HB 717

Department of Legislative Services

Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 717 (Delegate Costa, *et al.*)
Ways and Means Budget and Taxation

Trusts for Individuals with a Disability - Housing Programs and Homeowners' Property Tax Credit - Eligibility

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This bill includes the beneficiary of specified trusts for individuals with disabilities as homeowners eligible to take the Homeowners' Property Tax Credit (HPTC). It also includes these trusts in the definition of families of limited income in order to qualify for assistance from the Maryland Housing Rehabilitation Program (MHRP) in the Department of Housing and Community Development (DHCD).

The bill takes effect June 1, 2006 and applies to all taxable years beginning after June 30, 2006.

Fiscal Summary

State Effect: General fund expenditures would increase for reimbursements to local governments for the HPTC. The magnitude of the increase depends on the number of beneficiaries of trusts for individuals with disabilities that qualify and receive the HPTC, which cannot be reliably estimated at this time.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: For the purposes of determining eligibility for MHRP, a family of limited income includes a trust as described in federal law 42 U.S.C. 1396p(d)(4) or a trust established for an individual with a disability by another individual and which is funded by assets that were never owned or controlled by the beneficiary, if the income of the trust does not exceed the upper income limits, and the beneficiary of the trust is an individual who resides in the residential building owned by the trust.

DHCD may limit the cumulative outstanding debt for program loans made to trusts under 42 U.S.C. 1396p(d)(4) to preserve the financial viability of the program. In addition, DHCD may secure a loan to such a trust with a recorded mortgage, deed of trust on real property, or other such security.

For the purposes of taking HPTCs, a homeowner includes the beneficiary of such a trust, 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 building.

Current Law: MHRP consists of several different programs, including the Regular Rehabilitation Program; the Multi-family Rehabilitation Program; the Accessory, Shared, and Sheltered Housing Program; the Indoor Plumbing Program; and the Radon and Asbestos Abatement Pilot Program. The programs are funded through the capital appropriations for rental housing programs and special loan programs in the Division of Development Finance in DHCD. For the purpose of qualifying for MHRP financial assistance, a family of limited income is a family or individual whose income does not exceed the upper income limits established by the Secretary of Housing and Community Development. Under the Tax-Property Article, a homeowner is an individual who:

- on July 1 of the year the tax credit is to be allowed, has a legal interest in a dwelling and either resides in it or under a court order or separation agreement, permits a spouse, former spouse, or a child of the individual's family to reside without paying rent; or
- is a home purchaser, and actually resides in a dwelling in which the individual has a legal interest, regardless of when the home purchaser took occupancy.

In addition, an individual who is a lifetime beneficiary of a trust that owns or has an ownership interest of the dwelling where the individual lives, qualifies for the HPTC. The maximum assessment against which the HPTC may be granted is $150,000. In order to be eligible for the HPTC, the combined net worth of a homeowner may not exceed $200,000 in the calendar year preceding the year the taxpayer applies for the credit.

Background: A trust under 42 U.S.C. 1396p(d)(4) is designed to protect a beneficiary with a disability. If properly drafted, it enables a person under a physical or developmental disability, or an individual with a chronic or acquired illness, to hold assets in trust without those assets being considered countable assets for purposes of qualification for governmental benefits that are based upon need, such as Medicaid.

In return, upon the death of the individual, the State is allowed to recover trust assets equal to the amount that the State spent on medical assistance such as Medicaid. However, the code provisions do not specifically designate the trust beneficiary of these trusts as a lifetime beneficiary, although the trusts are irrevocable.

The Homeowners' Property Tax Credit Program is a State-funded program (*i.e.,* the State reimburses local governments) providing credits against State and local real property taxation for homeowners who qualify based on a sliding scale of property tax liability and income. In fiscal 2005, the State Department of Assessments and Taxation (SDAT) received 62,578 applications for the credit and issued credits to 48,601 applicants. The average credit received statewide was $820. The total amount of tax credits reimbursed to local governments equaled $39.85 million. In fiscal 2006, SDAT received 62,973 applications for the credit and issued actual tax credits to 46,189 applicants. The average credit received statewide was $857. The total amount of tax credits reimbursed to local governments equaled $39.6 million, plus a deficiency appropriation of $2.1 million.

The fiscal 2007 budget assumes $52.6 million in general fund expenditures for the Homeowners' Property Tax Credit Program, including $12.6 million in expenditures contingent on the passage of legislation that alters the calculation of the credit by increasing the maximum assessment and changing the current income exemption. The fiscal 2007 budget includes $20.8 million for the capital appropriation for the rental housing programs, and $10.0 million for the capital appropriation for special loan programs.

State Expenditures: General fund expenditures would increase for providing HPTCs to beneficiaries of trusts for individuals with disabilities. The exact amount of the additional tax credits taken cannot be reliably estimated at this time. SDAT was unable to provide an estimate of how many of these trusts there were, nor how many beneficiaries would qualify for the credit who did not previously qualify, nor was the State Department of Disabilities.

As the bill does not increase funding for MHRP, DHCD expenditures would not be affected. Instead, trusts for individuals with disabilities would be eligible for current MHRP funding. It is assumed additional applications could be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Department of Housing and Community Development, Department of Legislative Services

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