

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2006

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Special Needs Trust Trusts for Individuals with a Disability - Housing**  
3 **Programs and Homeowners' Property Tax Credit - Eligibility**

4 FOR the purpose of ~~expanding~~ altering the definition of "family of limited income" to  
5 include ~~a special needs trust for determining income eligibility for certain types~~  
6 ~~of trusts for a certain housing assistance programs~~ program under the  
7 Department of Housing and Community Development; authorizing the  
8 Department to limit the cumulative outstanding debt for a certain program loan  
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  
11 security devices; altering the definition of "homeowner" for purposes of  
12 determining eligibility for a certain homeowners' property tax credit; allowing  
13 certain individuals who are beneficiaries of a special needs trust certain types of  
14 trusts subject to real property taxation to apply for the homeowners' property  
15 tax credit program; providing for the application of this Act; and generally  
16 relating to ~~special needs~~ certain types of trusts and eligibility for a certain  
17 housing program and tax credit.

18 BY repealing and reenacting, without amendments,  
19 Article - Housing and Community Development  
20 Section ~~4-201(a) and~~ 4-901(a)  
21 Annotated Code of Maryland  
22 (2005 Volume)

23 BY repealing and reenacting, with amendments,

1 Article - Housing and Community Development  
 2 Section ~~4-201(h)~~ and 4-901(b), 4-908, and 4-917  
 3 Annotated Code of Maryland  
 4 (2005 Volume)

5 BY repealing and reenacting, with amendments,  
 6 Article - Tax - Property  
 7 Section 9-104(a)  
 8 Annotated Code of Maryland  
 9 (2001 Replacement Volume and 2005 Supplement)

10 BY repealing and reenacting, without amendments,  
 11 Article - Tax - Property  
 12 Section 9-104(f)  
 13 Annotated Code of Maryland  
 14 (2001 Replacement Volume and 2005 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 16 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.~~

20 (h) (1) ~~"Family of limited income" means a family or individual whose~~  
 21 ~~income does not exceed the upper income limits established by the Secretary under §~~  
 22 ~~4-212 of this subtitle.~~

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

25 (1) ~~THE INCOME OF THE TRUST DOES NOT EXCEED THE UPPER~~  
 26 ~~INCOME LIMITS ESTABLISHED BY THE SECRETARY UNDER § 4-212 OF THIS SUBTITLE;~~  
 27 ~~AND~~

28 (II) ~~THE BENEFICIARY OF THE TRUST IS AN INDIVIDUAL WHO~~  
 29 ~~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 (b) (1) "Family of limited income" means a family or individual whose  
 33 income does not exceed the limits that the Secretary establishes under § 4-915 of this  
 34 subtitle.

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:

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

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

11 4-908.

12 The Department may:

13 (1) limit the return on equity allowed to, or enter into equity  
14 participation agreements with, sponsors and nonprofit sponsors;

15 (2) require and obtain appraisals, credit and title information, and other  
16 information related to making Program loans;

17 (3) contract for services relating to any aspect of the operation of the  
18 Program under the procedures required by law for State contracts; [and]

19 (4) charge and collect:

20 (i) reasonable application and processing fees; and

21 (ii) other charges, fees, or reimbursements incidental to Program  
22 loans; AND

23 (5) IF NECESSARY, LIMIT THE CUMULATIVE OUTSTANDING DEBT FOR  
24 PROGRAM LOANS MADE TO A TRUST DESCRIBED IN 42 U.S.C. § 1396P(D)(4) TO  
25 PRESERVE THE ONGOING FINANCIAL VIABILITY OF THE PROGRAM.

26 4-917.

27 (a) A Program loan:

28 (1) may not be made if the Department determines that comparable  
29 private financing is available to the prospective borrower; and

30 (2) may not exceed an amount the Secretary establishes by regulation.

31 (b) (1) Except as provided under [paragraph] PARAGRAPHS (2) AND (3) of  
32 this subsection, a Program loan of more than \$5,000 shall be secured wholly or partly  
33 by a recorded mortgage or deed of trust on real property.





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  
4 calendar year that immediately precedes the taxable year, whether or not the income  
5 is included in the definition of gross income for federal or State tax purposes.

6 (ii) "Gross income" includes:

7 1. any benefit under the Social Security Act or the Railroad  
8 Retirement Act;

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 11. the net income received from a business, rental, or other  
19 endeavor; and

20 12. any rent on the dwelling, including the rent from a room  
21 or apartment.

22 (iii) "Gross income" does not include:

23 1. any income tax refund received from the State or federal  
24 government; or

25 2. any loss from business, rental, or other endeavor.

26 (9) (I) "Homeowner" means an individual who:

27 [(i)] 1. on July 1 of the taxable year for which the tax credit is to  
28 be allowed:

29 [1.] A. actually resides in a dwelling in which the individual  
30 has a legal interest; or

1 [2.] B. under a court order or separation agreement, permits a  
 2 spouse, a former spouse, or a child of the individual's family to reside without  
 3 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

5 [2.] B. actually resides in a dwelling in which the individual  
 6 has a legal interest, whether or not the individual resides in the dwelling on July 1 of  
 7 the taxable year for which the tax credit is sought.

8 (II) "HOMEOWNER" INCLUDES A BENEFICIARY OF A SPECIAL  
 9 NEEDS TRUST DESCRIBED IN 42 U.S.C. § 1396P(D)(4), OR A TRUST ESTABLISHED FOR  
 10 THE BENEFIT OF AN INDIVIDUAL WITH A DISABILITY BY AN INDIVIDUAL OTHER  
 11 THAN THE BENEFICIARY AND THAT IS FUNDED WITH ASSETS THAT WERE NEVER  
 12 OWNED OR CONTROLLED BY THE BENEFICIARY, IF, ON JULY 1 OF THE TAXABLE YEAR  
 13 FOR WHICH THE TAX CREDIT IS TO BE ALLOWED, THE BENEFICIARY OF THE TRUST IS  
 14 AN INDIVIDUAL WHO ACTUALLY RESIDES IN THE DWELLING.

15 (10) "Home purchaser" means an individual who purchases a dwelling in  
 16 the taxable year for which the tax credit under this section is sought.

17 (11) "Legal interest" includes an interest in a dwelling:

18 (i) as sole owner;

19 (ii) as a joint tenant;

20 (iii) as a tenant in common;

21 (iv) as a tenant by the entirety;

22 (v) through membership in a cooperative;

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

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

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

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

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

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  
5 the property tax credit under this section against the property tax imposed on the real  
6 property of the dwelling.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 June 1, 2006, and shall be applicable to all taxable years beginning after June 30,  
9 2006.