
By: **Delegates V. Clagett and Jennings**
Introduced and read first time: February 9, 2004
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Property Tax and Transfer and Recordation Taxes - Land Trusts - Credits**
3 **and Exemptions**

4 FOR the purpose of altering certain requirements for certain conservation land to
5 qualify for a certain tax credit against the State and local property tax; altering
6 certain requirements for exemptions from recordation and transfer taxes for
7 instruments of writing conveying certain interests in property to certain land
8 trusts under certain circumstances; and generally relating to conservation
9 property owned by land trusts and the transfer of conservation easements and
10 fee simple interests to land trusts.

11 BY repealing and reenacting, with amendments,
12 Article - Tax - Property
13 Section 9-107, 9-220, and 12-108(cc)
14 Annotated Code of Maryland
15 (2001 Replacement Volume and 2003 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - Tax - Property
18 Section 13-207(a)(21) and 13-410
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2003 Supplement)

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

23 **Article - Tax - Property**

24 9-107.

25 (a) In this section, "conservation property" means land that is:

- 26 (1) unimproved;
- 27 (2) not used for commercial purposes; and

1 (3) subject to a perpetual conservation easement that is:

2 (i) donated to the DEPARTMENT OF NATURAL RESOURCES OR THE
3 Maryland Environmental Trust and identifies the DEPARTMENT OF NATURAL
4 RESOURCES OR THE MARYLAND ENVIRONMENTAL Trust as a grantee under Title 3,
5 Subtitle 2 of the Natural Resources Article; and

6 (ii) accepted and approved by the Board of Public Works after June
7 30, 1986.

8 (b) There shall be a property tax credit granted under this section against the
9 property tax imposed on conservation property.

10 (c) On or before October 1 of the taxable year for which property tax relief
11 under this section is sought, an owner of conservation property may apply to the
12 Department for the property tax credit. The application shall be made on the form
13 that the Department provides.

14 (d) The property tax credit provided under this section shall be granted
15 against 100% of all property tax that otherwise would be due.

16 (e) Valuation and assessment of conservation property shall be made in the
17 same manner as any other real property in the county.

18 (f) A property tax credit granted under this section is effective for 15
19 consecutive tax years beginning July 1 following the donation of the easement.

20 9-220.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) "Conservation land" means real property that is:

23 (i) subject to a perpetual conservation easement donated to a land
24 trust, THE DEPARTMENT OF NATURAL RESOURCES, or the Maryland Environmental
25 Trust on or after July 1, 1991;

26 (ii) 1. acquired by a land trust on or after July 1, 1991; AND
27 2. owned in fee by that land trust[; and
28 3. subject to a letter of intent, agreement, or option
29 agreement for the resale of the property to a government agency];

30 (iii) owned by the Potomac Conservancy; or

31 (iv) owned by the Western Shore Conservancy.

32 (3) "Land trust" means a qualified conservation organization as defined
33 in § 3-2A-01 of the Natural Resources Article.

1 (b) The Mayor and City Council of Baltimore City or the governing body of a
2 county or municipal corporation may grant, by law, a property tax credit against the
3 county or municipal corporation property tax imposed on conservation land or
4 property owned by a land trust that qualifies under subsection (d) of this section, that
5 is used:

6 (1) to assist in the preservation of a natural area;

7 (2) for the environmental education of the public;

8 (3) generally to promote conservation; [or]

9 (4) for the maintenance of:

10 (i) a natural area for public use; or

11 (ii) a sanctuary for wildlife; OR

12 (5) TO CONSERVE AGRICULTURAL LAND AND TO PROMOTE CONTINUED
13 AGRICULTURAL USE OF THE LAND.

14 (c) The Mayor and City Council of Baltimore City or the governing body of a
15 county or municipal corporation may provide, by law, for:

16 (1) the amount and duration of the property tax credit under this section;
17 and

18 (2) any other provision necessary to carry out the property tax credit
19 under this section.

20 (d) To qualify for a property tax credit under this section, a land trust shall:

21 (1) be certified by the Maryland Environmental Trust to be a land trust
22 in good standing and to have a cooperative agreement in effect; and

23 (2) obtain a written certification every 5 years beginning July 1, 1998, or
24 as scheduled by the Maryland Environmental Trust.

25 12-108.

26 (cc) (1) (i) In this subsection the following words have the meanings
27 indicated.

28 (ii) "Land trust" means a qualified conservation organization that:

29 1. is a qualified organization under § 170(h)(3) of the
30 Internal Revenue Code and regulations adopted under that section; and

31 2. has executed a cooperative agreement with the Maryland
32 Environmental Trust.

1 (iii) "Conservation easement" means a restriction prohibiting or
2 limiting the use of water or land areas, or any improvement or appurtenance thereto,
3 described in § 2-118 of the Real Property Article.

4 (2) An instrument of writing conveying or assigning a conservation
5 easement to [both] a land trust [and the United States, the State, an agency of the
6 State, or a political subdivision of the State] is not subject to recordation tax.

7 (3) An instrument of writing conveying [a conservation easement or] fee
8 simple title to a land trust is not subject to recordation tax if the land trust files a
9 declaration of intent [to convey its conservation easement or fee simple title to the
10 United States, the State, an agency of the State, or a political subdivision of the State
11 within 18 months of the date of the declaration] THAT THE LAND WILL BE USED:

12 (I) TO ASSIST IN THE PRESERVATION OF A NATURAL AREA;

13 (II) FOR THE ENVIRONMENTAL EDUCATION OF THE PUBLIC;

14 (III) TO CONSERVE AGRICULTURAL LAND AND TO PROMOTE
15 CONTINUED AGRICULTURAL USE OF THE LAND;

16 (IV) GENERALLY TO PROMOTE CONSERVATION; OR

17 (V) FOR THE MAINTENANCE OF A NATURAL AREA FOR PUBLIC USE
18 OR A SANCTUARY FOR WILDLIFE.

19 13-207.

20 (a) An instrument of writing is not subject to transfer tax to the same extent
21 that it is not subject to recordation tax under:

22 (21) § 12-108(cc) of this article (Certain transfers to land trusts).

23 13-410.

24 An instrument of writing that is exempt from recordation tax under § 12-108(cc)
25 of this article (Certain transfers to land trusts) is not subject to the county transfer
26 tax.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2004.