
By: **Delegate James**

Introduced and read first time: February 3, 2005

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of repealing a certain limit on the amount of a certain credit against
5 the State income tax for preservation and conservation easements; making
6 certain tax credits for preservation and conservation easements refundable
7 under certain circumstances; providing for the application of this Act; and
8 generally relating to a certain credit against the State income tax for
9 preservation and conservation easements.

10 BY repealing and reenacting, with amendments,

11 Article - Tax - General

12 Section 10-723

13 Annotated Code of Maryland

14 (2004 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Tax - General**

18 10-723.

19 (a) (1) An individual may claim a credit against the State income tax as
20 provided in this section for an easement conveyed to the Maryland Environmental
21 Trust or the Maryland Agricultural Land Preservation Foundation for the purpose of
22 preserving open space, natural resources, agriculture, forest land, watersheds,
23 significant ecosystems, viewsheds, or historic properties, if:

24 (i) the easement is perpetual; and

25 (ii) the easement is accepted and approved by the Board of Public

26 Works.

1 (2) Subject to subsection (c)(2) of this section, the credit under this
2 section shall be allowed for the taxable year in which the donation is approved by the
3 Board of Public Works.

4 (b) (1) Except as otherwise provided in this section, the amount of the credit
5 allowed under this section is the amount by which the fair market value of the
6 property before the conveyance of the easement exceeds the fair market value of the
7 property after the conveyance of the easement.

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

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

14 (c) (1) (I) For any taxable year, the credit allowed under this section may
15 not exceed [the lesser of:

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

17 (ii)] \$5,000.

18 (II) SUBJECT TO THE LIMIT UNDER SUBPARAGRAPH (I) OF THIS
19 PARAGRAPH, IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
20 YEAR EXCEEDS THE STATE INCOME TAX PAYABLE BY THE INDIVIDUAL FOR THAT
21 TAXABLE YEAR, THE INDIVIDUAL MAY CLAIM A REFUND IN THE AMOUNT OF THE
22 EXCESS.

23 (2) If the credit otherwise allowable under subsection (b) of this section
24 exceeds the limit under paragraph (1) of this subsection, an individual may apply the
25 excess as a credit against the State income tax for succeeding taxable years until the
26 earlier of:

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

28 (ii) the expiration of the 15th taxable year after the taxable year in
29 which the donation was approved by the Board of Public Works.

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

33 (d) The credit under this section may not be claimed for a required dedication
34 of open space for the purpose of fulfilling density requirements to obtain a subdivision
35 or building permit.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect July 1, 2005, and shall be applicable to taxable years beginning after December
3 31, 2004.