

SENATE BILL 137

Q3
SB 615/15 – B&T

6lr1213
CF 6lr2009

By: **Senator Eckardt**

Introduced and read first time: January 15, 2016

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit – Preservation and Conservation Easements**

3 FOR the purpose of altering certain provisions of law concerning a credit against the State
4 income tax for certain preservation and conservation easements to allow an
5 individual or a member of a pass-through entity to claim the credit for an easement
6 conveyed to the Maryland Environmental Trust, the Maryland Agricultural Land
7 Preservation Foundation, or the Department of Natural Resources under certain
8 circumstances; requiring the Comptroller to adopt certain regulations; defining
9 certain terms; making certain stylistic changes; providing for the application of this
10 Act; and generally relating to a State income tax credit for certain preservation and
11 conservation easements.

12 BY repealing and reenacting, with amendments,
13 Article – Tax – General
14 Section 10–723
15 Annotated Code of Maryland
16 (2010 Replacement Volume and 2015 Supplement)

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

19 **Article – Tax – General**

20 10–723.

21 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

23 **(2) “DEPARTMENT” MEANS THE DEPARTMENT OF NATURAL**
24 **RESOURCES.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(3) “MEMBER” MEANS:**

2 **(I) A SHAREHOLDER OF AN S CORPORATION;**

3 **(II) A GENERAL OR LIMITED PARTNER OF A PARTNERSHIP, A**
4 **LIMITED PARTNERSHIP, OR A LIMITED LIABILITY PARTNERSHIP;**

5 **(III) A MEMBER OF A LIMITED LIABILITY COMPANY; OR**

6 **(IV) A BENEFICIARY OF A BUSINESS TRUST OR A STATUTORY**
7 **TRUST.**

8 **(4) “PASS-THROUGH ENTITY” MEANS:**

9 **(I) AN S CORPORATION;**

10 **(II) A PARTNERSHIP;**

11 **(III) A LIMITED LIABILITY COMPANY THAT IS NOT TAXED AS A**
12 **CORPORATION UNDER THIS TITLE; OR**

13 **(IV) A BUSINESS TRUST OR A STATUTORY TRUST THAT IS NOT**
14 **TAXED AS A CORPORATION UNDER THIS TITLE.**

15 **[(a)] (B)** (1) An individual **OR A MEMBER OF A PASS-THROUGH ENTITY**
16 may claim a credit against the State income tax as provided in this section for an easement
17 conveyed to the Maryland Environmental Trust, **[or]** the Maryland Agricultural Land
18 Preservation Foundation, **OR THE DEPARTMENT** for the purpose of preserving open space,
19 natural resources, agriculture, forest land, watersheds, significant ecosystems, viewsheds,
20 or historic properties, if:

21 (i) the easement is perpetual; and

22 (ii) the easement is accepted and approved by the Board of Public
23 Works.

24 (2) Subject to subsection **[(c)(2)] (D)(2)** of this section, the credit under this
25 section shall be allowed for the taxable year in which the **[donation] CONVEYANCE** is
26 approved by the Board of Public Works.

27 **[(b)] (C)** (1) Except as otherwise provided in this section, the amount of the
28 credit allowed under this section is the amount by which the fair market value of the
29 property before the conveyance of the easement exceeds the fair market value of the
30 property after the conveyance of the easement.

1 (2) The fair market value of the property before and after the conveyance
2 of the easement shall be substantiated by an appraisal prepared by a certified real estate
3 appraiser, as defined under § 16–101 of the Business Occupations and Professions Article.

4 (3) The amount of the credit shall be reduced by the amount of any
5 payment received for the easement.

6 **[(c)] (D)** (1) For any taxable year, the credit allowed under this section may
7 not exceed the lesser of:

8 (i) the State income tax for that taxable year; or

9 (ii) \$5,000.

10 (2) If the credit otherwise allowable under subsection **[(b)] (C)** of this
11 section exceeds the limit under paragraph (1) of this subsection, **[an individual] A**
12 **TAXPAYER** may apply the excess as a credit against the State income tax for succeeding
13 taxable years until the earlier of:

14 (i) the full amount of the excess is used; or

15 (ii) the expiration of the 15th taxable year after the taxable year in
16 which the **[donation] CONVEYANCE** was approved by the Board of Public Works.

17 (3) For each taxable year, the amount carried forward to the taxable year
18 under paragraph (2) of this subsection may not exceed the limit under paragraph (1) of this
19 subsection.

20 **(4) THE SUM OF ALL CREDITS CLAIMED BY MEMBERS OF A**
21 **PASS-THROUGH ENTITY IN A TAXABLE YEAR MAY NOT EXCEED THE AMOUNT**
22 **SPECIFIED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.**

23 **[(d)] (E)** The credit under this section may not be claimed for a required
24 dedication of open space for the purpose of fulfilling density requirements to obtain a
25 subdivision or building permit.

26 **(F) THE COMPTROLLER SHALL ADOPT REGULATIONS TO SPECIFY**
27 **PROCEDURES FOR A MEMBER OF A PASS-THROUGH ENTITY TO CLAIM THE CREDIT**
28 **UNDER THIS SECTION.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
30 1, 2016, and shall be applicable to all taxable years beginning after December 31, 2015.