § 10-704 OF THIS ARTICLE (EARNED INCOME);~~

12 ~~(5) §§ 8-406(B) AND 10-704.1 OF THIS ARTICLE (PURCHASE OF~~
 13 ~~MARYLAND MINED COAL);~~

14 ~~(6) TITLE 6, SUBTITLE 3 OF THE ECONOMIC DEVELOPMENT~~
 15 ~~ARTICLE, § 6-114 OF THE INSURANCE ARTICLE, AND §§ 8-411 AND 10-704.4 OF~~
 16 ~~THIS ARTICLE (JOB CREATION);~~

17 ~~(7) § 5A-303 OF THE STATE FINANCE AND PROCUREMENT~~
 18 ~~ARTICLE, § 6-105.2 OF THE INSURANCE ARTICLE, AND § 10-704.5 OF THIS~~
 19 ~~ARTICLE (SUSTAINABLE COMMUNITIES); AND~~

20 ~~(8) § 6-404 OF THE HOUSING AND COMMUNITY DEVELOPMENT~~
 21 ~~ARTICLE, § 6-105 OF THE INSURANCE ARTICLE, AND §§ 8-412 AND 10-704.6 OF~~
 22 ~~THIS ARTICLE (NEIGHBORHOOD AND COMMUNITY ASSISTANCE~~
 23 ~~CONTRIBUTIONS).~~

24 ~~(B) (C)~~ ON OR BEFORE JULY 1, ~~2014~~ 2015, AN EVALUATION SHALL BE
 25 MADE OF THE TAX CREDITS UNDER:

26 (1) § 10-704 OF THIS ARTICLE (EARNED INCOME); AND

27 (2) § 10-730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY).

28 ~~(1) § 21-309 OF THE EDUCATION ARTICLE, § 6-115 OF THE~~
 29 ~~INSURANCE ARTICLE, AND §§ 8-413 AND 10-704.7 OF THIS ARTICLE~~
 30 ~~(QUALIFIED EMPLOYEES WITH DISABILITIES);~~

1 ~~(2) § 11-704 OF THE LABOR AND EMPLOYMENT ARTICLE AND §~~
2 ~~10-704.10 OF THIS ARTICLE (QUALIFIED EX-FELON EMPLOYEES);~~

3 ~~(3) § 9-230 OF THE TAX PROPERTY ARTICLE, § 6-116 OF THE~~
4 ~~INSURANCE ARTICLE, AND § 10-704.8 OF THIS ARTICLE (NEW JOB-CREATING~~
5 ~~BUSINESSES);~~

6 ~~(4) §§ 9-317(E), 9-318(D), AND 9-326 OF THE TAX PROPERTY~~
7 ~~ARTICLE AND § 10-707 OF THIS ARTICLE (RESIDENTIAL REAL ESTATE~~
8 ~~PROPERTY);~~

9 ~~(5) § 10-708 OF THIS ARTICLE (TELECOMMUNICATION~~
10 ~~BUSINESS);~~

11 ~~(6) § 10-709 OF THIS ARTICLE (LOW INCOME); AND~~

12 ~~(7) § 6-117 OF THE INSURANCE ARTICLE AND §§ 8-415 AND~~
13 ~~10-710 OF THIS ARTICLE (EMPLOYER-PROVIDED LONG-TERM CARE~~
14 ~~INSURANCE).~~

15 ~~(c) (d)~~ ON OR BEFORE JULY 1, ~~2015~~ 2016, AN EVALUATION SHALL BE
16 MADE OF THE TAX CREDITS UNDER:

17 (1) § 5A-303 OF THE STATE FINANCE AND PROCUREMENT
18 ARTICLE, § 6-105.2 OF THE INSURANCE ARTICLE, AND § 10-704.5 OF THIS
19 ARTICLE (SUSTAINABLE COMMUNITIES); AND

20 (2) § 10-721 OF THIS ARTICLE (QUALIFIED RESEARCH AND
21 DEVELOPMENT EXPENSES).

22 ~~(1) § 21-501 OF THE EDUCATION ARTICLE, § 6-118 OF THE~~
23 ~~INSURANCE ARTICLE, AND § 10-711 OF THIS ARTICLE (WORK-BASED~~
24 ~~LEARNING);~~

25 ~~(2) TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT~~
26 ~~ARTICLE, § 6-119 OF THE INSURANCE ARTICLE, AND § 10-714 OF THIS ARTICLE~~
27 ~~(ONE-MARYLAND ECONOMIC DEVELOPMENT);~~

28 ~~(3) § 2-901 OF THE ENVIRONMENT ARTICLE, § 6-120 OF THE~~
29 ~~INSURANCE ARTICLE, AND § 10-715 OF THIS ARTICLE (EMPLOYEE COMMUTER~~
30 ~~BENEFITS);~~

31 ~~(4) § 10-716 OF THIS ARTICLE (CHILD CARE OR DEPENDENT~~
32 ~~CARE);~~

1 ~~(5) § 10-717 OF THIS ARTICLE (CLASSROOM TEACHER ADVANCED~~
2 ~~EDUCATION);~~

3 ~~(6) § 10-718 OF THIS ARTICLE (LONG TERM CARE PREMIUMS);~~
4 ~~AND~~

5 ~~(7) § 10-720 OF THIS ARTICLE (ELECTRICITY PRODUCED FROM~~
6 ~~QUALIFIED ENERGY RESOURCES).~~

7 ~~(D)~~ (E) ON OR BEFORE JULY 1, ~~2016~~ 2017, AN EVALUATION SHALL BE
8 MADE OF THE TAX CREDITS UNDER:

9 (1) § 9-230 OF THE TAX – PROPERTY ARTICLE, § 6-116 OF THE
10 INSURANCE ARTICLE, AND § 10-704.8 OF THIS ARTICLE (NEW JOB CREATING
11 BUSINESSES); AND

12 (2) § 10-726 OF THIS ARTICLE (BIOTECHNOLOGY INVESTMENT
13 INCENTIVE).

14 ~~(1) § 10-721 OF THIS ARTICLE (QUALIFIED RESEARCH AND~~
15 ~~DEVELOPMENT EXPENSES);~~

16 ~~(2) § 10-722 OF THIS ARTICLE (GREEN BUILDINGS);~~

17 ~~(3) § 10-723 OF THIS ARTICLE (PRESERVATION AND~~
18 ~~CONSERVATION EASEMENTS);~~

19 ~~(4) § 10-724 OF THIS ARTICLE (AQUACULTURE OYSTER FLOATS);~~

20 ~~(5) § 10-725 OF THIS ARTICLE (BIOTECHNOLOGY INVESTMENT~~
21 ~~INCENTIVE);~~

22 ~~(6) § 10-726 OF THIS ARTICLE (CELLULOSIC ETHANOL~~
23 ~~TECHNOLOGY);~~

24 ~~(7) § 10-727 OF THIS ARTICLE (BIO-HEATING OIL);~~

25 ~~(8) § 10-729 OF THIS ARTICLE (ELECTRIC VEHICLE RECHARGING~~
26 ~~EQUIPMENT); AND~~

27 ~~(9) § 10-730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY).~~

28 1-304.

1 (A) EVALUATION OF A TAX CREDIT SHALL BE COMPLETED BY AN
2 EVALUATION COMMITTEE APPOINTED JOINTLY BY THE PRESIDENT OF THE
3 SENATE AND THE SPEAKER OF THE HOUSE.

4 (B) EACH EVALUATION COMMITTEE FOR A TAX CREDIT SHALL BE
5 APPOINTED ON OR BEFORE MAY 31 OF THE YEAR BEFORE THE EVALUATION
6 DATE OF THAT TAX MODIFICATION OR TAX EXEMPTION.

7 (C) AN EVALUATION COMMITTEE SHALL INCLUDE AT LEAST ONE
8 MEMBER OF THE SENATE BUDGET AND TAXATION COMMITTEE AND AT LEAST
9 ONE MEMBER OF THE HOUSE COMMITTEE ON WAYS AND MEANS.

10 **1-305.**

11 ON OR BEFORE JUNE 30 OF THE YEAR BEFORE THE EVALUATION DATE OF
12 A TAX CREDIT, EACH EVALUATION COMMITTEE FOR THAT TAX CREDIT SHALL:

13 (1) CONSULT WITH:

14 (I) THE DEPARTMENT OF BUDGET AND MANAGEMENT;

15 (II) THE DEPARTMENT OF LEGISLATIVE SERVICES; ~~AND~~

16 (III) THE COMPTROLLER; AND

17 (IV) THE SECRETARY, OR THE SECRETARY'S DESIGNEE, OF
18 THE DEPARTMENT THAT ADMINISTERS THE TAX CREDIT UNDER EVALUATION;
19 AND

20 (2) PREPARE A PLAN FOR THE EVALUATION.

21 **1-306.**

22 DURING AN EVALUATION, THE COMPTROLLER AND THE DEPARTMENT OF
23 BUDGET AND MANAGEMENT SHALL:

24 (1) PROVIDE PROMPTLY ANY INFORMATION THAT THE
25 DEPARTMENT OF LEGISLATIVE SERVICES OR AN EVALUATION COMMITTEE
26 REQUESTS; AND

27 (2) OTHERWISE COOPERATE WITH THE DEPARTMENT OF
28 LEGISLATIVE SERVICES AND THE EVALUATION COMMITTEE.

29 **1-307.**

1 **(A) (1) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE,**
2 **ON OR BEFORE OCTOBER 31 OF THE YEAR BEFORE THE EVALUATION DATE OF A**
3 **TAX CREDIT, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL SUBMIT TO**
4 **THE GENERAL ASSEMBLY AN EVALUATION REPORT ON THE TAX CREDIT.**

5 **(2) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL MAKE**
6 **COPIES OF THE REPORT AVAILABLE TO THE PUBLIC.**

7 **(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
8 **SHALL DISCUSS:**

9 **(1) THE PURPOSE FOR WHICH THE TAX CREDIT WAS**
10 **ESTABLISHED;**

11 **(2) WHETHER THE ORIGINAL INTENT OF THE TAX CREDIT IS STILL**
12 **APPROPRIATE;**

13 **(3) WHETHER THE TAX CREDIT IS MEETING ITS OBJECTIVES;**

14 **(4) WHETHER THE PURPOSES OF THE TAX CREDIT COULD BE**
15 **MORE EFFICIENTLY AND EFFECTIVELY CARRIED OUT THROUGH ALTERNATIVE**
16 **METHODS; AND**

17 **(5) THE COSTS OF PROVIDING THE TAX CREDIT, INCLUDING THE**
18 **ADMINISTRATIVE COST TO THE STATE AND LOST REVENUES TO THE STATE AND**
19 **LOCAL GOVERNMENTS.**

20 **1-308.**

21 **ON OR BEFORE DECEMBER 14 OF THE YEAR BEFORE THE EVALUATION**
22 **DATE OF A TAX CREDIT, THE EVALUATION COMMITTEE SHALL HOLD A PUBLIC**
23 **HEARING TO RECEIVE, FROM THE COMPTROLLER AND THE PUBLIC, TESTIMONY**
24 **REGARDING THE EVALUATION REPORT.**

25 **1-309.**

26 **(A) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON**
27 **OR BEFORE THE 20TH DAY OF THE REGULAR SESSION OF THE GENERAL**
28 **ASSEMBLY IN THE YEAR OF THE EVALUATION DATE OF A TAX CREDIT, THE**
29 **EVALUATION COMMITTEE FOR THE TAX CREDIT SHALL SUBMIT A REPORT TO**
30 **THE GENERAL ASSEMBLY.**

31 **(B) (1) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS**
32 **SECTION SHALL RECOMMEND WHETHER THE TAX CREDIT SHOULD BE**

1 ~~REESTABLISHED, WITH OR WITHOUT CHANGES, OR ALLOWED TO TERMINATE~~
2 ~~CONTINUED, WITH OR WITHOUT CHANGES, OR TERMINATED.~~

3 (2) THE REPORT SHALL BE ACCOMPANIED BY ~~EACH BILL~~ ANY
4 LEGISLATION THAT IS NEEDED TO ACCOMPLISH THE RECOMMENDATIONS IN
5 THE REPORT.

6 1-310.

7 (A) ~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF A TAX~~
8 ~~CREDIT IS NOT REESTABLISHED BY LAW ON OR BEFORE THE DATE FOR ITS~~
9 ~~EVALUATION UNDER § 1-303 OF THIS SUBTITLE, IT SHALL TERMINATE.~~

10 (B) THE ~~REESTABLISHMENT~~ CONTINUATION OF A TAX CREDIT
11 DESIGNATED FOR EVALUATION UNDER THIS SUBTITLE IS FOR A 5-YEAR PERIOD
12 AND IS SUBJECT TO REEVALUATION 5 YEARS AFTER THE PREVIOUS
13 EVALUATION, UNLESS ~~THE LAW THAT PROVIDES FOR REESTABLISHMENT SETS~~
14 ANOTHER PERIOD IS SET BY LAW.

15 (C) ~~AFTER THE PERIOD OF REESTABLISHMENT EXPIRES, THE TAX~~
16 ~~CREDIT TERMINATES AS PROVIDED BY LAW UNLESS THE TAX CREDIT IS~~
17 ~~REESTABLISHED.~~

18 1-311.

19 THIS SUBTITLE MAY BE CITED AS THE “TAX CREDIT EVALUATION ACT”.

20 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 11-704; and
21 11-1101 through 11-1107 and the subtitle “Subtitle 11. Job Creation and Recovery
22 Tax Credit” of Article – Labor and Employment of the Annotated Code of Maryland be
23 repealed.

24 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 10-704.9,
25 10-704.10, 10-713, 10-719, and 10-728 of Article – Tax – General of the Annotated
26 Code of Maryland be repealed.

27 SECTION 4. AND BE IT FURTHER ENACTED, That ~~the termination of a~~
28 ~~credit in accordance with the provisions of Title 1, Subtitle 3 of the Tax – General~~
29 ~~Article, as enacted by Section 1 of this Act, or the repeal of an obsolete tax credit under~~
30 Section 2 or Section 3 of this Act may not be construed to prevent the filing, after the
31 date of the repeal of the credit, of a tax return that is filed to claim or carry forward a
32 credit earned before the date of the ~~termination or~~ repeal of the credit in accordance
33 with the provisions of law governing the credit as in effect immediately before the date
34 of the ~~termination or~~ repeal of the credit.

1 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.