
By: **Delegates Costa, Barve, Benson, Boschert, Cadden, V. Clagett, Elliott, Frank, Gilleland, Hammen, Hubbard, Kach, Kaiser, Kullen, Leopold, Mandel, McDonough, Murray, Oaks, Ross, Rudolph, Sophocleus, Taylor, V. Turner, and Vaughn**

Introduced and read first time: February 6, 2006

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Special Needs Trust - Housing Programs and Homeowners' Property Tax**
3 **Credit - Eligibility**

4 FOR the purpose of expanding the definition of "family of limited income" to include
5 a special needs trust for determining income eligibility for certain housing
6 assistance programs under the Department of Housing and Community
7 Development; altering the definition of "homeowner" for purposes of
8 determining eligibility for a certain homeowners' property tax credit; allowing a
9 special needs trust subject to real property taxation to apply for the
10 homeowners' property tax credit program; providing for the application of this
11 Act; and generally relating to special needs trusts.

12 BY repealing and reenacting, without amendments,
13 Article - Housing and Community Development
14 Section 4-201(a) and 4-901(a)
15 Annotated Code of Maryland
16 (2005 Volume)

17 BY repealing and reenacting, with amendments,
18 Article - Housing and Community Development
19 Section 4-201(h) and 4-901(b)
20 Annotated Code of Maryland
21 (2005 Volume)

22 BY repealing and reenacting, with amendments,
23 Article - Tax - Property
24 Section 9-104(a)
25 Annotated Code of Maryland
26 (2001 Replacement Volume and 2005 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article - Tax - Property
3 Section 9-104(f)
4 Annotated Code of Maryland
5 (2001 Replacement Volume and 2005 Supplement)

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

8 **Article - Housing and Community Development**

9 4-201.

10 (a) In this subtitle the following words have the meanings indicated.

11 (h) (1) "Family of limited income" means a family or individual whose
12 income does not exceed the upper income limits established by the Secretary under §
13 4-212 of this subtitle.

14 (2) "FAMILY OF LIMITED INCOME" INCLUDES A SPECIAL NEEDS TRUST
15 DESCRIBED IN 42 U.S.C. § 1396P(D)(4), IF:

16 (I) THE INCOME OF THE TRUST DOES NOT EXCEED THE UPPER
17 INCOME LIMITS ESTABLISHED BY THE SECRETARY UNDER § 4-212 OF THIS SUBTITLE;
18 AND

19 (II) THE BENEFICIARY OF THE TRUST IS AN INDIVIDUAL WHO
20 RESIDES IN THE RESIDENTIAL BUILDING OWNED BY THE TRUST.

21 4-901.

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

23 (b) (1) "Family of limited income" means a family or individual whose
24 income does not exceed the limits that the Secretary establishes under § 4-915 of this
25 subtitle.

26 (2) "FAMILY OF LIMITED INCOME" INCLUDES A SPECIAL NEEDS TRUST
27 DESCRIBED IN 42 U.S.C. § 1396P(D)(4), IF:

28 (I) THE INCOME OF THE TRUST DOES NOT EXCEED THE UPPER
29 INCOME LIMITS ESTABLISHED BY THE SECRETARY UNDER § 4-915 OF THIS SUBTITLE;
30 AND

31 (II) THE BENEFICIARY OF THE TRUST IS AN INDIVIDUAL WHO
32 RESIDES IN THE RESIDENTIAL BUILDING OWNED BY THE TRUST.

Article - Tax - Property

1
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; and

25 (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;

11. the net income received from a business, rental, or other
 2 endeavor; and
12. any rent on the dwelling, including the rent from a room
 4 or apartment.
- (iii) "Gross income" does not include:
1. any income tax refund received from the State or federal
 7 government; or
2. any loss from business, rental, or other endeavor.
- (9) (I) "Homeowner" means an individual who:
- [(i)] 1. on July 1 of the taxable year for which the tax credit is to
 11 be allowed:
- [1.] A. actually resides in a dwelling in which the individual
 13 has a legal interest; or
- [2.] B. 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
- [(ii)] 2. [1.] A. is a home purchaser; and
- [2.] B. actually resides in a dwelling in which the individual
 19 has a legal interest, whether or not the individual resides in the dwelling on July 1 of
 20 the taxable year for which the tax credit is sought.
- (II) "HOMEOWNER" INCLUDES A SPECIAL NEEDS TRUST
 22 DESCRIBED IN 42 U.S.C. § 1396P(D)(4) IF, ON JULY 1 OF THE TAXABLE YEAR FOR WHICH
 23 THE TAX CREDIT IS TO BE ALLOWED, THE BENEFICIARY OF THE TRUST IS AN
 24 INDIVIDUAL WHO ACTUALLY RESIDES IN THE DWELLING.
- (10) "Home purchaser" means an individual who purchases a dwelling in
 26 the taxable year for which the tax credit under this section is sought.
- (11) "Legal interest" includes an interest in a dwelling:
- (i) as sole owner;
- (ii) as a joint tenant;
- (iii) as a tenant in common;
- (iv) as a tenant by the entirety;
- (v) through membership in a cooperative;

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

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

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

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

11 (13) "Total real property tax" means the product of the sum of all property
12 tax rates on real property, including special district tax rates, for the taxable year on
13 a dwelling, multiplied by the lesser of:

14 (i) \$150,000; or

15 (ii) the assessed value of the dwelling reduced by the amount of any
16 assessment on which a property tax credit is granted under § 9-105 of this subtitle.

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 June 1, 2006, and shall be applicable to all taxable years beginning after June 30,
22 2006.