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By: **Senators Dyson, Currie, Hogan, Lawlah, and Munson**

Introduced and read first time: January 30, 2006

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 21, 2006

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

14 BY repealing and reenacting, with amendments,  
15 Article - Tax - General  
16 Section 10-723  
17 Annotated Code of Maryland  
18 (2004 Replacement Volume and 2005 Supplement)

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

1 **Article - Tax - General**

2 10-723.

3 (a) (1) [An] SUBJECT TO THE PROVISIONS OF THIS SECTION, AN individual  
4 may claim a credit against the State income tax [as provided in this section] AND  
5 AGAINST THE COUNTY INCOME TAX for an easement conveyed to the Maryland  
6 Environmental Trust or the Maryland Agricultural Land Preservation Foundation for  
7 the purpose of preserving open space, natural resources, agriculture, forest land,  
8 watersheds, significant ecosystems, viewsheds, or historic properties, if:

9 (i) the easement is perpetual; and

10 (ii) the easement is accepted and approved by the Board of Public  
11 Works.

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

15 (b) (1) Except as otherwise provided in this section, the amount of the credit  
16 allowed under this section is the amount by which the fair market value of the  
17 property before the conveyance of the easement exceeds the fair market value of the  
18 property after the conveyance of the easement.

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

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

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

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

28 (ii) \$5,000.

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

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

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

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

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

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

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

15                   (III)       IN ADDITION TO THE EASEMENTS FOR WHICH A STATE INCOME  
16 TAX CREDIT IS ALLOWED UNDER THIS SECTION, A COUNTY MAY PROVIDE FOR A  
17 CREDIT AGAINST THE COUNTY INCOME TAX FOR AN EASEMENT CONVEYED TO THE  
18 DEPARTMENT OF NATURAL RESOURCES THAT IS DONATED IN FULL UNDER THE  
19 RURAL LEGACY PROGRAM OR PROGRAM OPEN SPACE.

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

24       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 June 1, 2006.