

# HOUSE BILL 28

Q3

3lr0445

(PRE-FILED)

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By: **Delegates Lehman, Foley, Hartman, Henson, Hill, D. Jones, Pena-Melnyk, Ruth, Solomon, and Terrasa**

Requested: September 22, 2022

Introduced and read first time: January 11, 2023

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Credit for Caregivers of Senior Family Members**

3 FOR the purpose of allowing a credit against the State income tax for qualified expenses  
4 paid or incurred by a taxpayer during the taxable year in caring for a qualified senior  
5 family member; and generally relating to an income tax credit for expenses paid or  
6 incurred by caregivers of senior family members.

7 BY adding to

8 Article – Tax – General

9 Section 10-757

10 Annotated Code of Maryland

11 (2022 Replacement Volume)

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

14 **Article – Tax – General**

15 **10-757.**

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
17 INDICATED.

18 (2) (I) “QUALIFIED EXPENSES” MEANS EXPENSES PAID OR  
19 INCURRED BY A TAXPAYER DURING THE TAXABLE YEAR FOR THE PURCHASE, LEASE,  
20 OR RENTAL OF TANGIBLE PERSONAL PROPERTY OR SERVICES ACQUIRED FOR THE  
21 BENEFIT OF A QUALIFIED SENIOR FAMILY MEMBER THAT:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   1.    ARE PROVIDED BY AN ORGANIZATION OR AN  
2 INDIVIDUAL WHO IS NOT A RELATIVE OF THE TAXPAYER OR QUALIFIED SENIOR  
3 FAMILY MEMBER; AND

4                   2.    A.   ARE NECESSARY TO ENABLE THE QUALIFIED  
5 SENIOR FAMILY MEMBER TO STAY AT THE TAXPAYER'S ABODE IN THE STATE; OR

6                   B.   ASSIST THE TAXPAYER IN PROVIDING CARE AND  
7 SUPPORT TO THE QUALIFIED SENIOR FAMILY MEMBER.

8                   (II)   "QUALIFIED EXPENSES" INCLUDES:

9                   1.    HOME HEALTH AGENCY SERVICES;

10                  2.    ADULT DAY CARE;

11                  3.    COMPANIONSHIP SERVICES;

12                  4.    PERSONAL CARE ATTENDANT SERVICES;

13                  5.    HOMEMAKER SERVICES;

14                  6.    RESPITE CARE;

15                  7.    HEALTH CARE EQUIPMENT AND SUPPLIES;

16                  8.    HOME MODIFICATION SERVICES;

17                  9.    SERVICES NECESSARY TO PROVIDE CARE AND  
18 SUPPORT TO A QUALIFIED SENIOR FAMILY MEMBER IN CONNECTION WITH TWO OR  
19 MORE DAILY LIVING ACTIVITIES; AND

20                  10.   ASSISTIVE DEVICES.

21                   (III)   "QUALIFIED EXPENSES" DOES NOT INCLUDE EXPENSES  
22 THAT ARE REIMBURSED BY INSURANCE OR A PROGRAM ADMINISTERED BY THE  
23 FEDERAL GOVERNMENT, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE.

24                   (3)   (I)   "QUALIFIED SENIOR FAMILY MEMBER" MEANS AN  
25 INDIVIDUAL WHO:

26                   1.    IS AT LEAST 60 YEARS OF AGE;

1                   2.     IS A RELATIVE OF THE TAXPAYER; AND

2                   3.     FOR AT LEAST 6 MONTHS OF THE TAXABLE YEAR,  
3 RESIDES ON THE SAME PROPERTY AS THE TAXPAYER'S PERMANENT PLACE OF  
4 ABODE IN THE STATE.

5                   (II)   "QUALIFIED SENIOR FAMILY MEMBER" INCLUDES AN  
6 INDIVIDUAL WHO MEETS THE QUALIFICATIONS UNDER SUBPARAGRAPH (I) OF THIS  
7 PARAGRAPH WHILE OCCUPYING A SEPARATE ROOM OR ROOMS THAT CONSTITUTE A  
8 SELF-CONTAINED LIVING ARRANGEMENT SUCH AS A SECONDARY SUITE OR AN  
9 IN-LAW APARTMENT.

10                  (III)   "QUALIFIED SENIOR FAMILY MEMBER" DOES NOT INCLUDE  
11 AN INDIVIDUAL WHO IS CHARGED A FEE OR PAYS RENT FOR THE OCCUPANCY OF A  
12 ROOM OR ROOMS LOCATED ON THE SAME PROPERTY AS THE TAXPAYER'S  
13 PERMANENT PLACE OF ABODE IN THE STATE.

14                  (4)     "RELATIVE" MEANS AN INDIVIDUAL RELATED BY BLOOD OR  
15 MARRIAGE WITHIN THE THIRD DEGREE OF CONSANGUINITY OR AFFINITY,  
16 INCLUDING ADOPTION, UNDER THE CIVIL LAW RULE.

17                  (B)     SUBJECT TO THE LIMITATIONS OF THIS SECTION, A TAXPAYER MAY  
18 CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR THE AMOUNT OF QUALIFIED  
19 EXPENSES PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR IN  
20 CARING FOR A QUALIFIED SENIOR FAMILY MEMBER.

21                  (C)     (1)    IN ORDER TO CLAIM THE CREDIT ALLOWED UNDER THIS SECTION,  
22 THE TAXPAYER SHALL SUBMIT WITH THE TAXPAYER'S INCOME TAX RETURN PROOF  
23 OF THE TAXPAYER'S QUALIFIED EXPENSES.

24                  (2)     THE PROOF SHALL INCLUDE A LETTER OF MEDICAL NECESSITY  
25 THAT:

26                    (I)     IS SIGNED BY A PHYSICIAN OR NURSE PRACTITIONER WHO  
27 IS LICENSED TO PRACTICE IN THE STATE, DELAWARE, THE DISTRICT OF COLUMBIA,  
28 PENNSYLVANIA, VIRGINIA, OR WEST VIRGINIA; AND

29                    (II)    STATES THAT THE TAXPAYER PROVIDED ASSISTANCE TO  
30 THE QUALIFIED SENIOR FAMILY MEMBER WITH AT LEAST THREE OF THE  
31 FOLLOWING ACTIVITIES:

32                    1.     BATHING AND GROOMING;

- 1                   2.     DRESSING AND UNDESSING;
- 2                   3.     MEAL PREPARATION AND FEEDING;
- 3                   4.     FUNCTIONAL TRANSFERS;
- 4                   5.     SAFE RESTROOM USE AND ASSISTANCE WITH  
5 CONTINENCE;
- 6                   6.     AMBULATION; OR
- 7                   7.     MEMORY CARE AND STIMULATION.

8           (D)   (1)   THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED:

9                               (I)   \$5,000 FOR THE QUALIFIED EXPENSES PAID OR INCURRED  
10 BY THE TAXPAYER FOR THE BENEFIT OF ONE QUALIFIED SENIOR FAMILY MEMBER;  
11 OR

12                              (II)  \$10,000 FOR THE QUALIFIED EXPENSES PAID OR INCURRED  
13 BY THE TAXPAYER FOR THE BENEFIT OF TWO OR MORE QUALIFIED SENIOR FAMILY  
14 MEMBERS.

15                   (2)   IF TWO OR MORE TAXPAYERS MAINTAIN RESIDENCY AT THE SAME  
16 PERMANENT PLACE OF ABODE IN THE STATE AND EACH TAXPAYER IS ALLOWED A  
17 CREDIT IN ACCORDANCE WITH THIS SECTION FOR THE SAME QUALIFIED SENIOR  
18 FAMILY MEMBER, THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER  
19 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ALLOCATED IN EQUAL AMOUNTS  
20 BETWEEN EACH OF THE TAXPAYERS UNLESS THE TAXPAYERS SUBMIT WITH THE  
21 PROOF REQUIRED UNDER SUBSECTION (C) OF THIS SECTION AN AGREEMENT IN  
22 WRITING TO THE COMPTROLLER ESTABLISHING A DIFFERENT ALLOCATION.

23                   (3)   FOR THE TAXABLE YEAR, A TAXPAYER MAY CLAIM BOTH THE  
24 CREDIT ALLOWED UNDER THIS SECTION AND THE CREDIT ALLOWED UNDER §  
25 10-716 OF THIS SUBTITLE WITH RESPECT TO THE SAME QUALIFIED SENIOR FAMILY  
26 MEMBER.

27                   (E)   IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR  
28 EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE UNUSED AMOUNT  
29 OF THE CREDIT MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

30                   (F)   THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THE  
31 PROVISIONS OF THIS SECTION, INCLUDING CRITERIA AND PROCEDURES FOR

1 APPLICATION FOR, APPROVAL OF, AND MONITORING ELIGIBILITY FOR THE TAX  
2 CREDIT AUTHORIZED UNDER THIS SECTION.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
4 1, 2023, and shall be applicable to all taxable years beginning after December 31, 2022.