
By: **Chairman, Ways and Means Committee (By Request - Departmental - Assessments and Taxation)**

Introduced and read first time: January 28, 2004

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Homestead Tax Credit - Agricultural Limited Liability Company**

3 FOR the purpose of altering the definition of "homeowner" under the Homestead Tax
4 Credit to allow certain limited liability companies to claim the credit under
5 certain circumstances; authorizing semiannual property tax payment for certain
6 limited liability companies under certain circumstances; providing for the
7 application of this Act; and generally relating to the Homestead Tax Credit.

8 BY repealing and reenacting, with amendments,
9 Article - Tax - Property
10 Section 9-105(a) and (c)
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2003 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article - Tax - Property
15 Section 10-204.3
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2003 Supplement)

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

20 **Article - Tax - Property**

21 9-105.

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

23 (2) (i) "Dwelling" means:

24 1. a house that is:

25 A. used as the principal residence of the homeowner; and

1 1. INCLUDES LAND RECEIVING AN AGRICULTURAL USE
2 ASSESSMENT UNDER § 8-209 OF THIS ARTICLE; AND

3 2. INCLUDES LAND USED AS A HOMESITE THAT IS PART OF
4 OR CONTIGUOUS TO A PARCEL DESCRIBED IN ITEM 1. OF THIS ITEM;

5 (II) OWNS PERSONAL PROPERTY USED TO OPERATE THE
6 AGRICULTURAL LAND; AND

7 (III) OWNS NO OTHER PROPERTY.

8 (7) "ACTIVE MEMBER" MEANS A MEMBER OF A LIMITED LIABILITY
9 COMPANY WHO HAS OR SHARES THE AUTHORITY TO MANAGE, CONTROL, AND
10 OPERATE THE LIMITED LIABILITY COMPANY AND WHO SHARES THE ASSETS AND
11 EARNINGS OF THE LIMITED LIABILITY COMPANY UNDER AN OPERATING
12 AGREEMENT UNDER § 4A-402 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

13 (c) (1) If a dwelling is not used primarily for residential purposes, the
14 Department shall apportion the total property assessment between the part of the
15 dwelling that is used for residential purposes and the part of the dwelling that is not
16 used for residential purposes.

17 (2) If a homeowner does not actually reside in a dwelling for the required
18 time period because of illness or need of special care and is otherwise eligible for a
19 property tax credit under this section, the homeowner may qualify for the property
20 tax credit under this section.

21 (3) (I) FOR A HOMEOWNER WHO IS AN ACTIVE MEMBER OF AN
22 AGRICULTURAL LIMITED LIABILITY COMPANY TO QUALIFY FOR THE PROPERTY TAX
23 CREDIT UNDER THIS SECTION:

24 1. THE DWELLING MUST HAVE BEEN OWNED BY THE
25 RESIDENT ACTIVE MEMBER:

26 A. AT THE TIME OF ITS TRANSFER TO THE AGRICULTURAL
27 LIMITED LIABILITY COMPANY; OR

28 B. IF THE DWELLING WAS ORIGINALLY TRANSFERRED TO
29 THE AGRICULTURAL LIMITED LIABILITY COMPANY AS PART OF A CONVERSION FROM
30 A PARTNERSHIP UNDER § 4A-211 OF THE CORPORATIONS AND ASSOCIATIONS
31 ARTICLE, THEN AT THE TIME OF ITS TRANSFER TO THE FORMER PARTNERSHIP; AND

32 2. THE AGRICULTURAL LIMITED LIABILITY COMPANY AND
33 THE RESIDENT ACTIVE MEMBER MUST FILE AN APPLICATION WITH THE
34 DEPARTMENT ESTABLISHING INITIAL ELIGIBILITY FOR THE CREDIT ON OR BEFORE
35 JUNE 30 FOR THE FOLLOWING TAXABLE YEAR AND, AT THE REQUEST OF THE
36 DEPARTMENT, MUST FILE AN APPLICATION IN ANY FUTURE YEAR TO VERIFY
37 CONTINUED ELIGIBILITY.

1 (II) FAILURE TO FILE A TIMELY APPLICATION MAY RESULT IN
2 DISQUALIFICATION FROM THE HOMESTEAD TAX CREDIT PROGRAM FOR THE
3 FOLLOWING TAXABLE YEAR.

4 (III) THE CREDIT MAY ONLY BE GRANTED TO ONE DWELLING
5 OWNED BY THE AGRICULTURAL LIMITED LIABILITY COMPANY.

6 (IV) PARTICIPATION IN THE CREDIT PROGRAM AS THE ACTIVE
7 MEMBER OF AN AGRICULTURAL LIMITED LIABILITY COMPANY DISQUALIFIES ANY
8 OTHER DWELLINGS OWNED BY THE ACTIVE MEMBER FOR THE CREDIT.

9 10-204.3.

10 (a) In this section, "owner-occupied residential property" means the principal
11 residence of a homeowner as defined in § 9-105 of this article.

12 (b) Notwithstanding Subtitle 1 of this title:

13 (1) the governing body of a county shall provide a semiannual payment
14 schedule for State, county, and special taxing district property taxes due on
15 owner-occupied residential property; and

16 (2) the governing body of a municipal corporation shall provide a
17 semiannual payment schedule for municipal corporation and special taxing district
18 property taxes due on owner-occupied residential property.

19 (c) A semiannual payment schedule under this section shall apply:

20 (1) at the time of the transfer of property purchased on or after July 1,
21 2000; and

22 (2) to any current or future owner of owner-occupied residential
23 property, regardless of whether the property was purchased before July 1, 2000.

24 (d) (1) The semiannual payment schedule under this section shall apply to:

25 (i) the property tax due for the tax year following transfer of the
26 property; and

27 (ii) the property tax due and not in arrears for the current tax year
28 for any transfer occurring on or after July 1 but on or before September 30.

29 (2) The first installment of a semiannual payment shall be paid on or
30 before September 30.

31 (e) A semiannual payment schedule may include a service charge to be paid
32 with the second installment.

33 (f) A service charge:

34 (1) shall be:

1 (i) adopted by the taxing authority that collects the property taxes
2 after obtaining the prior approval of the amount of the service charge from the
3 Department, as part of adoption of the property tax rate under §§ 6-301 through
4 6-303 of this article;

5 (ii) applicable to all property tax being collected by the taxing
6 authority on the semiannual payment schedule for itself and for any other taxing
7 authority;

8 (iii) expressed as a percent of the amount of tax due at the second
9 installment and shown on the tax bill as a percent and actual dollar amount charged;
10 and

11 (iv) calculated in an amount:

12 1. reasonably equivalent to the anticipated lost interest
13 income associated with the 3-month delay in payment of the second installment by
14 multiplying the amount of the second installment by a rate not exceeding 1.5%; and

15 2. covering administrative expenses associated with the
16 semiannual payment not exceeding the lesser of the actual expenses incurred in the
17 preceding fiscal year per semiannual tax account as approved by the State
18 Department of Assessments and Taxation or 10% of the charge for the anticipated lost
19 interest income as calculated in item 1 of this item;

20 (2) does not apply if both installments of property tax are paid on or
21 before September 30 of the taxable year; and

22 (3) may not be considered to be a property tax for the purposes of any
23 provision of a local law or charter that limits the property tax rate or property tax
24 revenues.

25 (g) The local taxing authority shall provide to the Department by May 1 of
26 each year, information that substantiates that the proposed service charge for the
27 anticipated lost interest is reasonably equivalent to the amount of interest that will
28 be lost as a result of the semiannual payment.

29 (h) (1) The property tax bill under a semiannual payment schedule:

30 (i) shall state:

31 1. the amount of the tax due if paid in full, including any
32 applicable discounts for early payment;

33 2. the amount of the tax due if paid in semiannual
34 installments, including any applicable discounts for early payment of the first
35 installment;

1 the tax year that begins immediately following the year in which the written direction
2 was received.

3 (3) If a taxpayer provides written direction to an escrow account servicer
4 less than 60 days prior to the beginning of the tax year, property taxes may be paid on
5 an annual payment basis on behalf of that taxpayer by the escrow account servicer in
6 the tax year that begins immediately following the year in which the written direction
7 was received.

8 SECTION 2. AND BE IT FURTHER ENACTED, That on or before September
9 30, 2004, the Department of Assessments and Taxation may accept applications for
10 the taxable year beginning July 1, 2004.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
12 effect June 1, 2004, and shall be applicable to all taxable years beginning after June
13 30, 2004.