

Department of Legislative Services  
 Maryland General Assembly  
 2006 Session

**FISCAL AND POLICY NOTE**

House Bill 1423  
 Ways and Means

(Delegate James)

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

This bill expands the existing Preservation and Conservation Easement tax credit by making the credit refundable. The amount of refundable credit claimed in each year cannot exceed \$5,000. Any excess amount of credit can be carried forward as provided under current law.

The bill takes effect July 1, 2006 and applies to tax years 2006 and beyond.

**Fiscal Summary**

**State Effect:** General fund revenues could decrease by approximately \$1.2 million in FY 2007. Future revenue losses reflect estimated number of taxpayers claiming the credit. General fund expenditures would increase by approximately \$32,900 in FY 2007 due to one-time tax form changes and computer expenses.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	(\$1,227,800)	(\$1,379,700)	(\$1,531,700)	(\$1,683,600)	(\$1,835,600)
GF Expenditure	32,900	0	0	0	0
Net Effect	(\$1,260,700)	(\$1,379,700)	(\$1,531,700)	(\$1,683,600)	(\$1,835,600)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Meaningful.

## Analysis

**Current Law:** Chapter 676 of 2001 established the Preservation and Conservation Easement tax credit. The amount of the credit allowed is the amount by which the fair market value of the property before the conveyance of the easement exceeds the fair market value of the property after the conveyance of the easement. The fair market value of the property before and after the conveyance of the easement is substantiated by an appraisal prepared by a certified real estate appraiser. The amount of the credit is reduced by the amount of any payment received for the easement. The amount of the credit allowed for any taxable year may not exceed the lesser of: (1) the State income tax liability; or (2) \$5,000. Any unused credit may be carried forward for up to 15 years, but may not exceed the lesser of the State tax or \$5,000 in any taxable year. The credit may not be claimed for a required dedication of open space for the purpose of fulfilling density requirements to obtain a subdivision or building permit.

**Background:** The purpose of the Maryland Agricultural Land Preservation Program, established in 1977 and administered by Maryland Agricultural Land Preservation Foundation (MALPF), is to preserve wood and agricultural land in order to provide sources of agricultural products within the State; control the urban expansion which is encroaching upon the wood and agricultural land of the State; curb the spread of urban blight and deterioration; and protect agricultural land and woodland as open space land. Through July 2005, the program has preserved 241,475 acres. Funding for the program has typically come from the agricultural transfer tax imposed on all transfers of title in agricultural land taken out of production, a portion of the State transfer tax, Greenprint funds, and federal funds.

The Maryland Environmental Trust (MET), which was established by the General Assembly in 1967, is a statewide local land trust governed by a citizen board of trustees. MET works with over 50 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. As of January 1, 2006, the program has preserved 111,349 acres. Land is preserved either by outright donations or purchases of easements. MET does not typically purchase easements, but acts as a conduit for the Rural Legacy Program and the Transportation Enhancement Program within the State Highway Administration.

**Exhibit 1** lists the amount of credits claimed since the inception of the tax credit. An average of \$1,960 of the maximum \$5,000 was claimed per return in tax year 2001 through 2004. If every taxpayer would have claimed the entire \$5,000 credit in tax year 2004, approximately \$1.5 million would have been claimed or \$894,356 more than under current law.

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**Exhibit 1**  
**Tax Credit for Preservation and Conservation Easements**  
**Credits Claimed in Tax Year 2001 through 2004**

	<u>Taxpayers</u>	<u>Amount Claimed</u>	<u>Average Credit</u>
2001	151	\$189,620	\$1,256
2002	172	384,286	1,708
2003	225	471,161	2,094
2004	304	625,644	2,058

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**Exhibit 2** lists the number and amount of acres donated or sold via MET in tax years 2001 through 2005. **Exhibit 3** lists the actual number of individuals who sold easements to MALPF in fiscal 2001 through 2005 and the estimated number for fiscal 2006 through 2007. Of the 122 properties that sold easements to MALPF in fiscal 2003, MALPF estimates that 119 properties offered a discount and are eligible for the tax credit. The average discount per property was \$106,192.

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**Exhibit 2**  
**MET Easement Purchases and Donations**  
**Tax Years 2001 through 2005**

<u>Tax Year</u>	<u>Donations:</u>		<u>Purchases:</u>	
	<u>Properties</u>	<u>Acres</u>	<u>Properties</u>	<u>Acres</u>
2001	31	2,940	33	5,540
2002	52	4,029	48	8,639
2003	38	3,223	6	1,147
2004	29	2,525	2	36
2005	43	2,492	1	24

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**Exhibit 3**  
**MALPF Easement Purchases**  
**Fiscal 2001 through 2007**

<u>Fiscal Year</u>	<u>Properties</u>	<u>Acres</u>
2001	99	13,790
2002	158	19,549
2003	122	15,436
2004	18	1,922
2005	60	17,105
2006*	120	14,000
2007*	185	33,939

\* Estimated

Source: 2005, 2006, 2007 Budget Books

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**State Revenues:** The bill provides that tax credits are refundable beginning with tax year 2006. As a result, general fund revenues could decrease by approximately \$1.2 million in fiscal 2007. This estimate is based on the following facts and assumptions.

- In tax year 2004, 304 tax returns claimed the credit.
- The average amount claimed from tax year 2001 to 2004 was \$1,961.
- Fifty additional taxpayers claim the credit annually in tax year 2005 and beyond.
- Of the 119 MALPF properties that offered a discount in fiscal 2003, the average discount per property was \$106,192.
- A property must be at least 50 acres in size in order to qualify for the MALPF program.

**State Expenditures:** The Comptroller's Office reports that it would incur a one-time expenditure increase of \$32,850 in fiscal 2007 to move the credit to the 502CR form used for refundable credits. This includes data processing changes to the SMART income tax return processing and imaging systems, and system testing.

**Small Business Effect:** Many farmers are small businesses. These small businesses who claim the tax credit will receive additional benefit if the credit is made refundable. Based

on the average amounts claimed in tax years 2001 through 2004, a typical small business claiming the credit could benefit by an additional \$3,000 annually.

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### **Additional Information**

**Prior Introductions:** This bill was introduced in the 2005 session as SB 294/HB 532. SB 294 was not reported from the Senate Budget and Taxation Committee. HB 532 received an unfavorable report from the House Ways and Means Committee.

**Cross File:** None designated, although SB 337 is identical.

**Information Source(s):** Comptroller's Office, Maryland Agricultural Land Preservation Foundation, Maryland Environmental Trust, Department of Legislative Services

**Fiscal Note History:** First Reader - March 8, 2006  
ncs/hlb

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