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May 14, 2008

The Honorable Martin J. O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

RE: Senate Bill 481 and House Bill 573

Dear Governor O'Malley:

We have reviewed Senate Bill 481 and House Bill 573, identical bills entitled "Disabled Law Enforcement Officers and Rescue Workers - Property Tax Credit." While we approve the bills, we write to point out a defect in the title that can be corrected in next year's curative bill.

Senate Bill 481 and House Bill 573 amend Tax - Property Article § 9-210, which authorizes counties, including Baltimore City, and municipalities to provide a tax credit to the surviving spouses of fallen law enforcement officers and rescue workers. Current law defines a "fallen law enforcement officer or rescue worker" as an "individual who dies ... as a result of or in the course of employment as a law enforcement officer [or] while in the active service of a fire, rescue, or emergency medical service, unless the death was a result of the individual's own willful misconduct or abuse of alcohol or drugs." As introduced, the bills would simply have extended the authorization to allow tax credits for disabled law enforcement officers and rescue workers, and added a definition that paralleled the definition that existed in current law.

In the course of passage, both definitions were amended to extend the definition of "fallen law enforcement officer or rescue worker" in existing law, and the definition of "disabled law enforcement officer or rescue worker" in the bill so that the definitions now also include correctional officers killed or disabled respectively in the course of their employment. The effect of these amendments is to extend the existing authorization for a

tax credit to cover surviving spouses of fallen correctional officers, and to extend the new authorization for a tax credit to disabled correctional officers. Neither of these changes is reflected in the title of the bill, which reads, in its entirety, as follows:

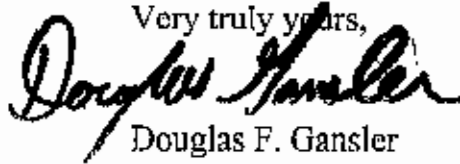
AN ACT concerning

Disabled Law Enforcement Officers and Rescue Workers - Property Tax Credit FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant a certain property tax credit for certain residential real property owned by certain disabled law enforcement officers and rescue workers; defining a certain term; altering certain definitions; providing for the application of this Act; and generally relating to a property tax credit for certain residential real property owned by certain disabled law enforcement officers and rescue workers.

This title does not refer to the credit for surviving spouses at all, and gives no indication that the bill has any effect on correctional officers or their survivors. While these changes arguably are covered by provisions of the title with reference to definitions (i.e., "defining a certain term" and "altering certain definitions") it is our view that mere mention of the creation or alteration of definition is inadequate to give notice of the changes made by the bill. For this reason, it is our view that, to the extent that the title does not reflect the coverage of the surviving spouses of fallen correctional officers or coverage of disabled correctional officers, it does not meet the requirement of Maryland Constitution Article III, § 29 that the subject of every bill be described in its title. The purpose of Article III, § 29 is to inform legislators and the public of the general nature of the subject matter of pending legislation, so that, if interested, they will examine the body of the statute for its specific provisions. *Jacobs v. Klawans*, 225 Md. 147 (1961). Thus, the operation of the Act must be confined to the matter described in the title. *Buck Glass Corporation v. Gordy*, 170 Md. 685 (1936). Thus, it is our view that in the current state of the law that these tax credits may not be extended to either the surviving spouses of fallen correctional officers or to disabled correctional officers.

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Because there is no indication that the Legislature would not have enacted the bill had they known it would not apply to correctional officers, however, it is our view that the invalid portion is severable and does not affect the validity of the remainder of the bill. Moreover, the invalid portion can be given effect if it is reenacted in next year's curative bill with a proper title. In the meantime, it is our view that counties, including Baltimore City, and municipalities that wish to grant this tax credit may enact ordinances now that are contingent on the passage of the curative bill so that the tax credits may still become effective for the taxable year ending June 30, 2009.

Very truly yours,

Douglas F. Gansler
Attorney General

DFG/KMR/kk

cc: The Honorable James E. DeGrange, Sr.
The Honorable Shawn Z. Tarrant
The Honorable Dennis C. Schnepfe
Joseph Bryce
Karl Aro