

SENATE BILL 945

Q3

71r3182
CF HB 1257

By: **Senators Madaleno, Kramer, Della, and Pinsky**

Introduced and read first time: February 26, 2007

Assigned to: Rules

Re-referred to: Budget and Taxation, March 2, 2007

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2007

CHAPTER _____

1 AN ACT concerning

2 **Income Tax – Captive Real Estate Investment Trusts**

3 FOR the purpose of requiring that a certain deduction for dividends paid be added to
4 federal taxable income to determine Maryland modified income of certain real
5 estate investment trusts for Maryland income tax purposes; defining a certain
6 term; providing for the application of this Act; and generally relating to a
7 Maryland income tax addition modification in the amount of the dividends paid
8 deduction for certain real estate investment trusts.

9 BY adding to

10 Article – Tax – General

11 Section 10–306.2

12 Annotated Code of Maryland

13 (2004 Replacement Volume and 2006 Supplement)

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

16 **Article – Tax – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **10-306.2.**2 (A) **IN THIS SECTION:**3 (1) **“CAPTIVE REIT” MEANS A CORPORATION, TRUST, OR**
4 **ASSOCIATION:**5 ~~(1)~~ (1) **THAT IS CONSIDERED A REAL ESTATE INVESTMENT**
6 **TRUST FOR THE TAXABLE YEAR UNDER § 856 OF THE INTERNAL REVENUE**
7 **CODE;**8 ~~(2)~~ (II) **THAT IS NOT ~~PUBLICLY TRADED~~ REGULARLY TRADED**
9 **ON AN ESTABLISHED SECURITIES MARKET; AND**10 ~~(3)~~ (III) **MORE THAN 50% OF THE VOTING POWER OR VALUE OF**
11 **THE BENEFICIAL INTERESTS OR SHARES OF WHICH ~~ARE~~, AT ANY TIME DURING**
12 **THE LAST HALF OF THE TAXABLE YEAR, IS OWNED OR CONTROLLED, DIRECTLY**
13 **OR INDIRECTLY, BY A SINGLE ~~PERSON OTHER THAN:~~ ENTITY THAT IS SUBJECT**
14 **TO THE PROVISIONS OF SUBCHAPTER C OF CHAPTER 1 OF THE INTERNAL**
15 **REVENUE CODE; AND**16 (2) **“CAPTIVE REIT” DOES NOT INCLUDE:**17 (I) **A CORPORATION, TRUST, OR ASSOCIATION MORE THAN**
18 **50% OF THE VOTING POWER OR VALUE OF THE BENEFICIAL INTEREST OR**
19 **SHARES OF WHICH, AT ANY TIME DURING WHICH THE CORPORATION, TRUST, OR**
20 **ASSOCIATION SATISFIES ITEM (1)(III) OF THIS SUBSECTION, IS OWNED OR**
21 **CONTROLLED, DIRECTLY OR INDIRECTLY, BY:**22 ~~(1)~~ 1. **A REAL ESTATE INVESTMENT TRUST OTHER THAN A**
23 **REAL ESTATE INVESTMENT TRUST DESCRIBED IN ITEM (1) OF THIS**
24 **SUBSECTION; OR**25 ~~(II)~~ **A ~~QUALIFIED REAL ESTATE INVESTMENT TRUST~~**
26 **~~SUBSIDIARY UNDER § 856(I) OF THE INTERNAL REVENUE CODE.~~**27 2. **A PERSON EXEMPT FROM TAXATION UNDER § 501**
28 **OF THE INTERNAL REVENUE CODE; OR**29 3. **A LISTED AUSTRALIAN PROPERTY TRUST; OR**

1 **(II) SUBJECT TO REGULATIONS THAT THE COMPTROLLER**
 2 **ADOPTS, A REAL ESTATE INVESTMENT TRUST THAT IS INTENDED TO BECOME**
 3 **REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET AND THAT**
 4 **SATISFIES THE REQUIREMENTS OF § 856(A)(5) AND (6) OF THE INTERNAL**
 5 **REVENUE CODE BY REASON OF § 856(H)(2) OF THE INTERNAL REVENUE CODE.**

6 **(B) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10-305 THROUGH**
 7 **10-306.1 OF THIS SUBTITLE, AN AMOUNT EQUAL TO THE AMOUNT OF THE**
 8 **DIVIDENDS PAID DEDUCTION ALLOWED UNDER THE INTERNAL REVENUE CODE**
 9 **FOR THE TAXABLE YEAR IS ADDED TO FEDERAL TAXABLE INCOME TO**
 10 **DETERMINE THE MARYLAND MODIFIED INCOME OF A CAPTIVE REIT.**

11 **(C) FOR PURPOSES OF THIS SECTION, THE CONSTRUCTIVE OWNERSHIP**
 12 **RULES PRESCRIBED UNDER § 318(A) OF THE INTERNAL REVENUE CODE, AS**
 13 **MODIFIED BY § 856(D)(5) OF THE INTERNAL REVENUE CODE, SHALL APPLY IN**
 14 **DETERMINING THE OWNERSHIP OF STOCK, ASSETS, OR NET PROFITS OF ANY**
 15 **PERSON.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 17 July 1, 2007, and shall be applicable to all taxable years beginning after December 31,
 18 2006.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.