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By: **Delegates Krebs, Aumann, Bartlett, Bates, Cluster, Cryor, Dwyer, Eckardt, Elliott, Elmore, Frank, Glassman, Haddaway, Hogan, Jennings, Kohl, McComas, McMillan, O'Donnell, Parrott, Shank, Shewell, Smigiel, Sossi, Stocksdale, Stull, Trueschler, and Weir**

Introduced and read first time: January 18, 2006

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax - Family Home Protection Act**

3 FOR the purpose of altering a certain limit on the unified credit used for determining  
4 the Maryland estate tax; repealing a requirement that the Maryland estate tax  
5 be determined without regard to a certain deduction allowed under the federal  
6 estate tax; stating the intent of the General Assembly; providing for the  
7 application of this Act; and generally relating to the Maryland estate tax.

8 BY repealing and reenacting, with amendments,  
9 Article - Tax - General  
10 Section 7-309  
11 Annotated Code of Maryland  
12 (2004 Replacement Volume and 2005 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 7-309.

17 (a) Notwithstanding an Act of Congress that repeals or reduces the federal  
18 credit under § 2011 of the Internal Revenue Code, the provisions of this subtitle in  
19 effect before the passage of the Act of Congress shall apply with respect to a decedent  
20 who dies after the effective date of the Act of Congress so as to continue the Maryland  
21 estate tax in force without reduction in the same manner as if the federal credit had  
22 not been repealed or reduced.

23 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, after  
24 the effective date of an Act of Congress described in subsection (a) of this section, the  
25 Maryland estate tax shall be determined using:

1 (i) the federal credit allowable by § 2011 of the Internal Revenue  
2 Code as in effect before the reduction or repeal of the federal credit pursuant to the  
3 Act of Congress; and

4 (ii) other provisions of federal estate tax law as in effect on the date  
5 of the decedent's death.

6 (2) Except as provided in paragraph (3) of this subsection, if the federal  
7 estate tax is not in effect on the date of the decedent's death, the Maryland estate tax  
8 shall be determined using:

9 (i) the federal credit allowable by § 2011 of the Internal Revenue  
10 Code as in effect before the reduction or repeal of the federal credit pursuant to the  
11 Act of Congress; and

12 (ii) other provisions of federal estate tax law as in effect on the date  
13 immediately preceding the effective date of the repeal of the federal estate tax.

14 (3) [(i)] Notwithstanding any increase in the unified credit allowed  
15 against the federal estate tax [for decedents dying after 2003], the unified credit  
16 used for determining the Maryland estate tax may not exceed the applicable credit  
17 amount corresponding to an applicable exclusion amount of [~~\$1,000,000~~] \$2,000,000  
18 within the meaning of § 2010(c) of the Internal Revenue Code.

19 [(ii)] The Maryland estate tax shall be determined without regard to  
20 any deduction for State death taxes allowed under § 2058 of the Internal Revenue  
21 Code.]

22 (4) If a federal estate tax return is not required to be filed, the person  
23 responsible for paying the inheritance tax on property that passes from a decedent  
24 under Subtitle 2 of this title is responsible for filing a Maryland estate tax return and  
25 paying the Maryland estate tax imposed on the transfer of the Maryland estate of the  
26 decedent.

27 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the  
28 General Assembly that, before the effective date of any increase in the unified credit  
29 allowed against the federal estate tax above the applicable credit amount  
30 corresponding to an applicable exclusion amount of \$2,000,000 within the meaning of  
31 § 2010(c) of the Internal Revenue Code, the General Assembly will reconsider whether  
32 the unified credit used to determine the Maryland estate tax should also be increased  
33 to remain consistent with the unified credit allowed for federal estate tax purposes.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 July 1, 2006, and shall be applicable to decedents dying after December 31, 2005.