

HOUSE BILL 789

Q3

4lr2262
CF SB 709

By: **Delegates Stein, Cardin, Lafferty, and McIntosh**
Introduced and read first time: February 3, 2014
Assigned to: Ways and Means and Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit – Preservation and Conservation Easements**

3 FOR the purpose of altering certain provisions of law concerning a credit against the
4 State income tax for certain preservation and conservation easements to allow
5 an individual or a corporation that receives a certain tax credit certificate to
6 claim the credit for an easement conveyed to the Maryland Environmental
7 Trust, the Maryland Agricultural Land Preservation Foundation, the
8 Department of Natural Resources, or a certain land trust under certain
9 circumstances; requiring the Department to issue a certain tax credit certificate
10 under certain circumstances; specifying the contents of the certificate; setting a
11 limit on the total amount of approved tax credits; requiring the Department to
12 approve applications in a certain manner; altering the amount of credit allowed
13 under certain provisions of law; authorizing a taxpayer to claim a certain credit
14 against the Maryland estate tax under certain circumstances; authorizing a
15 taxpayer or grantor of the easement to transfer the credit under certain
16 circumstances; authorizing the Comptroller to assess and distribute a certain
17 fee on the transfer of the credit; requiring the Comptroller and the Department
18 jointly to adopt certain regulations; declaring the intent of the General
19 Assembly that the issuance of tax credit certificates in accordance with this Act
20 may not adversely impact the annual budgets of certain State agencies or
21 programs; defining certain terms; providing for the application of this Act; and
22 generally relating to a State income tax credit for certain preservation and
23 conservation easements.

24 BY repealing and reenacting, with amendments,
25 Article – Tax – General
26 Section 10–723
27 Annotated Code of Maryland
28 (2010 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Tax – General**

4 10–723.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) “DEPARTMENT” MEANS THE DEPARTMENT OF NATURAL
8 RESOURCES.

9 (3) “LAND TRUST” MEANS A QUALIFIED CONSERVATION
10 ORGANIZATION THAT:

11 (I) IS A QUALIFIED ORGANIZATION UNDER § 170(H)(3) OF
12 THE INTERNAL REVENUE CODE AND REGULATIONS ADOPTED UNDER §
13 170(H)(3); AND

14 (II) HAS EXECUTED A COOPERATIVE AGREEMENT WITH THE
15 MARYLAND ENVIRONMENTAL TRUST.

16 [(a)] (B) (1) An individual OR A CORPORATION THAT RECEIVES A TAX
17 CREDIT CERTIFICATE FROM THE DEPARTMENT may claim a credit against the
18 State income tax as provided in this section for an easement conveyed to the Maryland
19 Environmental Trust, [or] the Maryland Agricultural Land Preservation Foundation,
20 THE DEPARTMENT, OR A LAND TRUST for the purpose of preserving open space,
21 natural resources, agriculture, forest land, watersheds, significant ecosystems,
22 viewsheds, or historic properties, if:

23 (i) the easement is perpetual; and

24 (ii) the easement is accepted and approved by:

25 1. the Board of Public Works; OR

26 2. A COUNTY AGENCY CHARGED WITH PURCHASING
27 EASEMENTS OR APPROVING DONATIONS.

28 (2) Subject to subsection [(c)(2)] (E)(2) of this section, the credit under
29 this section shall be allowed for the taxable year in which the [donation]
30 CONVEYANCE is approved by the Board of Public Works OR A COUNTY AGENCY.

1 **(C) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, ON**
2 **APPLICATION BY A TAXPAYER OR GRANTOR OF AN EASEMENT, THE**
3 **DEPARTMENT SHALL ISSUE A TAX CREDIT CERTIFICATE IF THE TAXPAYER OR**
4 **GRANTOR HAS DEMONSTRATED THAT THE CONVEYANCE OF THE EASEMENT HAS**
5 **BEEN APPROVED BY THE BOARD OF PUBLIC WORKS OR A COUNTY AGENCY.**

6 **(2) THE TAX CREDIT CERTIFICATE ISSUED UNDER THIS**
7 **SUBSECTION SHALL:**

8 **(I) STATE THE MAXIMUM AMOUNT OF TAX CREDIT THAT**
9 **MAY BE CLAIMED BY THE TAXPAYER OR GRANTOR FOR THE CONVEYANCE; AND**

10 **(II) STATE THE EARLIEST TAXABLE YEAR FOR WHICH THE**
11 **CREDIT MAY BE CLAIMED.**

12 **(3) THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES ISSUED**
13 **BY THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT**
14 **EXCEED \$2,000,000 FOR ANY CALENDAR YEAR.**

15 **(4) THE DEPARTMENT SHALL APPROVE ALL APPLICATIONS THAT**
16 **QUALIFY FOR A TAX CREDIT CERTIFICATE UNDER THIS SUBSECTION ON A**
17 **FIRST-COME, FIRST-SERVED BASIS.**

18 **[(b)] (D) (1) Except as otherwise provided in this section, the amount of**
19 **the credit allowed IN A TAX CREDIT CERTIFICATE ISSUED under this section is the**
20 **amount by which the fair market value of the property before the conveyance of the**
21 **easement exceeds the fair market value of the property after the conveyance of the**
22 **easement.**

23 **(2) The fair market value of the property before and after the**
24 **conveyance of the easement shall be substantiated by an appraisal prepared by a**
25 **certified real estate appraiser, as defined under § 16-101 of the Business Occupations**
26 **and Professions Article.**

27 **(3) The amount of the credit shall be reduced by the amount of any**
28 **payment received for the easement.**

29 **[(c)] (E) (1) For any taxable year, the credit allowed under this section**
30 **may not exceed the lesser of:**

31 **(i) the State income tax for that taxable year; [or]**

32 **(ii) \$5,000 IF THE CREDIT IS CLAIMED BY AN INDIVIDUAL OR**
33 **A CORPORATION OWNED BY A SINGLE INDIVIDUAL OR ENTITY; OR**

1 **(III) \$10,000 IF THE CORPORATION IS OWNED BY MULTIPLE**
2 **INDIVIDUALS OR ENTITIES.**

3 (2) If the credit otherwise allowable under subsection **[(b)] (D)** of this
4 section exceeds the limit under paragraph (1) of this subsection, **[an individual] A**
5 **TAXPAYER** may apply the excess as a credit against the State income tax for
6 succeeding taxable years until the earlier of:

7 (i) the full amount of the excess is used; or

8 (ii) the expiration of the 15th taxable year after the taxable year
9 in which the donation was approved by the Board of Public Works.

10 (3) For each taxable year, the amount carried forward to the taxable
11 year under paragraph (2) of this subsection may not exceed the limit under paragraph
12 (1) of this subsection.

13 **(4) IF THE TAXPAYER DIES PRIOR TO THE USE OF THE FULL**
14 **AMOUNT OF THE CREDIT IN ACCORDANCE WITH THIS SUBSECTION, THE CREDIT**
15 **MAY BE CLAIMED AGAINST THE TAXPAYER'S MARYLAND ESTATE TAX LIABILITY**
16 **IN ACCORDANCE WITH TITLE 7 OF THIS ARTICLE.**

17 **(F) (1) A TAXPAYER OR GRANTOR OF AN EASEMENT THAT RECEIVES**
18 **A TAX CREDIT CERTIFICATE ISSUED UNDER THIS SECTION MAY TRANSFER THE**
19 **TAX CREDIT TO AN INDIVIDUAL WHO OR A CORPORATION THAT IS A TAXPAYER.**

20 **(2) THE COMPTROLLER MAY ASSESS THE TRANSFEREE OF THE**
21 **CREDIT A FEE TO OFFSET ADMINISTRATIVE COSTS RELATED TO THE TRANSFER.**

22 **(3) THE FEE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL:**

23 **(I) EQUAL 3% OF THE VALUE OF THE CREDIT; AND**

24 **(II) BE DISTRIBUTED EQUALLY AMONG THE COMPTROLLER,**
25 **THE DEPARTMENT, AND THE MARYLAND ENVIRONMENTAL TRUST.**

26 **[(d)] (G)** The credit under this section may not be claimed for a required
27 dedication of open space for the purpose of fulfilling density requirements to obtain a
28 subdivision or building permit.

29 **(H) THE COMPTROLLER AND THE DEPARTMENT JOINTLY SHALL ADOPT**
30 **REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION AND TO**
31 **SPECIFY PROCEDURES FOR THE APPLICATION FOR, APPROVAL OF, ELIGIBILITY**
32 **FOR, AND TRANSFER OF THE CREDIT UNDER THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
2 General Assembly that the issuance of tax credit certificates in accordance with this
3 Act may not adversely impact the annual budgets of State agencies or programs that
4 purchase or acquire conservation easements or property, including the Department of
5 Natural Resources and the Maryland Agricultural Land Preservation Fund.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2014, and shall be applicable to all taxable years beginning after December 31,
8 2013.