

CHAPTER 19

(House Bill 187)

AN ACT concerning

Estates and Trusts – Conservation Easement – Governing Instrument

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

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

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

Article – Estates and Trusts

7–401.

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

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

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

14–111.

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

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

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

15-102.

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

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

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

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

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

Approved by the Governor, April 10, 2007.