

HOUSE BILL 187

N2

71r1370

By: **Delegate Rosenberg**

Introduced and read first time: January 26, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Conservation Easement – Governing Instrument**

3 FOR the purpose of clarifying that certain persons may donate a conservation
4 easement on real property if certain governing instruments authorize the
5 donation; providing for the application of this Act; and generally relating to
6 donation of conservation easements on real property.

7 BY repealing and reenacting, with amendments,
8 Article – Estates and Trusts
9 Section 7–401(dd), 14–111(b), and 15–102(aa)
10 Annotated Code of Maryland
11 (2001 Replacement Volume and 2006 Supplement)

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

14 **Article – Estates and Trusts**

15 7–401.

16 (dd) A personal representative may donate a conservation easement on any
17 real property in order to obtain the benefit of the estate tax exclusion allowed under §
18 2031(c) of the United States Internal Revenue Code of 1986, as amended, if:

19 (1) The will **AUTHORIZES OR** directs the personal representative to
20 donate a conservation easement on the real property; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Each interested person who has an interest in the real property
2 that would be affected by the conservation easement consents in writing to the
3 donation.

4 14–111.

5 (b) A trustee may donate a conservation easement on any real property, or
6 consent to the donation of a conservation easement on any real property by a personal
7 representative of an estate of which the trustee is a legatee, in order to obtain the
8 benefit of the estate tax exclusion allowed under § 2031(c) of the United States
9 Internal Revenue Code of 1986, as amended, if:

10 (1) The governing instrument **AUTHORIZES OR** directs the donation of
11 a conservation easement on the real property; or

12 (2) Each beneficiary who has an interest in the real property that
13 would be affected by the conservation easement consents in writing to the donation.

14 15–102.

15 (aa) A fiduciary may donate a conservation easement on any real property, or
16 consent to the donation of a conservation easement on any real property by a personal
17 representative of an estate of which the fiduciary is a legatee, in order to obtain the
18 benefit of the estate tax exclusion allowed under § 2031(c) of the United States
19 Internal Revenue Code of 1986, as amended, if:

20 (1) The governing instrument **AUTHORIZES OR** directs the donation of
21 a conservation easement on the real property; or

22 (2) Each beneficiary who has an interest in the real property that
23 would be affected by the conservation easement consents in writing to the donation.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
25 construed to apply retroactively and shall be applied to and interpreted to apply to the
26 donation of a conservation easement from an estate of a decedent who died on or after
27 January 1, 1998.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2007.