

HOUSE BILL 276

Q3
HB 2/15 – W&M

6lr2009
CF SB 137

By: **Delegates Stein, Aumann, Lafferty, Mautz, and West**

Introduced and read first time: January 25, 2016

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2016

CHAPTER _____

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 State
4 income tax for certain preservation and conservation easements to allow an
5 individual or a member of a pass-through entity to claim the credit for an easement
6 conveyed to the Maryland Environmental Trust, the Maryland Agricultural Land
7 Preservation Foundation, or the Department of Natural Resources under certain
8 circumstances; requiring the Board of Public Works to approve tax credits on a
9 first-come, first-served basis; providing that the total number of tax credits claimed
10 by members of pass-through entities may not exceed a certain amount for each
11 taxable year; requiring the Comptroller to adopt certain regulations; defining certain
12 terms; making certain stylistic changes; providing for the application of this Act; and
13 generally relating to a State income tax credit for certain preservation and
14 conservation easements.

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 10–723
18 Annotated Code of Maryland
19 (2010 Replacement Volume and 2015 Supplement)

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

22 **Article – Tax – General**

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 10-723.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL
5 RESOURCES.

6 (3) "MEMBER" MEANS:

7 (I) A SHAREHOLDER OF AN S CORPORATION;

8 (II) A GENERAL OR LIMITED PARTNER OF A PARTNERSHIP, A
9 LIMITED PARTNERSHIP, OR A LIMITED LIABILITY PARTNERSHIP;

10 (III) A MEMBER OF A LIMITED LIABILITY COMPANY; OR

11 (IV) A BENEFICIARY OF A BUSINESS TRUST OR A STATUTORY
12 TRUST.

13 (4) "PASS-THROUGH ENTITY" MEANS:

14 (I) AN S CORPORATION;

15 (II) A PARTNERSHIP;

16 (III) A LIMITED LIABILITY COMPANY THAT IS NOT TAXED AS A
17 CORPORATION UNDER THIS TITLE; OR

18 (IV) A BUSINESS TRUST OR A STATUTORY TRUST THAT IS NOT
19 TAXED AS A CORPORATION UNDER THIS TITLE.

20 [(a)] (B) (1) An individual OR A MEMBER OF A PASS-THROUGH ENTITY
21 may claim a credit against the State income tax as provided in this section for an easement
22 conveyed to the Maryland Environmental Trust, [or] the Maryland Agricultural Land
23 Preservation Foundation, OR THE DEPARTMENT for the purpose of preserving open space,
24 natural resources, agriculture, forest land, watersheds, significant ecosystems, viewsheds,
25 or historic properties, if:

26 (i) the easement is perpetual; and

27 (ii) the easement is accepted and approved by the Board of Public
28 Works.

1 (2) Subject to subsection [(c)(2)] **(D)(2)** of this section, the credit under this
2 section shall be allowed for the taxable year in which the [donation] **CONVEYANCE** is
3 approved by the Board of Public Works.

4 **[(b)] (C)** (1) Except as otherwise provided in this section, the amount of the
5 credit allowed under this section is the amount by which the fair market value of the
6 property before the conveyance of the easement exceeds the fair market value of the
7 property after the conveyance of the easement.

8 (2) The fair market value of the property before and after the conveyance
9 of the easement shall be substantiated by an appraisal prepared by a certified real estate
10 appraiser, as defined under § 16–101 of the Business Occupations and Professions Article.

11 (3) The amount of the credit shall be reduced by the amount of any
12 payment received for the easement.

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

15 (i) the State income tax for that taxable year; or

16 (ii) \$5,000.

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

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

22 (ii) the expiration of the 15th taxable year after the taxable year in
23 which the [donation] **CONVEYANCE** was approved by the Board of Public Works.

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

27 **(4) THE SUM OF ALL CREDITS CLAIMED BY MEMBERS OF A**
28 **PASS-THROUGH ENTITY IN A TAXABLE YEAR MAY NOT EXCEED THE AMOUNT**
29 **SPECIFIED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.**

30 **(5) (I) FOR A TAXABLE YEAR, THE TOTAL AGGREGATE AMOUNT OF**
31 **CREDITS CLAIMED BY MEMBERS OF PASS-THROUGH ENTITIES UNDER THIS SECTION**
32 **MAY NOT EXCEED \$200,000.**

1 **(II) FOR PASS-THROUGH ENTITIES, THE BOARD OF PUBLIC**
2 **WORKS SHALL APPROVE CREDITS FOR CONVEYANCES UNDER THIS SECTION ON A**
3 **FIRST-COME, FIRST-SERVED BASIS.**

4 [(d)] (E) The credit under this section may not be claimed for a required
5 dedication of open space for the purpose of fulfilling density requirements to obtain a
6 subdivision or building permit.

7 (F) THE COMPTROLLER SHALL ADOPT REGULATIONS TO SPECIFY
8 PROCEDURES FOR A MEMBER OF A PASS-THROUGH ENTITY TO CLAIM THE CREDIT
9 UNDER THIS SECTION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
11 1, 2016, and shall be applicable to all taxable years beginning after December 31, 2015.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.