

# HOUSE BILL 1248

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CF SB 296

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By: **Delegates Ross, Beidle, Bohanan, James, Luedtke, Rudolph, and Valentino-Smith**

Introduced and read first time: February 10, 2012

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit – Security Clearance Expenses**

3 FOR the purpose of allowing an individual or a corporation to claim a credit against  
4 the State income tax for certain costs incurred to obtain federal security  
5 clearances; requiring the Department of Business and Economic Development  
6 to provide an application process for the credit at least a certain number of  
7 times each fiscal year; providing for the total amount of credit certificates that  
8 may be issued during a certain application period; providing for the distribution  
9 of credit certificates; providing for the carryforward of the credit; providing that  
10 the total amount of credits that may be claimed may not exceed the amount of  
11 certificates issued to the individual or corporation; requiring the Department to  
12 notify the Comptroller of the maximum amount of each credit certificate;  
13 requiring the Comptroller to transfer the amount stated in the credit certificate  
14 from a certain Reserve Fund to the General Fund; establishing the Security  
15 Clearance Income Tax Credit Reserve Fund as a special, nonlapsing fund;  
16 requiring the Secretary of Business and Economic Development to administer  
17 the Fund; requiring the State Treasurer to hold the Fund and the Comptroller  
18 to account for the Fund; specifying the contents of the Fund; specifying the  
19 purpose for which the Fund may be used; providing for the investment of money  
20 in and expenditures from the Fund; requiring the Governor to make certain  
21 appropriations in certain fiscal years; requiring the Department, in consultation  
22 with the Comptroller, to adopt certain regulations; requiring the Department to  
23 report to the Governor and the General Assembly on or before a certain date  
24 each year; defining certain terms; providing for the application of this Act; and  
25 generally relating to a credit against the State income tax for certain costs  
26 incurred to obtain federal security clearances.

27 BY repealing and reenacting, without amendments,  
28 Article – Tax – General  
29 Section 10–204(a) and 10–305(a)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2010 Replacement Volume and 2011 Supplement)

3 BY adding to  
4 Article – Tax – General  
5 Section 10–204(j) and 10–731  
6 Annotated Code of Maryland  
7 (2010 Replacement Volume and 2011 Supplement)

8 BY repealing and reenacting, with amendments,  
9 Article – Tax – General  
10 Section 10–305(d)  
11 Annotated Code of Maryland  
12 (2010 Replacement Volume and 2011 Supplement)

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

15 **Article – Tax – General**

16 10–204.

17 (a) To the extent excluded from federal adjusted gross income, the amounts  
18 under this section are added to the federal adjusted gross income of a resident to  
19 determine Maryland adjusted gross income.

20 **(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**  
21 **ANY AMOUNT DEDUCTED FOR THE COSTS INCURRED TO OBTAIN A FEDERAL**  
22 **SECURITY CLEARANCE IF THE AMOUNT IS INCLUDED IN THE APPLICATION FOR**  
23 **A CREDIT CERTIFICATE UNDER § 10–731 OF THIS TITLE.**

24 10–305.

25 (a) To the extent excluded from federal taxable income, the amounts under  
26 this section are added to the federal taxable income of a corporation to determine  
27 Maryland modified income.

28 (d) The addition under subsection (a) of this section includes the additions  
29 required for an individual under:

30 (1) § 10–204(b) of this title (Dividends and interest from another state  
31 or local obligation);

32 (2) § 10–204(c)(2) of this title (Federal tax–exempt income);

33 (3) § 10–204(e) of this title (Oil percentage depletion allowance); [and]

1           (4) § 10-204(i) of this title (Deduction for qualified production  
2 activities income); AND

3           **(5) § 10-204(J) OF THIS TITLE (DEDUCTION FOR COSTS**  
4 **INCURRED TO OBTAIN A FEDERAL SECURITY CLEARANCE).**

5 **10-731.**

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

8           **(2) “DEPARTMENT” MEANS THE DEPARTMENT OF BUSINESS AND**  
9 **ECONOMIC DEVELOPMENT.**

10           **(3) “RESERVE FUND” MEANS THE SECURITY CLEARANCE**  
11 **INCOME TAX CREDIT RESERVE FUND ESTABLISHED UNDER SUBSECTION (E) OF**  
12 **THIS SECTION.**

13           **(4) “SECRETARY” MEANS THE SECRETARY OF BUSINESS AND**  
14 **ECONOMIC DEVELOPMENT.**

15           **(B) (1) THREE TIMES EACH FISCAL YEAR THE DEPARTMENT SHALL**  
16 **ALLOW AN INDIVIDUAL OR CORPORATION TO APPLY FOR CREDIT CERTIFICATES**  
17 **FOR THE COSTS INCURRED TO OBTAIN FEDERAL SECURITY CLEARANCES.**

18           **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
19 **PARAGRAPH, DURING EACH APPLICATION PERIOD, THE TOTAL AMOUNT OF**  
20 **CREDIT CERTIFICATES THE DEPARTMENT MAY ISSUE MAY NOT EXCEED**  
21 **ONE-THIRD OF THE AMOUNT APPROPRIATED IN THE STATE BUDGET TO THE**  
22 **RESERVE FUND.**

23           **(II) IF THE AGGREGATE CREDIT AMOUNTS UNDER THE**  
24 **CREDIT CERTIFICATES ISSUED DURING THE APPLICATION PERIOD TOTAL LESS**  
25 **THAN THE TOTAL AMOUNT THE DEPARTMENT MAY ISSUE UNDER**  
26 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, ANY EXCESS AMOUNT SHALL REMAIN**  
27 **IN THE RESERVE FUND AND MAY BE ISSUED UNDER CREDIT CERTIFICATES**  
28 **DURING THE NEXT APPLICATION PERIOD.**

29           **(3) IF THE TOTAL AMOUNT OF CREDITS SOUGHT DURING THE**  
30 **APPLICATION PERIOD EXCEED THE AMOUNT AUTHORIZED TO BE ISSUED, THE**  
31 **DEPARTMENT SHALL APPROVE CREDIT CERTIFICATES IN AMOUNTS THAT ARE**

1 IN PROPORTION TO THE VALUE OF THE CREDIT CERTIFICATES APPLIED FOR  
2 DURING THE APPLICATION PERIOD.

3 (C) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN  
4 INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE  
5 INCOME TAX IN THE AMOUNT STATED IN THE CREDIT CERTIFICATE APPROVED  
6 BY THE SECRETARY FOR COSTS AS PROVIDED UNDER THIS SECTION.

7 (2) IF THE CREDIT ALLOWED FOR ANY TAXABLE YEAR UNDER  
8 THIS SECTION EXCEEDS THE TOTAL TAX OTHERWISE DUE, AN INDIVIDUAL OR  
9 CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE  
10 INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE FULL AMOUNT OF  
11 THE EXCESS IS USED.

12 (D) (1) THE TOTAL AMOUNT OF CREDITS AN INDIVIDUAL OR  
13 CORPORATION MAY CLAIM MAY NOT EXCEED THE AMOUNT OF THE CREDIT  
14 CERTIFICATES ISSUED TO THE INDIVIDUAL OR CORPORATION.

15 (2) (I) WITHIN 15 DAYS AFTER THE END OF EACH  
16 APPLICATION PERIOD, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER  
17 OF THE MAXIMUM AMOUNT STATED IN EACH CREDIT CERTIFICATE ISSUED  
18 DURING THE APPLICATION PERIOD.

19 (II) THE COMPTROLLER SHALL TRANSFER AN AMOUNT  
20 EQUAL TO THE CREDIT AMOUNT STATED IN THE CREDIT CERTIFICATE FROM  
21 THE RESERVE FUND TO THE GENERAL FUND.

22 (E) (1) THERE IS A SECURITY CLEARANCE INCOME TAX CREDIT  
23 RESERVE FUND.

24 (2) THE PURPOSE OF THE RESERVE FUND IS TO PROVIDE A  
25 BUDGETARY LIMIT ON THE AMOUNT OF TAX CREDITS THE DEPARTMENT MAY  
26 ISSUE EACH FISCAL YEAR.

27 (3) THE SECRETARY SHALL ADMINISTER THE RESERVE FUND.

28 (4) (I) THE RESERVE FUND IS A SPECIAL, NONLAPSING FUND  
29 THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT  
30 ARTICLE.

31 (II) THE STATE TREASURER SHALL HOLD THE RESERVE  
32 FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE  
33 RESERVE FUND.

1           **(5) (I) THE RESERVE FUND CONSISTS OF MONEY**  
2 **APPROPRIATED IN THE STATE BUDGET TO THE RESERVE FUND.**

3           **(II) FOR EACH OF FISCAL YEAR 2014 AND FISCAL YEAR**  
4 **2015, THE GOVERNOR SHALL APPROPRIATE AT LEAST \$6,000,000 TO THE**  
5 **RESERVE FUND.**

6           **(6) THE RESERVE FUND MAY BE USED ONLY TO REIMBURSE THE**  
7 **GENERAL FUND FOR THE AMOUNT OF CREDIT CERTIFICATES ISSUED UNDER**  
8 **THIS SECTION.**

9           **(7) (I) THE STATE TREASURER SHALL INVEST THE MONEY OF**  
10 **THE RESERVE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE**  
11 **INVESTED.**

12           **(II) ANY INVESTMENT EARNINGS OF THE RESERVE FUND**  
13 **SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.**

14           **(F) THE DEPARTMENT, IN CONSULTATION WITH THE COMPTROLLER,**  
15 **SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION**  
16 **AND TO SPECIFY THE COSTS ELIGIBLE FOR THE INCOME TAX CREDIT.**

17           **(G) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT**  
18 **SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF**  
19 **THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE NUMBER**  
20 **OF CREDIT CERTIFICATES ISSUED IN THE PREVIOUS FISCAL YEAR.**

21           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 July 1, 2012, and shall be applicable to all taxable years beginning after December 31,  
23 2011.