
By: **The President (By Request - Administration) and Senators Schrader,
Brinkley, DeGrange, Kramer, and Stoltzfus**

Introduced and read first time: January 23, 2006

Rules suspended

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 4, 2006

CHAPTER _____

1 AN ACT concerning

2 ~~Income Tax Subtraction Modification for Long-Term Care Provided by an~~
3 ~~Eligible Caregiver~~
4 Family Caregiver Assistance Program

5 FOR the purpose of ~~allowing a subtraction modification in a certain amount for~~
6 ~~long term care provided by an eligible caregiver to certain individuals under~~
7 ~~certain circumstances; providing that if the subtraction modification for~~
8 ~~long term care exceeds Maryland taxable income under certain circumstances~~
9 ~~that the excess may be carried forward for a certain number of years;~~
10 establishing a Family Caregiver Assistance Program in the Department of
11 Aging; specifying the purpose of the Program; providing for the funding of the
12 Program; authorizing the Secretary of Aging to accept certain moneys for certain
13 purposes; establishing eligibility for the Program; authorizing the Program to
14 provide certain family caregivers with certain grants not to exceed a certain
15 amount per year; specifying the purposes for which a grant may be used;
16 requiring the Secretary to adopt certain regulations; requiring the Secretary to
17 work with the Department of Disabilities, the Department of Health and Mental
18 Hygiene, and the Maryland Caregivers Support Coordinating Council to
19 promote the Program to certain individuals; requiring the Secretary to report
20 annually to the Governor and the General Assembly; requiring the Department
21 of Aging to submit a certain report to the Governor and the General Assembly on
22 or before a certain date; defining certain terms; providing for the application of
23 this Act; and generally relating to a subtraction modification for long term care
24 provided by an eligible caregiver to certain applicable individuals an assistance
25 program for certain family caregivers.

1 ~~BY repealing and reenacting, without amendments,~~
 2 ~~Article Tax General~~
 3 ~~Section 10-208(a)~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2004 Replacement Volume and 2005 Supplement)~~

6 ~~BY adding to~~
 7 ~~Article Tax General~~
 8 ~~Section 10-208(q)~~
 9 ~~Annotated Code of Maryland~~
 10 ~~(2004 Replacement Volume and 2005 Supplement)~~

11 BY adding to
 12 Article 70B - Department of Aging
 13 Section 45
 14 Annotated Code of Maryland
 15 (2003 Replacement Volume and 2005 Supplement)

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

18 ~~Article Tax General~~

19 ~~40-208.~~

20 ~~(a) In addition to the modification under § 10-207 of this subtitle, the~~
 21 ~~amounts under this section are subtracted from the federal adjusted gross income of~~
 22 ~~a resident to determine Maryland adjusted gross income.~~

23 ~~(Q) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE~~
 24 ~~MEANINGS INDICATED.~~

25 ~~(II) "APPLICABLE INDIVIDUAL" MEANS ANY INDIVIDUAL WHO IS AT~~
 26 ~~LEAST 18 YEARS OLD AND HAS BEEN CERTIFIED BY A LICENSED PHYSICIAN IN THE~~
 27 ~~STATE AS AN INDIVIDUAL WITH LONG TERM CARE NEEDS FOR AT LEAST 180~~
 28 ~~CONSECUTIVE DAYS DURING THE TAXABLE YEAR.~~

29 ~~(III) "ELIGIBLE CAREGIVER" MEANS A TAXPAYER WHO IS THE:~~

30 ~~1. APPLICABLE INDIVIDUAL'S SPOUSE; OR~~

31 ~~2. INDIVIDUAL WHO CARES FOR AN APPLICABLE~~
 32 ~~INDIVIDUAL AS A DEPENDENT WHO MEETS THE REQUIREMENTS OF PARAGRAPH (2)~~
 33 ~~OF THIS SUBSECTION.~~

34 ~~(IV) "INDIVIDUAL WITH LONG TERM CARE NEEDS" MEANS AN~~
 35 ~~INDIVIDUAL WHO IS:~~

1 ~~1. UNABLE TO PERFORM WITHOUT SUBSTANTIAL~~
 2 ~~ASSISTANCE FROM ANOTHER INDIVIDUAL AT LEAST THREE ACTIVITIES OF DAILY~~
 3 ~~LIVING AS DEFINED IN § 7702B(C)(2)(B) OF THE INTERNAL REVENUE CODE; OR~~

4 ~~2. UNABLE TO PERFORM WITHOUT SUBSTANTIAL~~
 5 ~~ASSISTANCE FROM ANOTHER INDIVIDUAL AT LEAST ONE OF THE ACTIVITIES OF~~
 6 ~~DAILY LIVING AS DEFINED IN § 7702B(C)(2)(B) OF THE INTERNAL REVENUE CODE AND~~
 7 ~~WHO REQUIRES SUBSTANTIAL SUPERVISION TO PROTECT THE INDIVIDUAL FROM~~
 8 ~~THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT.~~

9 ~~(2) TO QUALIFY AS A DEPENDENT OF AN ELIGIBLE CAREGIVER, THE~~
 10 ~~APPLICABLE INDIVIDUAL:-~~

11 ~~(I) SHALL BE THE ELIGIBLE CAREGIVER'S PARENT, STEPPARENT,~~
 12 ~~GRANDPARENT, CHILD, STEPCHILD, SIBLING, AUNT, UNCLE, SON IN LAW,~~
 13 ~~DAUGHTER IN LAW, MOTHER IN LAW, FATHER IN LAW, OR A MEMBER OF THE~~
 14 ~~HOUSEHOLD OF THE ELIGIBLE CAREGIVER FOR THE ENTIRE TAXABLE YEAR; AND~~

15 ~~(II) MAY NOT HAVE A FEDERAL ADJUSTED GROSS INCOME FOR THE~~
 16 ~~TAXABLE YEAR THAT EXCEEDS \$10,000.~~

17 ~~(3) FOR AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME~~
 18 ~~DOES NOT EXCEED \$150,000, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS~~
 19 ~~SECTION INCLUDES AN AMOUNT EQUAL TO \$1,000 FOR LONG TERM CARE PROVIDED~~
 20 ~~BY AN ELIGIBLE CAREGIVER TO AN APPLICABLE INDIVIDUAL DURING THE TAXABLE~~
 21 ~~YEAR.-~~

22 ~~(4) IF THE SUBTRACTION ALLOWED UNDER PARAGRAPH (3) OF THIS~~
 23 ~~SUBSECTION EXCEEDS THE MARYLAND TAXABLE INCOME THAT IS COMPUTED~~
 24 ~~WITHOUT THE MODIFICATION ALLOWED UNDER THIS SUBSECTION AND THE~~
 25 ~~SUBTRACTION IS NOT USED FOR THE TAXABLE YEAR, THE EXCESS MAY BE CARRIED~~
 26 ~~OVER TO SUCCEEDING TAXABLE YEARS, NOT TO EXCEED 5 YEARS, UNTIL THE FULL~~
 27 ~~AMOUNT OF THE SUBTRACTION IS USED.~~

28 **Article 70B - Department of Aging**

29 45.

30 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 31 INDICATED.

32 (2) "ADULT DEPENDENT" MEANS AN INDIVIDUAL WHO IS AT LEAST 18
 33 YEARS OLD AND IS THE SPOUSE, PARENT, STEPPARENT, GRANDPARENT, CHILD,
 34 STEPCHILD, SIBLING, AUNT, UNCLE, SON-IN-LAW, DAUGHTER-IN-LAW,
 35 MOTHER-IN-LAW, OR FATHER-IN-LAW OF A FAMILY CAREGIVER.

36 (3) "FAMILY CAREGIVER" MEANS AN INDIVIDUAL WHO CARES FOR AN
 37 ADULT DEPENDENT WHO IS AN INDIVIDUAL WITH LONG-TERM CARE NEEDS.

1 (4) "INDIVIDUAL WITH LONG-TERM CARE NEEDS" MEANS AN
2 INDIVIDUAL WHO:

3 (I) IS UNABLE TO PERFORM WITHOUT SUBSTANTIAL ASSISTANCE
4 FROM ANOTHER INDIVIDUAL AT LEAST THREE ACTIVITIES OF DAILY LIVING; OR

5 (II) IS UNABLE TO PERFORM WITHOUT SUBSTANTIAL ASSISTANCE
6 FROM ANOTHER INDIVIDUAL AT LEAST ONE ACTIVITY OF DAILY LIVING AND
7 REQUIRES SUBSTANTIAL SUPERVISION TO PROTECT THE INDIVIDUAL FROM
8 THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT.

9 (5) "PROGRAM" MEANS THE FAMILY CAREGIVER ASSISTANCE PROGRAM
10 ESTABLISHED UNDER THIS SECTION.

11 (B) THERE IS A FAMILY CAREGIVER ASSISTANCE PROGRAM IN THE
12 DEPARTMENT.

13 (C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANTS TO ELIGIBLE
14 FAMILY CAREGIVERS TO SUPPLEMENT THE UNMET EXPENSES OF CARING FOR AN
15 ADULT DEPENDENT.

16 (D) (1) FUNDING FOR THE PROGRAM SHALL BE AS PROVIDED IN THE STATE
17 BUDGET.

18 (2) THE SECRETARY MAY ACCEPT MONEYS PROVIDED BY OTHER PUBLIC
19 AND PRIVATE SOURCES, INCLUDING FEDERAL FUNDS, TO PROVIDE GRANTS UNDER
20 THIS PROGRAM.

21 (E) A FAMILY CAREGIVER IS ELIGIBLE FOR A GRANT FROM THE PROGRAM IF:

22 (1) THE FAMILY CAREGIVER RESIDES WITH AN ADULT DEPENDENT;

23 (2) THE ADULT DEPENDENT HAS BEEN CERTIFIED BY A LICENSED
24 PHYSICIAN IN THE STATE AS AN INDIVIDUAL WITH LONG-TERM CARE NEEDS FOR AT
25 LEAST 180 CONSECUTIVE DAYS DURING THE YEAR; AND

26 (3) THE FAMILY CAREGIVER'S HOUSEHOLD INCOME IS 200% OR LESS OF
27 THE STATE MEDIAN INCOME, AS ADJUSTED FOR FAMILY SIZE, IN ACCORDANCE WITH
28 REGULATIONS ADOPTED BY THE DEPARTMENT.

29 (F) (1) THE PROGRAM MAY PROVIDE ELIGIBLE FAMILY CAREGIVERS WITH A
30 GRANT OF UP TO \$500 PER HOUSEHOLD PER YEAR.

31 (2) GRANTS MAY BE USED TO FUND GOODS AND SERVICES REQUIRED TO
32 PROVIDE CARE FOR THE DEPENDENT ADULT, INCLUDING DURABLE MEDICAL
33 EQUIPMENT, MEDICAL BILLS, MEDICAL SUPPLIES, PRESCRIPTION OR
34 OVER-THE-COUNTER MEDICATIONS, REPAIRS OR MODIFICATIONS TO THE HOME,
35 AND RESPITE CARE FOR THE FAMILY CAREGIVER.

36 (G) THE SECRETARY SHALL:

1 (1) ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM;

2 (2) WORK IN COOPERATION WITH THE DEPARTMENT OF DISABILITIES,
3 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THE MARYLAND
4 CAREGIVERS SUPPORT COORDINATING COUNCIL TO PROMOTE THE PROGRAM TO
5 FAMILY CAREGIVERS THROUGHOUT THE STATE; AND

6 (3) REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246
7 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

8 (I) THE NUMBER OF GRANT REQUESTS RECEIVED;

9 (II) THE VALUE OF GRANTS PROVIDED TO FAMILY CAREGIVERS;

10 (III) THE PURPOSES FOR WHICH THE GRANTS WERE PROVIDED; AND

11 (IV) THE NUMBER OF GRANT REQUESTS THAT THE PROGRAM WAS
12 UNABLE TO FUND AND THE REASON WHY THOSE REQUESTS WERE NOT FUNDED.

13 (H) THE REGULATIONS REQUIRED TO BE ADOPTED UNDER SUBSECTION (G)
14 OF THIS SECTION SHALL:

15 (1) ENSURE THAT THE TOTAL AMOUNT OF FUNDING AVAILABLE FOR
16 GRANTS UNDER THE PROGRAM BE ALLOCATED AMONG ALL COUNTIES AND
17 BALTIMORE CITY BASED ON EACH COUNTY OR BALTIMORE CITY'S PROPORTION OF
18 THE TOTAL STATE POPULATION AGED 18 AND OLDER; AND

19 (2) PROVIDE THAT IF A COUNTY OR BALTIMORE CITY IS UNABLE TO USE
20 ITS ALLOCATION, ANY UNSPENT FUNDS SHALL REVERT TO THE PROGRAM AND BE
21 REDISTRIBUTED AMONG ALL COUNTIES AND BALTIMORE CITY.

22 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1,
23 2007, the Department of Aging shall submit a report to the Governor and, subject to
24 § 2-1246 of the State Government Article, the General Assembly on the availability of
25 federal or private funding to support this Program. This report shall include a plan
26 for leveraging available federal or private funding beginning in fiscal year 2009.

27 ~~SECTION 2-3.~~ AND BE IT FURTHER ENACTED, That this Act shall take
28 effect July 1, 2006, and shall be applicable to taxable years after December 31, 2005.