

SENATE BILL 459

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Q3

2001 Regular Session
11r2352
CF 11r1854

By: **Senators Middleton, Hoffman, Astle, and Currie**
Introduced and read first time: February 2, 2001
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: April 2, 2001

CHAPTER _____

1 AN ACT concerning

2 **Income Tax - Credit for Preservation and Conservation Easements**

3 FOR the purpose of allowing an individual a credit against the State income tax for
4 certain donations of certain interests in land for certain purposes to the
5 Maryland Environmental Trust or the Maryland Agricultural Land
6 Preservation Foundation; requiring that for purposes of the credit the fair
7 market value of a donation be substantiated by a certain appraisal; limiting the
8 amount of the credit that may be allowed for any taxable year; allowing certain
9 unused credit to be carried forward and used in certain succeeding taxable
10 years; providing for a certain reduction of itemized deductions if a certain credit
11 is claimed under certain circumstances; providing for the application of this Act;
12 and generally relating to a State income tax credit for certain donations of
13 certain interests in land for certain purposes to the Maryland Environmental
14 Trust or the Maryland Agricultural Land Preservation Foundation.

15 BY repealing and reenacting, with amendments,
16 Article - Tax - General
17 Section 10-218
18 Annotated Code of Maryland
19 (1997 Replacement Volume and 2000 Supplement)

20 BY adding to
21 Article - Tax - General
22 Section 10-722
23 Annotated Code of Maryland
24 (1997 Replacement Volume and 2000 Supplement)

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

3 **Article - Tax - General**

4 10-218.

5 (a) Only an individual who itemizes deductions on the individual's federal
6 income tax return may elect to itemize deductions on the individual's income tax
7 return.

8 (b) An individual who elects to itemize deductions is allowed as a deduction
9 the sum of the individual's federal itemized deductions:

10 (1) limited and reduced as required under the Internal Revenue Code;
11 [and]

12 (2) FURTHER REDUCED BY ANY AMOUNT DEDUCTED UNDER § 170 OF
13 THE INTERNAL REVENUE CODE FOR CONTRIBUTIONS OF A PRESERVATION OR
14 CONSERVATION EASEMENT FOR WHICH A CREDIT IS CLAIMED UNDER § 10-722 OF
15 THIS TITLE; AND

16 [(2)] (3) further reduced by the amount claimed as taxes on income paid
17 to a state or political subdivision of a state, after subtracting a pro rata portion of the
18 reduction to itemized deductions required under § 68 of the Internal Revenue Code.

19 10-722.

20 (A) (1) AN INDIVIDUAL MAY CLAIM A CREDIT AGAINST THE STATE INCOME
21 TAX AS PROVIDED IN THIS SECTION FOR AN EASEMENT CONVEYED TO THE
22 MARYLAND ENVIRONMENTAL TRUST OR THE MARYLAND AGRICULTURAL LAND
23 PRESERVATION FOUNDATION FOR THE PURPOSE OF PRESERVING OPEN SPACE,
24 NATURAL RESOURCES, AGRICULTURE, FOREST LAND, WATERSHEDS, SIGNIFICANT
25 ECOSYSTEMS, VIEWSHEDS, OR HISTORIC PROPERTIES, IF:

26 (I) THE EASEMENT IS PERPETUAL; AND

27 (II) THE EASEMENT IS ACCEPTED AND APPROVED BY THE BOARD
28 OF PUBLIC WORKS.

29 (2) SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION, THE CREDIT
30 UNDER THIS SECTION SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE
31 DONATION IS APPROVED BY THE BOARD OF PUBLIC WORKS.

32 (B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE AMOUNT
33 OF THE CREDIT ALLOWED UNDER THIS SECTION IS THE AMOUNT BY WHICH THE
34 FAIR MARKET VALUE OF THE PROPERTY BEFORE THE CONVEYANCE OF THE
35 EASEMENT EXCEEDS THE FAIR MARKET VALUE OF THE PROPERTY AFTER THE
36 CONVEYANCE OF THE EASEMENT.

1 (2) THE FAIR MARKET VALUE OF THE PROPERTY BEFORE AND AFTER
2 THE CONVEYANCE OF THE EASEMENT SHALL BE SUBSTANTIATED BY AN APPRAISAL
3 PREPARED BY A CERTIFIED REAL ESTATE APPRAISER, AS DEFINED UNDER § 16-101
4 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

5 (3) THE AMOUNT OF THE CREDIT SHALL BE REDUCED BY THE AMOUNT
6 OF ANY PAYMENT RECEIVED FOR THE EASEMENT.

7 (C) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS
8 SECTION MAY NOT EXCEED THE LESSER OF:

9 (I) THE STATE INCOME TAX FOR THAT TAXABLE YEAR; OR

10 (II) \$5,000.

11 (2) IF THE CREDIT OTHERWISE ALLOWABLE UNDER SUBSECTION (B) OF
12 THIS SECTION EXCEEDS THE LIMIT UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN
13 INDIVIDUAL MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX
14 FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

15 (I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

16 (II) THE EXPIRATION OF THE 15TH TAXABLE YEAR AFTER THE
17 TAXABLE YEAR IN WHICH THE DONATION WAS APPROVED BY THE BOARD OF PUBLIC
18 WORKS.

19 (3) FOR EACH TAXABLE YEAR, THE AMOUNT CARRIED FORWARD TO THE
20 TAXABLE YEAR UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT EXCEED THE
21 LIMIT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

22 (D) THE CREDIT UNDER THIS SECTION MAY NOT BE CLAIMED FOR A
23 REQUIRED DEDICATION OF OPEN SPACE FOR THE PURPOSE OF FULFILLING DENSITY
24 REQUIREMENTS TO OBTAIN A SUBDIVISION OR BUILDING PERMIT.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 July 1, 2001 and shall be applicable to all taxable years beginning after December 31,
27 2000.