

HOUSE BILL 187

N2

71r1370

By: **Delegate Rosenberg**

Introduced and read first time: January 26, 2007

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 13, 2007

CHAPTER _____

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 for a certain purpose if certain governing
5 instruments authorize the donation; clarifying that a certain trustee or
6 fiduciary may consent to a donation of a conservation easement on real property
7 by a personal representative for a certain purpose if the governing instrument
8 authorizes the donation; providing for the application of this Act; and generally
9 relating to donation of conservation easements on real property.

10 BY repealing and reenacting, with amendments,

11 Article – Estates and Trusts

12 Section 7–401(dd), 14–111(b), and 15–102(aa)

13 Annotated Code of Maryland

14 (2001 Replacement Volume and 2006 Supplement)

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

17 **Article – Estates and Trusts**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 7-401.

2 (dd) A personal representative may donate a conservation easement on any
3 real property in order to obtain the benefit of the estate tax exclusion allowed under §
4 2031(c) of the United States Internal Revenue Code of 1986, as amended, if:

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

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

10 14-111.

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

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

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

20 15-102.

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.