

SENATE BILL 40

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(PRE-FILED)

By: **Senator DeGrange**
Requested: October 15, 2001
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Assigned to: Budget and Taxation

Committee Report: Favorable
Senate action: Adopted
Read second time: January 29, 2002

CHAPTER _____

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:

1 **Article - Tax - Property**

2 9-104.

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

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

5 1. real property;

6 2. cash;

7 3. savings accounts;

8 4. stocks;

9 5. bonds; and

10 6. any other investment.

11 (ii) "Assets" do not include:

12 1. the dwelling for which a property tax credit is sought
13 under this section;14 2. the cash value of the life insurance policies on the life of
15 the homeowner; or

16 3. tangible personal property.

17 (3) "Combined income" means the combined gross income of all
18 individuals who actually reside in a dwelling except an individual who:19 (i) is a dependent of the homeowner under § 152 of the Internal
20 Revenue Code; or

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

22 (4) "Current market value" means:

23 (i) for residential property, the value as determined by the
24 Department; and25 (ii) for farmland, marshland, and woodland, the value under Title
26 8, Subtitle 2 of this article as determined by the Department.27 (5) "Disabled veteran" has the meaning stated in § 7-208(a) of this
28 article.

29 (6) "Dwelling" means:

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

- 1 1. used as the principal residence of a homeowner and the lot
2 or curtilage on which the house is erected;
- 3 2. occupied by not more than 2 families; and
- 4 3. actually occupied or expected to be actually occupied by
5 the homeowner for more than 6 months of a 12-month period, which actual or
6 expected occupancy period shall include July 1 of the taxable year for which the
7 property tax credit under this section is sought; or
- 8 (ii) for a homeowner who is a home purchaser, a house that is:
 - 9 1. used as the principal residence of a homeowner and the lot
10 or curtilage on which the house is erected;
 - 11 2. occupied by not more than 2 families; and
 - 12 3. actually occupied or expected to be actually occupied by
13 the home purchaser for the remainder of the taxable year for which the property tax
14 credit under this section is sought.
- 15 (7) "Final tax liability" means the tax liability for any property tax on the
16 real property of a dwelling less any property tax credit provided under this section.
- 17 (8) (i) "Gross income" means the total income from all sources for the
18 calendar year that immediately precedes the taxable year, whether or not the income
19 is included in the definition of gross income for federal or State tax purposes.
- 20 (ii) "Gross income" includes:
 - 21 1. any benefit under the Social Security Act or the Railroad
22 Retirement Act;
 - 23 2. the aggregate of gifts over \$300;
 - 24 3. alimony;
 - 25 4. support money;
 - 26 5. any nontaxable strike benefit;
 - 27 6. public assistance received in a cash grant;
 - 28 7. a pension;
 - 29 8. an annuity;
 - 30 9. any unemployment insurance benefit;
 - 31 10. any workers' compensation benefit;

- 1
2 endeavor; and
- 3
4 or apartment.
- 5 (iii) "Gross income" does not include:
- 6 1. any income tax refund received from the State or federal
7 government; or
- 8 2. any loss from business, rental, or other endeavor.
- 9 (9) "Homeowner" means an individual who:
- 10 (i) on July 1 of the taxable year for which the tax credit is to be
11 allowed:
- 12 1. actually resides in a dwelling in which the individual has a
13 legal interest; or
- 14 2. under a court order or separation agreement, permits a
15 spouse, a former spouse, or a child of the individual's family to reside without
16 payment of rent in a dwelling in which the individual has a legal interest; or
- 17 (ii) 1. is a home purchaser; and
- 18 2. actually resides in a dwelling in which the individual has a
19 legal interest, whether or not the individual resides in the dwelling on July 1 of the
20 taxable year for which the tax credit is sought.
- 21 (10) "Home purchaser" means an individual who purchases a dwelling in
22 the taxable year for which the tax credit under this section is sought.
- 23 (11) "Legal interest" includes an interest in a dwelling:
- 24 (i) as sole owner;
- 25 (ii) as a joint tenant;
- 26 (iii) as a tenant in common;
- 27 (iv) as a tenant by the entirety;
- 28 (v) through membership in a cooperative;
- 29 (vi) under a land installment contract, as defined in § 10-101 of the
30 Real Property Article;
- 31 (vii) as a holder of a life estate; or

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

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

8 (13) "Total real property tax" means the product of the sum of all property
9 tax rates on real property, including special district tax rates, for the taxable year on
10 a dwelling, multiplied by the lesser of the assessed value of the dwelling or \$150,000;
11 and then reduced by any property tax credit granted under § 9-105 of this subtitle.

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

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

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

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

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

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

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

29 (2) The Department may:

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

32 (ii) reimburse the county for the reasonable cost of the assistance
33 provided.

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

- 1 (i) the lot size;
- 2 (ii) the assessed value of land and building; and
- 3 (iii) the total real property tax.

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

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

- 9 (i) eligibility;
- 10 (ii) filing deadlines;
- 11 (iii) applicable limitations; and
- 12 (iv) contact information for application forms.

13 (2) Notice in the package of income tax forms and instructions shall be:

- 14 (i) prominently placed;
- 15 (ii) printed in an open typeface, such as helvetica, no smaller than
16 10 points; and
- 17 (iii) positioned and colored to distinguish it from income tax
18 material.

19 (3) For income verification, the Comptroller shall:

- 20 (i) cooperate with the Department in adopting a procedure to audit
21 the application forms; and
- 22 (ii) notwithstanding § 13-202 of the Tax - General Article, supply
23 the Department with additional information.

24 (4) The Comptroller shall assist the Department in a postaudit of each
25 application.

26 (f) A homeowner who meets the requirements of this section shall be granted
27 the property tax credit under this section against the property tax imposed on the real
28 property of the dwelling.

29 (g) (1) Except as provided in subsection (g-1) of this section, the property
30 tax credit under this section is the total real property tax of a dwelling, less the
31 percentage of the combined income of the homeowner that is described in paragraph
32 (2) of this subsection.

1 (2) The percentage is:

2 (i) 0% of the 1st \$4,000 of combined income;

3 (ii) 1% of the 2nd \$4,000 of combined income;

4 (iii) 4.5% of the 3rd \$4,000 of combined income;

5 (iv) 6.5% of the 4th \$4,000 of combined income; and

6 (v) 9% of the combined income over \$16,000.

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

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

12 (2) the denominator is 365 days.

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

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

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

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

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

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

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

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

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

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

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

11 1. is at least 70 years old; and

12 2. received a credit under this section for the previous
13 taxable year.]

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

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

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

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

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

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

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

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

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

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

3 (iii) shall notify the home purchaser in writing of its decision within
4 5 working days from receipt of the application.

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

7 (7) On certification by the Department, the Comptroller shall pay to the
8 home purchaser the property tax credit due under this section unless the credit was
9 used to adjust the home purchaser's final tax liability paid at settlement under
10 subsection (p) of this section.

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

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

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

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

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

25 (i) the separate tax bill; or

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

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

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

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

- 1 (i) paid by the homeowner; and
2 (ii) adjusted at the time of settlement between the homeowner and
3 the buyer.

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

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

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

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

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

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

21 (4) Within 5 working days:

22 (i) the Comptroller shall make the reimbursement to each county;
23 or

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

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

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

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

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

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

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

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

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

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

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

20 (5) ON CERTIFICATION BY THE DEPARTMENT, THE COMPTROLLER
21 SHALL PAY TO THE HOMEOWNER THE PROPERTY TAX CREDIT DUE UNDER THIS
22 SECTION.

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