

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 820
Ways and Means

(Delegates V. Clagett and Jennings)

Budget and Taxation

Property Tax and Transfer and Recordation Taxes - Land Trusts - Credits and Exemptions

This bill grants a 15-year State and local property tax credit for property subject to a perpetual conservation easement that is donated to the Department of Natural Resources (DNR) and identifies DNR as a grantee. The bill also authorizes a local tax credit on property owned by a land trust which is used to conserve agricultural land and promote continued agricultural use. In addition, the bill exempts the transfer of conservation easements and fee simple interests from recordation and transfer taxes if the transfer to a land trust and the land is used: to preserve a natural area; for environmental education of the public; for agricultural preservation; for conservation; or for maintenance of a natural area for public use or wildlife sanctuary.

The bill takes effect July 1, 2004.

Fiscal Summary

State Effect: General and special fund revenue decrease beginning in FY 2005. The decrease depends on the number of conservation easements donated to DNR and the number of specified land transfers that could occur each year. The resulting revenue decrease is not expected to be significant.

Local Effect: Local government revenue decrease. The amount of the decrease depends on enactment of a local property tax credit and the number of specified land transfers that could occur each year.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 64 of 2002 provided exemptions from recordation and transfer taxes on the transfer of a conservation easement co-held by a land trust and governmental entity and on the transfer of a fee simple title to a land trust, if the trust files a declaration of intent to convey the title to a governmental entity within 18 months of the declaration.

Conservation easements donated to the Maryland Environmental Trust (MET) are granted a 15-year property tax credit equal to 100% of property taxes imposed.

The State transfer tax rate is 0.5% of the consideration payable for an instrument of writing conveying title to, or a leasehold interest in, real property (0.25% for first-time Maryland home buyers). The tax is collected by the clerks of the circuit court and transferred to the Comptroller of the Treasury.

Background: Conservation easements limit land to specific uses and protect it from development. These voluntary legal agreements are created between private landowners and land trusts, conservation organizations, or government agencies. A land trust is a private, tax-exempt, nonprofit corporation that seeks to preserve land through land acquisition or land donations.

MET is a statewide local land trust governed by a citizen board of trustees. MET works with over 40 private nonprofit land trusts. These land trusts can hold conservation easements independently or jointly with MET. In addition, some of these land trusts acquire and manage land.

State Fiscal Effect: The 15-year tax credit and the exemption from State transfer taxes could decrease both general and special fund revenues. The amount of any general fund and special fund revenue decrease depends on the number of conservation easements donated to DNR, the value of the easement transferred, and the number of conservation easements and fee simple interests transferred to a land trust.

State property tax revenues are dedicated to the Annuity Bond Fund to pay debt service on State issued bonds. Any decrease in State property taxes could affect the State's ability to pay debt service on bonds and could necessitate an increase in the State property tax rate. Conservation land is valued at \$1,000 per acre. As a result, a credit against the State property tax would reduce special fund revenues by \$1.32 per acre for each acre donated.

The Budget Reconciliation and Financing Act of 2003 diverted 50% of transfer tax revenues to the general fund for fiscal 2005. The proposed Budget Reconciliation and Financing Act of 2004 seeks to transfer \$41.8 million resulting from overattainment in

fiscal 2004 and an additional \$70.3 million to the general fund for fiscal 2005. As a result, any transfer tax exemptions would reduce general fund and special fund revenues.

Recordation tax exemptions would also reduce special fund revenues. The amount of the decrease depends on the number of land transfers that occur.

It is not anticipated that the bill would result in a significant revenue decrease. DNR does not expect many easements to be donated to them. Also, some of the transactions that could be affected by the bill, including easements co-held with governmental entities, acquisitions that support forestry, and fee acquisitions that are ultimately transferred to the State, are already exempt from the taxes.

Local Fiscal Effect: The 15-year tax credit, local option tax credit, and the exemption from local recordation and transfer taxes could decrease local revenues. The amount of the local revenue decrease depends on the number of counties enacting the local credit, the number of conservation easements donated to DNR, the value of the easement transferred, and the number of conservation easements and fee simple interests transferred to a land trusts.

Conservation land is value at \$1,000 per acre. As a result, a credit against local property tax would reduce special fund revenues by \$10.00 per acre for each acre donated, assuming an average local tax rate of \$1.00.

Transfer and recordation tax exemptions would also reduce local government revenues. The amount of the decrease depends on the number of land transfers that occur.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Department of Natural Resources, Department of Legislative Services

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