

SENATE BILL 137

Q3

(6lr1213)

ENROLLED BILL

— Budget and Taxation / Ways and Means —

Introduced by **Senator Eckardt**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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 taxable
11 year; requiring the Comptroller to adopt certain regulations; defining certain terms;
12 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.

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.

Italics indicate opposite chamber / conference committee amendments.



1 BY repealing and reenacting, with amendments,
2 Article – Tax – General
3 Section 10–723
4 Annotated Code of Maryland
5 (2010 Replacement Volume and 2015 Supplement)

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

8 **Article – Tax – General**

9 10–723.

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) “DEPARTMENT” MEANS THE DEPARTMENT OF NATURAL
13 RESOURCES.

14 (3) “MEMBER” MEANS:

15 (I) A SHAREHOLDER OF AN S CORPORATION;

16 (II) A GENERAL OR LIMITED PARTNER OF A PARTNERSHIP, A
17 LIMITED PARTNERSHIP, OR A LIMITED LIABILITY PARTNERSHIP;

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

19 (IV) A BENEFICIARY OF A BUSINESS TRUST OR A STATUTORY
20 TRUST.

21 (4) “PASS–THROUGH ENTITY” MEANS:

22 (I) AN S CORPORATION;

23 (II) A PARTNERSHIP;

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

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

28 [(a)] (B) (1) An individual OR A MEMBER OF A PASS–THROUGH ENTITY
29 may claim a credit against the State income tax as provided in this section for an easement

1 conveyed to the Maryland Environmental Trust, [or] the Maryland Agricultural Land
2 Preservation Foundation, **OR THE DEPARTMENT** for the purpose of preserving open space,
3 natural resources, agriculture, forest land, watersheds, significant ecosystems, viewsheds,
4 or historic properties, if:

5 (i) the easement is perpetual; and

6 (ii) the easement is accepted and approved by the Board of Public
7 Works.

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

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

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

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

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

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

23 (ii) \$5,000.

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

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

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

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

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

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

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

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

13 **(F) THE COMPTROLLER SHALL ADOPT REGULATIONS TO SPECIFY**
14 **PROCEDURES FOR A MEMBER OF A PASS-THROUGH ENTITY TO CLAIM THE CREDIT**
15 **UNDER THIS SECTION.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
17 1, 2016, and shall be applicable to all taxable years beginning after December 31, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.