
By: **Senators Dyson and Forehand**
Introduced and read first time: January 28, 2005
Assigned to: Budget and Taxation

Committee Report: Favorable
Senate action: Adopted
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CHAPTER_____

1 AN ACT concerning

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

4 FOR the purpose of authorizing the governing body of a county to permit, by local law
5 or ordinance, a certain credit to be claimed against the county income tax for
6 preservation and conservation easements; authorizing a county governing body
7 to determine the amount of the credit and to place any limitations determined to
8 be appropriate on the credit; requiring a county that adopts a certain credit
9 against the county income tax to notify the Comptroller by a certain date prior
10 to the taxable year in which the credit is applicable; and generally relating to
11 authorizing a county to permit a certain credit to be claimed against the county
12 income tax for preservation and conservation easements.

13 BY repealing and reenacting, with amendments,
14 Article - Tax - General
15 Section 10-723
16 Annotated Code of Maryland
17 (2004 Replacement Volume)

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

20 **Article - Tax - General**

21 10-723.

22 (a) (1) [An] SUBJECT TO THE PROVISIONS OF THIS SECTION, AN individual
23 may claim a credit against the State income tax [as provided in this section] AND

1 AGAINST THE COUNTY INCOME TAX for an easement conveyed to the Maryland
2 Environmental Trust or the Maryland Agricultural Land Preservation Foundation for
3 the purpose of preserving open space, natural resources, agriculture, forest land,
4 watersheds, significant ecosystems, viewsheds, or historic properties, if:

5 (i) the easement is perpetual; and

6 (ii) the easement is accepted and approved by the Board of Public
7 Works.

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

11 (b) (1) Except as otherwise provided in this section, the amount of the credit
12 allowed under this section is the amount by which the fair market value of the
13 property before the conveyance of the easement exceeds the fair market value of the
14 property after the conveyance of the easement.

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

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

21 (c) (1) For any taxable year, the credit allowed under this section may not
22 exceed the lesser of:

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

24 (ii) \$5,000.

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

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

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

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

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

4 (E) (1) (I) A CREDIT MAY NOT BE CLAIMED UNDER THIS SECTION
5 AGAINST THE COUNTY INCOME TAX UNLESS THE GOVERNING BODY OF A COUNTY
6 HAS AUTHORIZED, BY LOCAL LAW OR ORDINANCE, A CREDIT AGAINST THE COUNTY
7 INCOME TAX AS PROVIDED IN THIS SUBSECTION.

8 (II) A COUNTY GOVERNING BODY MAY DETERMINE THE AMOUNT
9 OF A CREDIT AND MAY PLACE ANY ADDITIONAL LIMITATIONS THAT THE COUNTY
10 GOVERNING BODY DETERMINES ARE APPROPRIATE ON THE CREDIT AUTHORIZED
11 AGAINST THE COUNTY INCOME TAX UNDER THIS SUBSECTION.

12 (2) IF A COUNTY PROVIDES FOR A CREDIT AGAINST THE COUNTY
13 INCOME TAX UNDER THIS SECTION, ON OR BEFORE JULY 1 PRIOR TO THE BEGINNING
14 OF THE FIRST TAXABLE YEAR FOR WHICH IT IS APPLICABLE, THE COUNTY SHALL
15 GIVE THE COMPTROLLER NOTICE OF THE COUNTY CREDIT.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 June 1, 2005.