

HOUSE BILL 993

Q1

9lr2250

By: **Delegates Shank, Kramer, Myers, and Serafini**

Introduced and read first time: February 13, 2009

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Homestead Property Tax Credit for Living Units in Continuing Care**
3 **Retirement Communities**

4 FOR the purpose of making certain living units at continuing care facilities eligible for
5 a certain property tax credit under certain circumstances; providing for the
6 application of this Act; and generally relating to the application of a certain
7 property tax credit to certain living units in certain continuing care retirement
8 communities.

9 BY repealing and reenacting, without amendments,
10 Article – Human Services
11 Section 10–401(d), (g), and (m)
12 Annotated Code of Maryland
13 (2007 Volume and 2008 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Tax – Property
16 Section 7–206(a) and 9–105(b), (e), (f), and (g)
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2008 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Tax – Property
21 Section 9–105(a) and (d)
22 Annotated Code of Maryland
23 (2007 Replacement Volume and 2008 Supplement)

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

26 **Article – Human Services**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 10-401.

2 (d) "Continuing care" means:

3 (1) continuing care in a retirement community; or

4 (2) continuing care at home.

5 (g) "Continuing care in a retirement community" means providing shelter
6 and providing either medical and nursing or other health related services or making
7 the services readily accessible through the provider or an affiliate of the provider,
8 whether or not the services are specifically offered in the written agreement for
9 shelter:

10 (1) to an individual who is at least 60 years of age and not related by
11 blood or marriage to the provider;

12 (2) for the life of the individual or for a period exceeding 1 year; and

13 (3) under one or more written agreements that require a transfer of
14 assets or an entrance fee notwithstanding periodic charges.

15 (m) "Facility" means a physical plant in which continuing care in a
16 retirement community is provided in accordance with this subtitle.

17 **Article - Tax - Property**

18 7-206.

19 (a) In this section, "facility" means a continuing care facility for the aged
20 that:

21 (1) provides continuing care as defined in § 10-401 of the Human
22 Services Article;

23 (2) is licensed as a related institution under Title 19, Subtitle 3 of the
24 Health - General Article;

25 (3) is certified by the Department of Aging; and

26 (4) is exempt from federal income tax under § 501(c)(3) of the Internal
27 Revenue Code.

28 9-105.

29 (a) (1) In this section the following words have the meanings indicated.

1 **(2) “CONTINUING CARE FACILITY” MEANS A FACILITY AS**
2 **DEFINED IN § 7-206 OF THIS ARTICLE.**

3 ~~[(2)]~~ **(3)** (i) “Dwelling” means:

4 1. a house that is:

5 A. used as the principal residence of the homeowner; and

6 B. actually occupied or expected to be actually occupied
7 by the homeowner for more than 6 months of a 12-month period beginning with the
8 date of finality for the taxable year for which the property tax credit under this section
9 is sought; and

10 2. the lot or curtilage on which the house is erected.

11 (ii) “Dwelling” includes:

12 1. a condominium unit that is occupied by an individual
13 who has a legal interest in the condominium;

14 2. an apartment in a cooperative apartment corporation
15 that is occupied by an individual who has a legal interest in the apartment; [and]

16 3. a part of real property used other than primarily for
17 residential purposes, if the real property is used as a principal residence by an
18 individual who has a legal interest in the real property; **AND**

19 **4. AN INDEPENDENT LIVING UNIT AT A CONTINUING**
20 **CARE FACILITY THAT IS USED AS THE PRINCIPAL RESIDENCE OF AN OCCUPANT,**
21 **WHETHER OR NOT THE UNIT IS ACTUALLY OCCUPIED FOR THE PERIOD**
22 **REQUIRED UNDER SUBPARAGRAPH (I)1B OF THIS PARAGRAPH.**

23 ~~[(3)]~~ **(4)** “Homeowner” means:

24 **(I)** an individual who has a legal interest in a dwelling or who is
25 an active member of an agricultural ownership entity that has a legal interest in a
26 dwelling; **OR**

27 **(II)** **IN THE CASE OF A DWELLING THAT IS AN INDEPENDENT**
28 **LIVING UNIT, THE CONTINUING CARE FACILITY THAT OWNS THE UNIT.**

29 ~~[(4)]~~ **(5)** “Legal interest” means an interest in a dwelling:

30 (i) as a sole owner;

- 1 (ii) as a joint tenant;
- 2 (iii) as a tenant in common;
- 3 (iv) as a tenant by the entireties;
- 4 (v) through membership in a cooperative;
- 5 (vi) under a land installment contract, as defined in § 10–101 of
6 the Real Property Article; or
- 7 (vii) as a holder of a life estate.

8 **[(5)] (6)** “Taxable assessment” means the assessment on which the
9 State, county, or municipal corporation property tax rate was imposed in the preceding
10 taxable year, adjusted by the phased-in assessment increase resulting from a
11 revaluation under § 8–104(c)(1)(iii) of this article, less the amount of any assessment
12 on which a property tax credit under this section is authorized.

13 **[(6)] (7)** “Agricultural ownership entity” means a family corporation,
14 general partnership limited liability company or limited liability partnership that:

- 15 (i) owns real property that:
- 16 1. includes land receiving an agricultural use
17 assessment under § 8–209 of this article; and
- 18 2. includes land used as a homesite that is part of or
19 contiguous to a parcel described in item 1 of this item;
- 20 (ii) owns personal property used to operate the agricultural
21 land; and
- 22 (iii) owns no other property.

23 **[(7)] (8)** “Active member” means:

- 24 (i) a shareholder in a family corporation;
- 25 (ii) a partner in a general partnership; or
- 26 (iii) a member of a limited liability company or partner in a
27 limited liability partnership who has or shares the authority to manage, control, and
28 operate the limited liability company or limited liability partnership and who shares
29 the assets and earnings of the limited liability company or limited liability partnership
30 under an operating agreement under § 4A–402 of the Corporations and Associations
31 Article or under a partnership agreement.

1 ~~[(8)]~~ **(9)** “Family corporation” means a corporation that does not have
2 any stockholders other than the homeowner and the following members of the
3 homeowner’s family:

4 (i) a spouse or former spouse;

5 (ii) a child or stepchild;

6 (iii) a parent or stepparent;

7 (iv) a brother or sister;

8 (v) a son-in-law, daughter-in-law, stepson-in-law, or
9 stepdaughter-in-law;

10 (vi) a grandchild or stepgrandchild; or

11 (vii) a grandparent or stepgrandparent.

12 (b) If there is an increase in property assessment as calculated under this
13 section, the State and the governing body of each county and of each municipal
14 corporation shall grant a property tax credit under this section against the State,
15 county, and municipal corporation property tax imposed on real property by the State,
16 county, or municipal corporation.

17 (d) (1) Subject to the provisions of paragraph (6) of this subsection, the
18 Department shall authorize and the State, a county, or a municipal corporation shall
19 grant a property tax credit under this section for a taxable year unless during the
20 previous taxable year:

21 (i) the dwelling was transferred for consideration to new
22 ownership;

23 (ii) the value of the dwelling was increased due to a change in
24 the zoning classification of the dwelling initiated or requested by the homeowner or
25 anyone having an interest in the property;

26 (iii) the use of the dwelling was changed substantially; or

27 (iv) the assessment of the dwelling was clearly erroneous due to
28 an error in calculation or measurement of improvements on the real property.

29 (2) **[A] EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS**
30 **SUBSECTION, A** homeowner must actually reside in the dwelling by July 1 of the
31 taxable year for which the property tax credit under this section is to be allowed.

1 (3) [A] **EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS**
2 **SUBSECTION, A** homeowner may claim a property tax credit under this section for
3 only 1 dwelling.

4 (4) If a property tax credit under this section is less than \$1 in any
5 taxable year, the tax credit may not be granted.

6 (5) (i) If the dwelling was transferred for consideration in a deed
7 dated on or after January 1 but before the beginning of the next taxable year and the
8 deed has not been recorded with the clerk of the circuit court or the Department prior
9 to the beginning of the next taxable year, the new owner may submit a written
10 application to the Department within 60 days after the date of the deed requesting
11 that the date of the deed be accepted by the Department as the date of transfer under
12 paragraph (1) of this subsection.

13 (ii) 1. The applicant shall submit with the written
14 application a copy of the executed deed evidencing the date of the transfer.

15 2. If the applicant fails to submit a copy of the executed
16 deed as required under subparagraph 1 of this subparagraph, the Department
17 shall deny the application.

18 (iii) The date of the transfer under this paragraph is the effective
19 date of the deed as described under § 3-201 of the Real Property Article.

20 (6) (i) To qualify for the credit under this section, a homeowner
21 shall submit an application for the credit to the Department as provided in this
22 paragraph.

23 (ii) The application shall:

24 1. be made on the form that the Department provides;

25 2. provide the information required by the form; and

26 3. include a statement by the homeowner under oath
27 that the facts stated in the application are true, correct, and complete.

28 (iii) The Department may not authorize and the State, county,
29 and municipal corporation may not grant the property tax credit under this section for
30 a dwelling unless an application is filed with the Department as required under this
31 paragraph:

32 1. within 180 days following the date the dwelling is
33 transferred for consideration to new ownership, for a dwelling that is transferred for
34 consideration to new ownership after December 31, 2007; or

1 2. on or before December 31, 2012, for a dwelling that
2 was last transferred for consideration to new ownership on or before December 31,
3 2007.

4 (iv) The Department shall provide a homeowner the option to
5 submit the application required under this paragraph electronically on the
6 Department's website.

7 **(7) PARAGRAPHS (2) AND (3) OF THIS SUBSECTION DO NOT**
8 **APPLY TO A DWELLING THAT IS AN INDEPENDENT LIVING UNIT AT A**
9 **CONTINUING CARE FACILITY.**

10 (e) (1) For each taxable year, the property tax credit under this section is
11 calculated by:

12 (i) multiplying the prior year's taxable assessment by the
13 homestead credit percentage as provided under paragraph (2) of this subsection;

14 (ii) subtracting that amount from the current year's assessment;
15 and

16 (iii) if the difference is a positive number, multiplying the
17 difference by the applicable State, county, or municipal corporation property tax rate
18 for the current year.

19 (2) For each taxable year, the homestead credit percentage under
20 paragraph (1)(i) of this subsection is:

21 (i) for the State property tax, 110%;

22 (ii) for the county property tax:

23 1. the homestead credit percentage established by the
24 county under paragraph (3) of this subsection; or

25 2. if the county has not set a percentage for the taxable
26 year under paragraph (3) of this subsection or has not notified the Department as
27 required under paragraph (6) of this subsection, the homestead credit percentage in
28 effect for the county for the preceding taxable year; and

29 (iii) for the municipal corporation property tax:

30 1. the homestead credit percentage established by the
31 municipal corporation under paragraph (4) of this subsection; or

32 2. if the municipal corporation has not set a percentage
33 under paragraph (4) of this subsection or has not notified the Department as required

1 under paragraph (7) of this subsection, the homestead credit percentage for the
2 taxable year for the county in which the property is located.

3 (3) Subject to paragraph (5) of this subsection, the Mayor and City
4 Council of Baltimore City and the governing body of a county on or before November
5 15 of any year shall set, by law, the homestead credit percentage for the taxable year
6 beginning the following July 1.

7 (4) Subject to paragraph (5) of this subsection, on or before November
8 25 of any year, the governing body of a municipal corporation may set or alter, by law,
9 a homestead credit percentage for the taxable year beginning the following July 1 and
10 any subsequent taxable year.

11 (5) The homestead credit percentage for any county or municipal
12 corporation property tax:

13 (i) may not be less than 100% or exceed 110% for any taxable
14 year; and

15 (ii) shall be expressed in increments of 1 percentage point.

16 (6) The Mayor and City Council of Baltimore City and the governing
17 body of a county shall notify the Department of any action taken under paragraph (3)
18 of this subsection on or before November 15 preceding the taxable year for which the
19 action is taken.

20 (7) A municipal corporation shall notify the Department of any action
21 taken under paragraph (4) of this subsection on or before November 25 preceding the
22 taxable year for which the action is taken.

23 (f) The Department shall give notice of the possible property tax credit
24 under this section.

25 (g) A homeowner who meets the requirements of this section shall be
26 granted the property tax credit under this section against the State, county, and
27 municipal corporation property tax imposed on the real property of the dwelling.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2009, and shall be applicable to all taxable years beginning after June 30,
30 2010.