

SENATE BILL 783

Q7

1lr2173

By: **Senator Middleton**

Introduced and read first time: February 4, 2011

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Estate Tax – Qualified Agricultural Property – Forest Banking Operations**

3 FOR the purpose of altering the definition of “qualified agricultural property” under a
4 certain alternative payment schedule allowed under the Maryland estate tax to
5 include property operated by certain forest banking operations; defining a
6 certain term; requiring the Comptroller to adopt certain regulations; providing
7 for the application of this Act; and generally relating to a certain alternative
8 payment schedule allowed under the Maryland estate tax for certain qualified
9 agricultural property.

10 BY repealing and reenacting, with amendments,

11 Article – Tax – General

12 Section 7–307(e)

13 Annotated Code of Maryland

14 (2010 Replacement Volume)

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

17 **Article – Tax – General**

18 7–307.

19 (e) (1) (i) In this subsection the following words have the meanings
20 indicated.

21 (ii) “Farming purposes” has the meaning stated in § 2032A(e)(5)
22 of the Internal Revenue Code.

23 (iii) **“FOREST BANKING OPERATION” MEANS AN ENTITY**
24 **THAT DETERMINES THE METHOD, TIMING, AND INTENSITY OF HARVESTING AND**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 REPLANTING FOR ALL LANDS THAT ENROLL WITH THE ENTITY IN EXCHANGE
2 FOR AN ANNUAL PAYMENT.

3 [(iii)] (IV) 1. “Qualified agricultural property” means real or
4 personal property that is used primarily for farming purposes.

5 2. “QUALIFIED AGRICULTURAL PROPERTY”
6 INCLUDES PROPERTY OPERATED BY A FOREST BANKING OPERATION, WHETHER
7 OR NOT THE OWNER OF THE LAND MATERIALLY PARTICIPATES IN THE ACTIVE
8 USE OF THE LAND, WITHIN THE MEANING OF § 2032A OF THE INTERNAL
9 REVENUE CODE AND REGULATIONS ADOPTED UNDER THAT SECTION.

10 [(iv)] (V) “Qualified recipient” means an individual who enters
11 into an agreement to use qualified agricultural property for farming purposes after the
12 decedent’s death.

13 (2) Subject to the provisions of this subsection, on application of the
14 person responsible for paying the Maryland estate tax, the Comptroller shall allow a
15 payment deferral for up to 3 years from the due date specified in § 7–306 of this
16 subtitle for the Maryland estate tax imposed on qualified agricultural property that
17 passes from the decedent to or for the use of a qualified recipient.

18 (3) (i) Subject to subparagraph (ii) of this paragraph, the amount
19 of tax eligible for a payment deferral as provided under this subsection is the amount
20 determined by multiplying the Maryland estate tax by a fraction:

21 1. the numerator of which is the value of qualified
22 agricultural property that passes from the decedent to or for the use of a qualified
23 recipient; and

24 2. the denominator of which is the value of the gross
25 estate of the decedent.

26 (ii) The amount of tax deferred under this section may not
27 exceed \$375,000 as to any decedent.

28 (4) Notwithstanding a payment deferral under this subsection, the
29 Maryland estate tax on qualified agricultural property that passes from the decedent
30 to or for the use of a qualified recipient deferred under this section shall become due
31 immediately if the qualified recipient ceases to use the qualified agricultural property
32 for farming purposes before the tax is paid.

33 (5) Notwithstanding § 13–601(d) of this article, interest does not begin
34 on unpaid Maryland estate tax that is allowed a payment deferral under this
35 subsection until the tax is due under this subsection.

1 (6) If a payment deferral is allowed under this subsection, a qualified
2 recipient shall pay the deferred Maryland estate tax, without interest, in accordance
3 with a payment schedule prescribed by the Comptroller over a 3-year period
4 beginning in the 4th year after the due date.

5 (7) To be eligible for a payment deferral under this subsection, a
6 qualified recipient shall:

7 (i) file an application for the payment deferral and enter into
8 an agreement in a form specified by the Comptroller to use the qualified agricultural
9 property for farming purposes after the decedent's death; and

10 (ii) file periodic reports or allow periodic inspections as required
11 by the Comptroller to administer the provisions of this subsection.

12 **(8) THE COMPTROLLER SHALL ADOPT REGULATIONS NECESSARY**
13 **TO IMPLEMENT THIS SUBSECTION.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 July 1, 2011, and shall be applicable to decedents dying after December 31, 2010.