

CHAPTER 166

(House Bill 1399)

AN ACT concerning

Department of Housing and Community Development – Neighborhood and Community Assistance Program – Individual Donor Eligibility – Tax Credit

FOR the purpose of altering a certain community investment tax credit program to allow an individual to apply for the credit under certain circumstances; providing for the application of this Act; defining a certain term; and generally relating to tax credits allowed for contributions to an approved project under the Neighborhood and Community Assistance Program of the Department of Housing and Community Development.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 6–401, 6–403, and 6–404
Annotated Code of Maryland
(2006 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–101(a), (f), and (g)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Housing and Community Development

6–401.

(a) In this subtitle the following words have the meanings indicated.

(b) “Approved project” means a project that the Department approves under § 6–405 of this subtitle.

(c) “Business entity” means a person that conducts a trade or business in the State and is subject to:

(1) the State income tax on individuals or corporations;

- (2) the public service company franchise tax; or
- (3) the insurance premiums tax.

(D) "INDIVIDUAL" MEANS AN INDIVIDUAL AS DEFINED UNDER § 10-101 OF THE TAX – GENERAL ARTICLE.

[(d)] (E) "Nonprofit organization" means a not for profit corporation, foundation, or other legal entity that is exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code.

[(e)] (F) "Priority funding area" means a priority funding area under § 5-7B-02 of the State Finance and Procurement Article.

[(f)] (G) "Redevelopment assistance" means the money that nonprofit organizations spend for labor and materials used directly in the physical improvement of part or all of a priority funding area.

6-403.

The purposes of the Neighborhood and Community Assistance Program are to:

- (1) help nonprofit organizations to carry out approved projects in priority funding areas;
- (2) encourage business entities **AND INDIVIDUALS** to invest in priority funding areas; and
- (3) strengthen partnerships between public and private entities.

6-404.

(a) (1) For a contribution worth \$500 or more in goods, money, or real property to an approved project, a business entity **OR AN INDIVIDUAL** is entitled to a tax credit in the amount determined under subsection (b) of this section.

(2) No part of a tax credit under this section may be taken more than once.

(b) (1) Except as provided in paragraph (2) of this subsection, the credit allowed to a business entity **OR AN INDIVIDUAL** under this section equals 50% of the amount of contributions:

(i) that the Department approves under subsection (c) of this section; and

(ii) that were made during the taxable year for which the credit is claimed.

(2) The credit allowed under this section for any taxable year may not exceed the lesser of:

(i) \$250,000; and

(ii) the total amount of tax otherwise payable by the business entity **OR INDIVIDUAL** for the taxable year.

(3) Any excess credit that would be allowed but for the limits of paragraph (2) of this subsection may be carried over and applied as a credit for up to 5 taxable years after the taxable year in which the contribution was made, until the full amount of the excess is used.

(c) (1) To qualify for a credit for a contribution under this section, before making a contribution, a business entity **OR AN INDIVIDUAL** shall apply for and receive approval of the contribution from the Department.

(2) Each application for approval of a contribution shall contain:

(i) the name of the approved project to which the contribution will be made;

(ii) the amount of the contribution; and

(iii) a certification by an independent and unrelated third party as to the value of any nonmonetary contribution included or, for new goods, an invoice or receipt certifying the contribution's net cost to the business entity **OR INDIVIDUAL**.

(3) The Department may not approve an application if it determines that:

(i) the maximum amount of contributions eligible for a tax credit for the project for the fiscal year will be exceeded by the sum of:

1. the amount of the proposed contribution; and

2. the total amount of contributions previously approved for that project for the fiscal year; or

(ii) the applicant has overstated the value of a nonmonetary contribution.

(4) On or before January 31 of each year, the Department shall report to the Department of Assessments and Taxation, the Comptroller, and the Maryland Insurance Administration the contributions that the Department has approved under this section in the preceding calendar year.

Article – Tax – General

10–101.

(a) In this title the following words have the meanings indicated.

(f) (1) “Fiduciary” means a person holding the legal title to property for the use and benefit of another person.

(2) “Fiduciary” does not include:

(i) an agent holding custody or possession of property that the principal of the agent owns; or

(ii) a guardian, as defined in § 13–101 of the Estates and Trusts Article.

(g) “Individual” means, unless expressly provided otherwise, a natural person or a fiduciary.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009, and shall be applicable to all taxable years beginning after December 31, 2009.

Approved by the Governor, April 14, 2009.