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Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2006

CHAPTER____

1 AN ACT concerning

7

- 2 Special Needs Trust Trusts for Individuals with a Disability - Housing 3 Programs and Homeowners' Property Tax Credit - Eligibility
- FOR the purpose of expanding altering the definition of "family of limited income" to 4
- include a special needs trust for determining income eligibility for certain types 5
- 6 of trusts for a certain housing assistance programs program under the
 - Department of Housing and Community Development; authorizing the
- Department to limit the cumulative outstanding debt for a certain program loan 8
- 9 that is made to a certain type of trust under certain circumstances; providing
- 10 that certain housing assistance program loans may be secured by certain
- security devices; altering the definition of "homeowner" for purposes of 11
- 12 determining eligibility for a certain homeowners' property tax credit; allowing
- certain individuals who are beneficiaries of a special needs trust certain types of 13
- trusts subject to real property taxation to apply for the homeowners' property 14
- tax credit program; providing for the application of this Act; and generally 15
- relating to special needs certain types of trusts and eligibility for a certain 16
- housing program and tax credit. 17
- 18 BY repealing and reenacting, without amendments,
- Article Housing and Community Development 19
- 20 Section 4-201(a) and 4-901(a)
- Annotated Code of Maryland 21
- 22 (2005 Volume)
- 23 BY repealing and reenacting, with amendments,

34 subtitle.

1 2 3 4	Article - Housing and Community Development Section 4-201(h) and 4-901(b), 4-908, and 4-917 Annotated Code of Maryland (2005 Volume)								
5 6 7 8 9	BY repealing and reenacting, with amendments, Article - Tax - Property Section 9-104(a) Annotated Code of Maryland (2001 Replacement Volume and 2005 Supplement)								
10 11 12 13 14	Section 9-104(f) Annotated Code of Maryland								
15 16	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:								
17	Article - Housing and Community Development								
18	4 201.								
19	(a) In this subtitle the following words have the meanings indicated.								
	(h) (1) "Family of limited income" means a family or individual whose income does not exceed the upper income limits established by the Secretary under § 4 212 of this subtitle.								
23 24	(2) "FAMILY OF LIMITED INCOME" INCLUDES A SPECIAL NEEDS TRUST DESCRIBED IN 42 U.S.C. § 1396P(D)(4), IF:								
	(I) THE INCOME OF THE TRUST DOES NOT EXCEED THE UPPER INCOME LIMITS ESTABLISHED BY THE SECRETARY UNDER § 4-212 OF THIS SUBTITLE; AND								
28 29	(II) THE BENEFICIARY OF THE TRUST IS AN INDIVIDUAL WHO RESIDES IN THE RESIDENTIAL BUILDING OWNED BY THE TRUST.								
30	4-901.								
31	(a) In this subtitle the following words have the meanings indicated.								
32 33	(b) (1) "Family of limited income" means a family or individual whose income does not exceed the limits that the Secretary establishes under § 4-915 of this								

3 4	1 (2) "FAMILY OF LIMITED INCOME" INCLUDES A SPECIAL NEEDS TRUST 2 DESCRIBED IN 42 U.S.C. § 1396P(D)(4), OR A TRUST ESTABLISHED FOR THE BENEFIT OF 3 AN INDIVIDUAL WITH A DISABILITY BY AN INDIVIDUAL OTHER THAN THE 4 BENEFICIARY AND THAT IS FUNDED WITH ASSETS THAT WERE NEVER OWNED OR 5 CONTROLLED BY THE BENEFICIARY, IF:						
	INCOME LIMITS AND	(I) THE INCOME OF THE TRUST DOES NOT EXCEED THE UPPER ESTABLISHED BY THE SECRETARY UNDER § 4-915 OF THIS SUBTITLE;					
9 10	RESIDES IN THE	(II) THE BENEFICIARY OF THE TRUST IS AN INDIVIDUAL WHO RESIDENTIAL BUILDING OWNED BY THE TRUST.					
11	<u>4-908.</u>						
12	The Departmen	nt may:					
13 14	(1) participation agree	limit the return on equity allowed to, or enter into equity ments with, sponsors and nonprofit sponsors;					
15 16	(2) information related	require and obtain appraisals, credit and title information, and other to making Program loans;					
17 18	7 (3) contract for services relating to any aspect of the operation of the 8 Program under the procedures required by law for State contracts; [and]						
19	<u>(4)</u>	charge and collect:					
20		(i) reasonable application and processing fees; and					
21 22	loans; AND	(ii) other charges, fees, or reimbursements incidental to Program					
		IF NECESSARY, LIMIT THE CUMULATIVE OUTSTANDING DEBT FOR NS MADE TO A TRUST DESCRIBED IN 42 U.S.C. § 1396P(D)(4) TO ONGOING FINANCIAL VIABILITY OF THE PROGRAM.					
26	<u>4-917.</u>						
27	(a) A Pro	gram loan:					
28 29	(1) private financing is	may not be made if the Department determines that comparable available to the prospective borrower; and					
30	<u>(2)</u>	may not exceed an amount the Secretary establishes by regulation.					
		Except as provided under [paragraph] PARAGRAPHS (2) AND (3) of brogram loan of more than \$5,000 shall be secured wholly or partly gage or deed of trust on real property.					

1 (2) A Program loan to a political subdivision may be secured by a 2 recorded mortgage, deed of trust on real property, or other security device acceptable 3 to the Department.							
4 (3) A PROGRAM LOAN TO A TRUST DESCRIBED IN 42 U.S.C. § 1396P(D)(4) 5 MAY BE SECURED BY A RECORDED MORTGAGE, DEED OF TRUST ON REAL PROPERTY, 6 OR OTHER SECURITY DEVICE ACCEPTABLE TO THE DEPARTMENT.							
7 <u>(c)</u>	<u>Progra</u>	m loans s	n loans shall be made to:				
8 9 <u>rehabilita</u>	(1) ated; or	<u>familie</u>	families of limited income owning and occupying the building to be				
10	<u>(2)</u>	sponso	sponsors or nonprofit sponsors.				
11 <u>(d)</u>	The De	epartment	t may require that Program loans be insured.				
12 <u>(e)</u>	A Prog	A Program loan may cover:					
13 14 <u>as appra</u>	13 (1) costs of a rehabilitation project, including implementation costs such 14 as appraisal, architectural, and engineering fees; and						
15	<u>(2)</u>	closing	costs of the Program loan.				
16 (f) The Department may modify the interest rate, the time or amount of 17 payment, or any other term of a Program loan that is in default to facilitate 18 repayment of the Program loan and achieve the purposes of the Program.							
19 Article - Tax - Property							
20 9-104.							
21 (a)	(1)	In this section the following words have the meanings indicated.					
22	(2)	(i)	"Assets" include:				
23			1. real property;				
24			2. cash;				
25			3. savings accounts;				
26			4. stocks;				
27			5. bonds; and				
28			6. any other investment.				
29		(ii)	"Assets" do not include:				

1 2	under this section;		1.	the dwelling for which a property tax credit is sought			
3	the homeowner; or		2.	the cash value of the life insurance policies on the life of			
5			3.	tangible personal property.			
6 7	(3) individuals who actua			me" means the combined gross income of all elling except an individual who:			
8 9	Revenue Code; or	(i)	is a dependent of the homeowner under § 152 of the Internal				
10		(ii)	pays a re	easonable amount for rent or room and board.			
11	(4)	"Curren	t market	value" means:			
12 13	Department; and	(i)	for residential property, the value as determined by the				
14 15	8, Subtitle 2 of this ar	(ii) for farmland, marshland, and woodland, the value under Title article as determined by the Department.					
16 17	(5) article.	"Disable	abled veteran" has the meaning stated in § 7-208(a) of this				
18	(6)	"Dwelli	ng" mean	ns:			
19		(i)	for a ho	meowner who is not a home purchaser, a house that is:			
20 21	1. used as the principal residence of a homeowner and the lot or curtilage on which the house is erected;						
22			2.	occupied by not more than 2 families; and			
25	3. actually occupied or expected to be actually occupied by 4 the homeowner for more than 6 months of a 12-month period, which actual or 5 expected occupancy period shall include July 1 of the taxable year for which the 6 property tax credit under this section is sought; or						
27		(ii)	for a ho	meowner who is a home purchaser, a house that is:			
28 29	or curtilage on which	the hous	1. se is erect	used as the principal residence of a homeowner and the lot			
30			2.	occupied by not more than 2 families; and			
	the home purchaser for credit under this section			actually occupied or expected to be actually occupied by of the taxable year for which the property tax			

1 2	1 (7) "Final tax liability" means the tax liability for any property tax on the 2 real property of a dwelling less any property tax credit provided under this section.				
	3 (8) (i) "Gross income" means the total income from all sources for the calendar year that immediately precedes the taxable year, whether or not the income is included in the definition of gross income for federal or State tax purposes.				
6		(ii)	"Gross income" includes:		
7 8	Retirement Act;		1.	any benefit under the Social Security Act or the Railroad	
9			2.	the aggregate of gifts over \$300;	
10			3.	alimony;	
11			4.	support money;	
12			5.	any nontaxable strike benefit;	
13			6.	public assistance received in a cash grant;	
14			7.	a pension;	
15			8.	an annuity;	
16			9.	any unemployment insurance benefit;	
17			10.	any workers' compensation benefit;	
18 19	endeavor; and		11.	the net income received from a business, rental, or other	
20 21	or apartment.		12.	any rent on the dwelling, including the rent from a room	
22		(iii)	"Gross i	ncome" does not include:	
23 24	government; or		1.	any income tax refund received from the State or federal	
25			2.	any loss from business, rental, or other endeavor.	
26	(9)	(I)	"Homeo	wner" means an individual who:	
27 28	be allowed:	[(i)]	1.	on July 1 of the taxable year for which the tax credit is to	
29 30	has a legal interest; o	or	[1.]	A. actually resides in a dwelling in which the individual	

	[2.] B. under a court order or separation agreement, permits a spouse, a former spouse, or a child of the individual's family to reside without payment of rent in a dwelling in which the individual has a legal interest; or							
4		[(ii)]	2.	[1.]	A.	is a home purchaser; and		
	has a legal interest, we the taxable year for we			ndividual	resides in	in a dwelling in which the individual the dwelling on July 1 of		
10 11 12 13	(II) "HOMEOWNER" INCLUDES <u>A BENEFICIARY OF</u> A <u>SPECIAL</u> NEEDS TRUST DESCRIBED IN 42 U.S.C. § 1396P(D)(4), OR A TRUST ESTABLISHED FOR THE BENEFIT OF AN INDIVIDUAL WITH A DISABILITY BY AN INDIVIDUAL OTHER THAN THE BENEFICIARY AND THAT IS FUNDED WITH ASSETS THAT WERE NEVER OWNED OR CONTROLLED BY THE BENEFICIARY, IF, ON JULY 1 OF THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS TO BE ALLOWED, THE BENEFICIARY OF THE TRUST IS AN INDIVIDUAL WHO ACTUALLY RESIDES IN THE DWELLING.							
15 16	15 (10) "Home purchaser" means an individual who purchases a dwelling in the taxable year for which the tax credit under this section is sought.							
17	(11)	"Legal i	nterest" i	ncludes a	ın interest i	in a dwelling:		
18		(i)	as sole o	owner;				
19		(ii)	as a joir	nt tenant;				
20		(iii)	as a tena	ant in con	nmon;			
21		(iv)	as a ten	ant by the	entireties;			
22		(v)	through	members	ship in a co	ooperative;		
23 24	Real Property Article	(vi) e;	under a	land insta	allment cor	ntract, as defined in § 10-101 of the		
25		(vii)	as a hole	der of a li	fe estate; o	or		
28 29	(viii) under a continuing care contract for an independent living unit at a continuing care facility for the aged, which means a nontransferable agreement between a continuing care facility for the aged as defined in § 7-206 of this article and an occupant of an independent living unit, which agreement provides that the occupant may reside in the unit until termination under the terms of the contract.							
31 32	11 (12) "Net worth" means the sum of the current market value of all assets, 32 less any outstanding liability.							
	3 (13) "Total real property tax" means the product of the sum of all property 4 tax rates on real property, including special district tax rates, for the taxable year on 5 a dwelling, multiplied by the lesser of:							

6 property of the dwelling.

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- 1 (i) \$150,000; or
 2 (ii) the assessed value of the dwelling reduced by the amount of any
 3 assessment on which a property tax credit is granted under § 9-105 of this subtitle.
 4 (f) A homeowner who meets the requirements of this section shall be granted
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2006, and shall be applicable to all taxable years beginning after June 30, 9 2006.

5 the property tax credit under this section against the property tax imposed on the real