

SENATE BILL 40

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SB 448/01 - B&T

2002 Regular Session
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(PRE-FILED)

By: **Senator DeGrange**
Requested: October 15, 2001
Introduced and read first time: January 9, 2002
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Property Tax - Homeowners' Tax Credits**

3 FOR the purpose of authorizing homeowners to apply for a certain homeowners'
4 property tax credit within a certain period after a taxable year for which the
5 credit is sought; repealing a provision authorizing the Department to accept a
6 certain application during a certain period under certain circumstances;
7 authorizing the Department to accept an application from a homeowner within
8 a certain period under certain circumstances; requiring a homeowner to
9 complete and file a certain application in order to be eligible for a certain
10 property tax credit; requiring the Comptroller to pay eligible homeowners the
11 property tax credit due under this Act upon certification by the Department; and
12 generally relating to authorizing homeowners to apply for a certain
13 homeowners' property tax credit within 3 years after a certain date of the
14 taxable year for which the credit is sought.

15 BY repealing and reenacting, with amendments,
16 Article - Tax - Property
17 Section 9-104
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2001 Supplement)

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

22 **Article - Tax - Property**

23 9-104.

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

25 (2) (i) "Assets" include:

26 1. real property;

27 2. cash;

1 3. savings accounts;

2 4. stocks;

3 5. bonds; and

4 6. any other investment.

5 (ii) "Assets" do not include:

6 1. the dwelling for which a property tax credit is sought
7 under this section;

8 2. the cash value of the life insurance policies on the life of
9 the homeowner; or

10 3. tangible personal property.

11 (3) "Combined income" means the combined gross income of all
12 individuals who actually reside in a dwelling except an individual who:

13 (i) is a dependent of the homeowner under § 152 of the Internal
14 Revenue Code; or

15 (ii) pays a reasonable amount for rent or room and board.

16 (4) "Current market value" means:

17 (i) for residential property, the value as determined by the
18 Department; and

19 (ii) for farmland, marshland, and woodland, the value under Title
20 8, Subtitle 2 of this article as determined by the Department.

21 (5) "Disabled veteran" has the meaning stated in § 7-208(a) of this
22 article.

23 (6) "Dwelling" means:

24 (i) for a homeowner who is not a home purchaser, a house that is:

25 1. used as the principal residence of a homeowner and the lot
26 or curtilage on which the house is erected;

27 2. occupied by not more than 2 families; and

28 3. actually occupied or expected to be actually occupied by
29 the homeowner for more than 6 months of a 12-month period, which actual or
30 expected occupancy period shall include July 1 of the taxable year for which the
31 property tax credit under this section is sought; or

- 1 (ii) for a homeowner who is a home purchaser, a house that is:
- 2 1. used as the principal residence of a homeowner and the lot
3 or curtilage on which the house is erected;
- 4 2. occupied by not more than 2 families; and
- 5 3. actually occupied or expected to be actually occupied by
6 the home purchaser for the remainder of the taxable year for which the property tax
7 credit under this section is sought.

8 (7) "Final tax liability" means the tax liability for any property tax on the
9 real property of a dwelling less any property tax credit provided under this section.

10 (8) (i) "Gross income" means the total income from all sources for the
11 calendar year that immediately precedes the taxable year, whether or not the income
12 is included in the definition of gross income for federal or State tax purposes.

13 (ii) "Gross income" includes:

- 14 1. any benefit under the Social Security Act or the Railroad
15 Retirement Act;
- 16 2. the aggregate of gifts over \$300;
- 17 3. alimony;
- 18 4. support money;
- 19 5. any nontaxable strike benefit;
- 20 6. public assistance received in a cash grant;
- 21 7. a pension;
- 22 8. an annuity;
- 23 9. any unemployment insurance benefit;
- 24 10. any workers' compensation benefit;
- 25 11. the net income received from a business, rental, or other
26 endeavor; and
- 27 12. any rent on the dwelling, including the rent from a room
28 or apartment.

29 (iii) "Gross income" does not include:

- 30 1. any income tax refund received from the State or federal
31 government; or

1 2. any loss from business, rental, or other endeavor.

2 (9) "Homeowner" means an individual who:

3 (i) on July 1 of the taxable year for which the tax credit is to be
4 allowed:

5 1. actually resides in a dwelling in which the individual has a
6 legal interest; or

7 2. under a court order or separation agreement, permits a
8 spouse, a former spouse, or a child of the individual's family to reside without
9 payment of rent in a dwelling in which the individual has a legal interest; or

10 (ii) 1. is a home purchaser; and

11 2. actually resides in a dwelling in which the individual has a
12 legal interest, whether or not the individual resides in the dwelling on July 1 of the
13 taxable year for which the tax credit is sought.

14 (10) "Home purchaser" means an individual who purchases a dwelling in
15 the taxable year for which the tax credit under this section is sought.

16 (11) "Legal interest" includes an interest in a dwelling:

17 (i) as sole owner;

18 (ii) as a joint tenant;

19 (iii) as a tenant in common;

20 (iv) as a tenant by the entireties;

21 (v) through membership in a cooperative;

22 (vi) under a land installment contract, as defined in § 10-101 of the
23 Real Property Article;

24 (vii) as a holder of a life estate; or

25 (viii) under a continuing care contract for an independent living unit
26 at a continuing care facility for the aged, which means a nontransferable agreement
27 between a continuing care facility for the aged as defined in § 7-206 of this article and
28 an occupant of an independent living unit, which agreement provides that the
29 occupant may reside in the unit until termination under the terms of the contract.

30 (12) "Net worth" means the sum of the current market value of all assets,
31 less any outstanding liability.

32 (13) "Total real property tax" means the product of the sum of all property
33 tax rates on real property, including special district tax rates, for the taxable year on

1 a dwelling, multiplied by the lesser of the assessed value of the dwelling or \$150,000;
2 and then reduced by any property tax credit granted under § 9-105 of this subtitle.

3 (a-1) (1) The homeowners' tax credit under this section is a State-funded
4 program.

5 (2) It is the intent of the General Assembly that:

6 (i) the State shall appropriate sufficient funds to reimburse the
7 full amount of tax credits granted under this section; and

8 (ii) the State, and not the local governments, shall bear the burden
9 of any insufficiency of funds to fully reimburse the counties for property tax credits
10 under this section.

11 (3) For any fiscal year, if State appropriations for reimbursement of tax
12 credits under this section do not provide sufficient funds to fully reimburse the
13 counties for tax credits granted under this section, the Governor shall include in the
14 budget bill for the next fiscal year a deficiency appropriation to provide the additional
15 funds to fully reimburse the counties.

16 (b) The Department shall adopt regulations to carry out this section.

17 (c) (1) Except as provided in subsection (e) of this section, the Department is
18 responsible for the administrative duties that relate to the application and
19 determination of eligibility for a property tax credit under this section.

20 (2) The Department may:

21 (i) make an agreement with a county collector for limited
22 assistance with a part of the administrative duties; and

23 (ii) reimburse the county for the reasonable cost of the assistance
24 provided.

25 (3) When an applicant for the property tax credit under this section
26 resides in an independent living unit at a continuing care facility for the aged, the
27 Department shall determine for the independent living unit:

28 (i) the lot size;

29 (ii) the assessed value of land and building; and

30 (iii) the total real property tax.

31 (d) When an assessment notice is sent to a homeowner, the Department shall
32 give notice of the possible property tax credit under this section.

33 (e) (1) The Comptroller shall include, in each package of income tax forms
34 and instructions, notice of the availability of a property tax credit under this section.
35 Notice shall include any information needed to convey:

- 1 (i) eligibility;
- 2 (ii) filing deadlines;
- 3 (iii) applicable limitations; and
- 4 (iv) contact information for application forms.
- 5 (2) Notice in the package of income tax forms and instructions shall be:
- 6 (i) prominently placed;
- 7 (ii) printed in an open typeface, such as helvetica, no smaller than
- 8 10 points; and
- 9 (iii) positioned and colored to distinguish it from income tax
- 10 material.
- 11 (3) For income verification, the Comptroller shall:
- 12 (i) cooperate with the Department in adopting a procedure to audit
- 13 the application forms; and
- 14 (ii) notwithstanding § 13-202 of the Tax - General Article, supply
- 15 the Department with additional information.
- 16 (4) The Comptroller shall assist the Department in a postaudit of each
- 17 application.
- 18 (f) A homeowner who meets the requirements of this section shall be granted
- 19 the property tax credit under this section against the property tax imposed on the real
- 20 property of the dwelling.
- 21 (g) (1) Except as provided in subsection (g-1) of this section, the property
- 22 tax credit under this section is the total real property tax of a dwelling, less the
- 23 percentage of the combined income of the homeowner that is described in paragraph
- 24 (2) of this subsection.
- 25 (2) The percentage is:
- 26 (i) 0% of the 1st \$4,000 of combined income;
- 27 (ii) 1% of the 2nd \$4,000 of combined income;
- 28 (iii) 4.5% of the 3rd \$4,000 of combined income;
- 29 (iv) 6.5% of the 4th \$4,000 of combined income; and
- 30 (v) 9% of the combined income over \$16,000.

1 (g-1) For home purchasers, the property tax credit is the amount of the credit as
2 calculated under subsection (g) of this section multiplied by a fraction, where:

3 (1) the numerator of the fraction is the number of days in the fiscal year
4 that the home purchaser actually occupies or expects to actually occupy a dwelling in
5 which the home purchaser has a legal interest; and

6 (2) the denominator is 365 days.

7 (h) If a surviving spouse of a homeowner has not remarried and meets the
8 qualifications except for age or disability, the property tax credit under this section is
9 available to the unmarried surviving spouse.

10 (i) (1) A property tax credit under this section may not be granted to a
11 homeowner whose combined net worth exceeds \$200,000 as of December 31 of the
12 calendar year that precedes the year in which the homeowner applies for the property
13 tax credit.

14 (2) If a property tax credit under this section is less than \$1 in any
15 taxable year, the credit may not be granted.

16 (3) A homeowner may claim a property tax credit under this section for
17 only 1 dwelling.

18 (4) [If] EXCEPT AS PROVIDED IN SUBSECTION (S) OF THIS SECTION, IF a
19 property tax credit is issued under this section, the credit or a voucher for a credit
20 may be used only in the taxable year in which it was issued or the next succeeding
21 taxable year. However, a homeowner whose dwelling is sold for taxes may receive the
22 credit until the final decree under § 14-844 of this article is entered.

23 (j) A homeowner may qualify for a property tax credit under this section if the
24 homeowner does not actually reside in the dwelling for the required time period
25 because of illness or need of special care even if the homeowner:

26 (1) rents the dwelling for less than 1 year; or

27 (2) rents the dwelling for more than 1 year to a member of the
28 homeowner's immediate family.

29 (k) (1) Except as provided in [subsection] SUBSECTIONS (k-1) AND (S) of
30 this section, on or before September 1 of the taxable year in which the property tax
31 credit under this section is sought, a homeowner may apply to the Department for a
32 property tax credit under this section. The application shall be made on the form that
33 the Department provides.

34 (2) (i) For good cause, the Department may accept an application after
35 September 1 but on or before October 31 of the taxable year.

1 [(ii) For good cause the Department may accept an application from
2 a homeowner after September 1 but on or before April 15 of the taxable year if the
3 homeowner:

- 4 1. is at least 70 years old; and
5 2. received a credit under this section for the previous
6 taxable year.]

7 [(iii)] (II) The Department shall notify the homeowner in writing of
8 its acceptance or rejection of a late application.

9 (3) The homeowner shall state under oath that the facts in the
10 application are true.

11 (4) To substantiate the application, the applicant may be required to
12 provide a copy of an income tax return, or other evidence detailing gross income or net
13 worth.

14 (k-1) (1) A home purchaser may apply to the Department for a property tax
15 credit under this section after the execution of a contract of sale on the dwelling or
16 settlement on the dwelling by filing an application on the form that the Department
17 provides.

18 (2) The home purchaser shall state under oath that the facts in the
19 application are true.

20 (3) To substantiate the application, the Department may require the
21 applicant to provide a copy of an income tax return, or other evidence detailing gross
22 income or net worth.

23 (4) If the home purchaser files an application for a credit under this
24 section prior to settlement, the purchaser must file this application within 7 working
25 days after the execution of a contract of sale.

26 (5) Upon receipt of an application prior to settlement, the Department:

27 (i) may further require the applicant to provide a copy of the
28 executed sale agreement;

29 (ii) shall determine the amount, if any, of the credit for which the
30 home purchaser is eligible under this section; and

31 (iii) shall notify the home purchaser in writing of its decision within
32 5 working days from receipt of the application.

33 (6) The Department shall adopt regulations governing the application
34 for and granting of a credit before settlement as provided under this section.

35 (7) On certification by the Department, the Comptroller shall pay to the
36 home purchaser the property tax credit due under this section unless the credit was

1 used to adjust the home purchaser's final tax liability paid at settlement under
2 subsection (p) of this section.

3 (l) The Department shall notify an applicant in writing if the applicant is not
4 eligible for the property tax credit under this section.

5 (m) (1) For any eligible application received before the May 1 that precedes
6 the taxable year in which the property tax credit under this section is sought, the
7 Department shall request the appropriate county collector to prepare a tax bill that
8 reflects the final tax liability.

9 (2) If a homeowner presents the revised tax bill or a tax voucher with the
10 tax bill to the county collector, the homeowner may make a single payment for the
11 final tax liability.

12 (3) [If] EXCEPT AS PROVIDED IN SUBSECTION (S) OF THIS SECTION, IF a
13 credit is granted for an eligible application received after May 1, property tax is not
14 due on the property until 30 days after the revised tax bill is sent to the homeowner.

15 (4) If a municipal corporation or a special taxing district issues a tax bill
16 separate from the county tax bill, the county may require the homeowner to submit:

17 (i) the separate tax bill; or

18 (ii) proof of payment of the separate tax bill.

19 (n) If a municipal corporation or a special taxing district issues a tax bill to a
20 homeowner, the Department shall include the property tax rate of the municipal
21 corporation or the special taxing district in calculating the property tax credit under
22 this section and final tax liability.

23 (o) (1) Except for transfers between spouses, including a conveyance to a
24 surviving spouse from the personal representative of a deceased spouse, if a
25 homeowner transfers a dwelling that is subject to a property tax credit under this
26 section, the property tax credit ends on the date that the property is transferred. The
27 credit is not ended if the transfer is between spouses.

28 (2) The total amount of the property tax credit under this section is
29 included in determining the amount of property tax that is:

30 (i) paid by the homeowner; and

31 (ii) adjusted at the time of settlement between the homeowner and
32 the buyer.

33 (3) The homeowner is credited for the part of the property tax credit
34 under this section that the homeowner's period of ownership during the taxable year
35 in which the transfer occurs bears to the entire taxable year. The buyer shall pay the
36 remaining part of the property tax credit under this section to the county.

1 (4) Any property tax credit under this section that is collected by a
2 county from a buyer under this subsection shall be credited to the State less any cost
3 incurred by any county or a municipal corporation.

4 (p) The final tax liability of a home purchaser due at settlement shall be
5 adjusted to reflect any credit certified by the Department.

6 (q) (1) Each month or more frequently, if appropriate, each county collector
7 shall submit a request to the Department for reimbursement for an amount equal to
8 the property tax credits under this section and redeemed property tax credit vouchers
9 paid under this section.

10 (2) The request may not include the property tax credits for which the
11 county or municipal corporation is responsible under § 9-101(g) of this subtitle.

12 (3) Within 5 working days after receipt of the request the Department
13 shall certify to the Comptroller the amount of reimbursement due to each county.

14 (4) Within 5 working days:

15 (i) the Comptroller shall make the reimbursement to each county;
16 or

17 (ii) the appropriate county collector may withhold an amount of
18 State taxes sufficient to reimburse the county.

19 (r) (1) An eligible homeowner who has a continuing care contract for an
20 independent living unit at a continuing care facility for the aged shall receive
21 payment for the amount of the property tax credit under this section from the
22 Comptroller upon certification by the Department. A credit granted to the homeowner
23 under this subsection may not be assigned to the continuing care facility.

24 (2) (i) Notwithstanding the provisions of subsection (g) of this section,
25 if a homeowner under this subsection is a disabled veteran, the homeowner may
26 receive a credit for the total real property tax attributable to the independent living
27 unit, up to the maximum credit authorized under this section.

28 (ii) A disabled veteran may apply for the credit under this
29 subsection by providing the Department with the information required under
30 subsection (k) of this section and § 7-208(d) of this article.

31 (3) The surviving spouse of a disabled veteran may, upon application,
32 continue to receive the credit provided under this subsection until the surviving
33 spouse remarries.

34 (S) (1) UNDER THE CONDITIONS SET FORTH IN THIS SUBSECTION, THE
35 DEPARTMENT MAY ACCEPT AN APPLICATION FROM A HOMEOWNER WITHIN 3 YEARS
36 AFTER APRIL 15 OF THE TAXABLE YEAR FOR WHICH A CREDIT IS SOUGHT, IF THE
37 HOMEOWNER:

1 (I) IS AT LEAST 70 YEARS OLD AS OF THE TAXABLE YEAR FOR
2 WHICH A CREDIT IS SOUGHT; AND

3 (II) WAS ELIGIBLE FOR THE CREDIT UNDER THIS SECTION FOR THE
4 TAXABLE YEAR FOR WHICH THE CREDIT IS SOUGHT.

5 (2) A HOMEOWNER MAY APPLY TO THE DEPARTMENT FOR A PROPERTY
6 TAX CREDIT UNDER THIS SECTION BY FILING AN APPLICATION ON THE FORM THAT
7 THE DEPARTMENT PROVIDES.

8 (3) THE HOMEOWNER SHALL STATE UNDER OATH THAT THE FACTS IN
9 THE APPLICATION ARE TRUE.

10 (4) TO SUBSTANTIATE THE APPLICATION, THE DEPARTMENT MAY
11 REQUIRE THE HOMEOWNER TO PROVIDE A COPY OF AN INCOME TAX RETURN, OR
12 OTHER EVIDENCE DETAILING GROSS INCOME OR NET WORTH.

13 (5) ON CERTIFICATION BY THE DEPARTMENT, THE COMPTROLLER
14 SHALL PAY TO THE HOMEOWNER THE PROPERTY TAX CREDIT DUE UNDER THIS
15 SECTION.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 July 1, 2002.