

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE
Revised

Senate Bill 459 (Senator Middleton, *et al.*)

Budget and Taxation

Ways and Means

Income Tax - Credit for Preservation and Conservation Easements

This bill allows an individual to take a credit against the State income tax for the conveyance of an easement in land to the Maryland Environmental Trust (MET) or the Maryland Agricultural Land Preservation Foundation (MALPF) for the purpose of preserving open space, natural resources, agriculture, forest land, watersheds, significant ecosystems, viewsheds, or historic properties if: (1) the easement is perpetual; and (2) the easement is accepted and approved by the Board of Public Works.

The bill takes effect July 1, 2001 and applies to all taxable years beginning after December 31, 2000.

Fiscal Summary

State Effect: General fund revenue reduction of approximately \$171,400 in FY 2002. Future years reflect current year credits as well as carry forward credits. No effect on expenditures.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF Revenue	(\$171,400)	(\$342,700)	(\$514,000)	(\$685,400)	(\$856,800)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$171,400)	(\$342,700)	(\$514,000)	(\$685,400)	(\$856,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government revenues would increase because individuals who donate an easement are required to reduce their itemized deductions by the amount of any contributions to a preservation or conservation easement.

Small Business Effect: Potential meaningful. Farmers who operate farms that would qualify as small businesses could realize reduced income tax liabilities if they transfer an easement pursuant to the bill.

Analysis

Bill Summary: The amount of the credit allowed under this section is the amount by which the fair market value of the property before the conveyance of the easement exceeds the fair market value of the property after the conveyance of the easement. The fair market value of the property before and after the conveyance of the easement shall be substantiated by an appraisal conducted by a certified real estate appraiser. The amount of the credit shall be reduced by the amount of any payment received for the easement. The amount of the credit allowed for any taxable year may not exceed the lesser of: (1) the State income tax; or (2) \$5,000. Any unused credit may be carried forward for up to 15 years, but may not exceed the lesser of the State tax or \$5,000 in any taxable year.

The credit may not be claimed for a required dedication of open space for the purpose of fulfilling density requirements to obtain a subdivision or building permit.

Current Law: No income tax credit of this type exists under the Maryland income tax.

Background: Chapter 883 of 1997 created the Maryland Agricultural Land Preservation Foundation to preserve agricultural land and woodland in the State, provide for the continued production of food and fiber, curb the expansion of urban development, and protect agricultural land and woodland as open space. Agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural or woodland use for a minimum of five years. Landowners who agree to place their farms within a district may sell a development rights easement on that property to the State.

Chapter 634 of 2000, created a task force to study the Maryland Agricultural Land Preservation Foundation. The task force is required to: (1) study the current program and practices of the foundation; (2) study the financial standing of the foundation; (3) review and make recommendations on legislation affecting the foundation considered by the General Assembly in the 2000 session; and (4) make recommendations to improve the program, practices, and financial standing of the foundation.

In its 2000 interim report, the task force recommended legislation to grant State income tax credits for donated easements or the portion of easement value donated when an easement is sold at less than full market value. The legislation seeks to create an incentive for the donation of easements to State agencies. According to the task force, similar tax

credits have increased the rate of easement donation in Colorado, Virginia, and North Carolina.

State Fiscal Effect: General fund revenues would decrease by approximately \$171,360 in fiscal 2002 based on the following facts and assumptions.

- MET will receive 45 easements annually beginning in fiscal 2002; the average credit per easement would be approximately \$3,340 per year.
- MALPF will receive ten easements annually beginning in fiscal 2002; the average credit per easement would be approximately \$1,400 per year.
- Local Purchase of Development Rights programs will receive five easements annually beginning in fiscal 2002; the average credit would be approximately \$1,400 per year.

Future years reflect current year credit amounts as well as carry forward amounts.

State revenues could increase to the extent that the bill results in increased transfers and as a result, agricultural transfer tax collections increase. This effect cannot be reliably estimated.

Local Fiscal Effect: Local government revenues would increase because individuals who donate a preservation or conservation easement are required to reduce their itemized deductions by the amount of the easement. This amount cannot be quantified as it depends on the fair market values, sales prices, and bases for the properties transferred.

Additional Information

Prior Introductions: None.

Cross File: HB 681 (Delegates W. Baker and Stocksdale) – Ways and Means.

Information Source(s): Comptroller of the Treasury (Bureau of Revenue Estimates), Task Force to Study the Maryland Agricultural Land Preservation Foundation, Maryland Agricultural Land Preservation Foundation, Department of Legislative Services

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Analysis by: Michael Sanelli

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510