



House of Representatives

General Assembly

File No. 288

February Session, 2008

Substitute House Bill No. 5137

House of Representatives, March 31, 2008

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CREATING A CONSERVATION TAX CREDIT FOR INDIVIDUALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2008, and applicable to income years*
2 *commencing on or after January 1, 2009*) (a) For the purposes of this
3 section and section 2 of this act, "taxpayer" means any individual,
4 estate, trust, beneficiary of an estate or trust, or partners in a
5 partnership, including a limited liability company that is considered a
6 partnership for federal income tax purposes, and "qualified
7 conservation contribution" means the conveyance of any land or
8 interest in land (1) without financial consideration or any discount of
9 the sale price in any sale of land or interest in land, whether in fee or as
10 a conservation easement; (2) to the state, a political subdivision of the
11 state, a water company, as defined in section 25-32a of the general
12 statutes, a federally recognized tribe, or a private nonprofit charitable
13 organization organized for land conservation purposes, as described in
14 Section 501(c)(3) of the Internal Revenue Code of 1986 or any

15 subsequent corresponding internal revenue code of the United States,
16 as from time to time amended; (3) for the purpose of permanently
17 preserving such land for natural resource protection, including, but
18 not limited to, as a public water supply source, wildlife habitat and, to
19 foster biological diversity, agricultural and forestry production, or
20 scenic and cultural values; and (4) where such land is identified as
21 conservation, preservation or agricultural land in an adopted local,
22 tribal or regional plan of conservation, open space or land acquisition
23 plan or as a conservation or preservation area in the state plan of
24 conservation and development adopted under chapter 297 of the
25 general statutes. "Qualified conservation contribution" does not
26 include the donation of a golf course, athletic field or land required to
27 be donated, set aside or conserved as a condition of a federal, state or
28 municipal land use permit.

29 (b) Subject to the provisions of subsections (d), (e) and (g) of this
30 section, there shall be allowed a credit for taxpayers against any tax
31 due under the provisions of chapter 229 of the general statutes, in an
32 amount equal to fifty per cent of the value of any qualified
33 conservation contribution. For purposes of calculating the credit under
34 this section, the amount of contribution shall be based on the use value
35 of the donated open space land and the amount received for such land.
36 For purposes of this subsection, "use value" means the fair market
37 value of land at its highest and best use, as determined by a real estate
38 appraiser certified or licensed pursuant to chapter 400g of the general
39 statutes. The amount of the credit shall not exceed three hundred
40 thousand dollars per transaction.

41 (c) In order for any taxpayer to qualify for the credit provided for in
42 subsection (b) of this section, the taxpayer shall submit the following in
43 a form prescribed by the Commissioner of Revenue Services at the
44 same time as the taxpayer files a return for the taxable year in which
45 the credit is claimed:

46 (1) A statement indicating whether a deduction was claimed on the
47 taxpayer's federal income tax return for a qualified conservation

48 contribution;

49 (2) A summary of the conservation purposes, as specified in
50 subsection (a) of section 1 of this act, that are protected by the qualified
51 conservation contribution, the county and municipality where the
52 qualified conservation contribution is located, the number of acres
53 subject to the qualified conservation contribution, the amount of the
54 tax credit claimed, and the name of the organization holding the
55 qualified conservation contribution;

56 (3) A sworn affidavit from the appraiser that includes:

57 (A) A statement specifying the value of the unencumbered property
58 and the total value of the qualified conservation contribution; and

59 (B) If the appraisal separately allocates the values of sand and
60 gravel, minerals, water or improvements, a statement of the separate
61 value of the sand and gravel, minerals, water or improvements before
62 and after the qualified conservation contribution is granted;

63 (4) A sworn affidavit from the holder of the qualified conservation
64 contribution that includes the following:

65 (A) A copy of the information filed by the holder with either the
66 Department of Agriculture or Environmental Protection, as applicable,
67 in accordance with section 2 of this act, and a copy of the applicable
68 department's certification;

69 (B) A statement of whether the transaction is part of a series of
70 transactions by the same donor; and

71 (C) A statement that the holder has reviewed the form of the
72 taxpayer claiming the conservation easement credit and that the
73 property is accurately described in said form; and

74 (5) Documentation evidencing the date of closing.

75 (d) A credit or any portion of a credit that is allowed under this
76 section, with respect to any taxable year commencing on or after

77 January 1, 2009, but is not used by a taxpayer because the amount of
78 the credit exceeds the taxpayer's liability, may be carried forward to
79 each successive income year until such credit is fully taken. In no case
80 shall a credit or any portion of a credit that is not used be carried
81 forward for a period of more than fifteen years. A taxpayer who has
82 carried forward a credit in accordance with this subsection shall not
83 claim an additional credit under this section during the carry forward
84 period.

85 (e) The total amount of such credits allowed under this section shall
86 not exceed ten million dollars in the aggregate in any fiscal year. For
87 the purposes of calculating the total amount of credits, "fiscal year"
88 means the year that the qualified conservation contribution occurred,
89 regardless of the carry forward period.

90 (f) Any credit allowed pursuant to this section may be sold,
91 assigned or otherwise transferred to one or more taxpayers. If a
92 taxpayer sells, assigns or otherwise transfers such credit to another
93 taxpayer, the transferor and transferee shall jointly submit written
94 notification of such transfer to the Commissioner of Revenue Services
95 not later than thirty days after such transfer. The notification shall
96 include any information required by said commissioner. Failure to
97 comply with this subsection shall result in a disallowance of such
98 credit until there is full compliance by the transferor and transferee.

99 (g) A taxpayer may claim only one credit pursuant to this section
100 per income tax year, except that a transferee of a credit in accordance
101 with subsection (f) of this section may claim an unlimited number of
102 credits. A taxpayer who has transferred a credit in accordance with
103 subsection (f) of this section shall not claim an additional credit under
104 this section for any income tax year in which the transferee is claiming
105 the transferred credit.

106 Sec. 2. (NEW) (*Effective July 1, 2008, and applicable to income years*
107 *commencing on or after January 1, 2009*) (a) Prior to accepting the
108 donation of a qualified conservation contribution for which a credit
109 will be claimed against any tax due under chapter 229 of the general

110 statutes, in accordance with the provisions of section 1 of this act, the
111 accepting entity shall submit the following information to the
112 Department of Agriculture for a donation of agricultural land, as
113 defined in section 22-3 of the general statutes, or to the Department of
114 Environmental Protection for a donation of any other type of land:

115 (1) The number of conservation properties or easements held by the
116 entity in the state;

117 (2) The number of conserved acres held by the entity in the state;

118 (3) The names of the board members if the entity is a private
119 nonprofit organization or the names of the elected or appointed
120 officials if the entity is a public or tribal organization;

121 (4) A signed statement from the entity acknowledging that the
122 entity: (A) Has a commitment to protect the conservation purpose of
123 the donation and has the resources to enforce the restrictions; and (B)
124 has adequate resources and policies in place to provide annual
125 monitoring of each qualified conservation contribution held by the
126 entity;

127 (5) A qualified appraisal of the qualified conservation contribution
128 prepared by a qualified appraiser, as such terms are defined by the
129 applicable federal conservation programs administered by the United
130 States Department of Agriculture, United States Fish and Wildlife
131 Service, United States National Park Service, United States Forest
132 Service and the National Oceanic and Atmospheric Administration;

133 (6) Documentation that the qualified conservation contribution is
134 identified as conservation, preservation or agricultural land in an
135 adopted local, tribal or regional plan of conservation, open space or
136 land acquisition plan or as a conservation or preservation area in the
137 state plan of conservation and development adopted under chapter
138 297 of the general statutes;

139 (7) Documentation that the qualified conservation contribution
140 meets the conservation purposes specified in subdivision (3) of

141 subsection (a) of section 1 of this act; and

142 (8) If the entity is a private nonprofit charitable organization
 143 organized for land conservation purposes as described in Section
 144 501(c)(3) of the Internal Revenue Code of 1986 or any subsequent
 145 corresponding internal revenue code of the United States, as from time
 146 to time amended, a copy of the organization's 501(c)(3) approval letter.

147 (b) On and after January 1, 2009, any entity that accepts a donation
 148 of a qualified conservation contribution for which a credit will be
 149 claimed shall submit information required by subsection (a) of this
 150 section to either the Department of Agriculture or the Department of
 151 Environmental Protection, as applicable. Such information shall be
 152 submitted no later than February first of the calendar year following
 153 the year in which the entity has accepted such qualified conservation
 154 contribution.

155 (c) The Department of Agriculture or Environmental Protection, as
 156 applicable, shall certify that a tax payer is eligible to claim a credit, in
 157 accordance with the provisions of section 1 of this act, not later than
 158 sixty days after the receipt of the information submitted in accordance
 159 with subsection (a) of section 2 of this act, provided (1) a qualified
 160 appraisal prepared by a qualified appraiser is submitted in accordance
 161 with subsection (a) of this section; (2) the donation is a qualified
 162 conservation contribution; and (3) the entity accepting the donation is
 163 qualified to receive a qualified conservation contribution in accordance
 164 with section 1 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008, and applicable to income years commencing on or after January 1, 2009</i>	New section

Sec. 2	<i>July 1, 2008, and applicable to income years commencing on or after January 1, 2009</i>	New section
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ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Revenue Services	GF - Revenue Loss	10 million	10 million
Department of Revenue Services	GF - Cost	70,000	None

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill creates a sellable tax credit for people who donate land to the state or certain other entities for permanent preservation as open space. The credit is 50% of the land’s fair market value at its highest and best use, up to \$300,000 per transaction. This will result in a General Fund revenue loss from the Personal Income Tax of up to \$10 million per year beginning in FY 09. The total amount of credits allowed cannot exceed \$10 million per fiscal year.

The Department of Revenue Services would also incur one time costs of approximately \$70,000 in FY 09 for systems development to administer the provisions of the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5137

AN ACT CREATING A CONSERVATION TAX CREDIT FOR INDIVIDUALS.

SUMMARY:

This bill creates a conservation tax credit for people who donate land to the state or certain other entities for permanent preservation as open space. The credit is 50% of the land's fair market value at its highest and best use, up to \$300,000 per transaction. A certified or licensed real estate appraiser must determine the land's value. The person donating the land may sell, assign, or transfer the credit. The total amount of credits allowed cannot exceed \$10 million per fiscal year.

EFFECTIVE DATE: July 1, 2008, and applicable to income years starting on or after January 1, 2009.

QUALIFIED CONSERVATION CONTRIBUTION

Under the bill, taxpayers are eligible for the credit if they convey, without financial consideration or a discount in the sale price, land or an interest in land, in fee or as a conservation easement, to: (1) the state; (2) a political subdivision of the state; (3) a water company; (4) a federally recognized tribe; or (5) a private, nonprofit, 501(c)(3) charitable land conservation organization. The transfer must be made to permanently preserve the land for natural resource protection, including use as a public water supply source or wildlife habitat, and to foster biological diversity, agricultural and forestry production, or scenic and cultural values. The land must be identified as (1) conservation, preservation, or agricultural land in an adopted local, tribal, or regional conservation, open space, or land acquisition plan or (2) a conservation or preservation area in the state Plan of

Conservation and Development. The donation, called a “qualified conservation contribution,” does not include a donation of a golf course, athletic field, or land required to be donated, set aside, or conserved as a condition of a federal, state, or municipal land use permit.

Under the bill, a taxpayer is an individual, estate, trust, beneficiary of a trust or estate, or partners in a partnership, including a limited liability company considered a partnership for federal income tax purposes.

TAXPAYER’S REQUIREMENTS

To qualify for the tax credit, a taxpayer must submit the following information to the revenue services commissioner when he files a return for the taxable year in which he claims the credit:

1. statement indicating whether he or she claimed the deduction on his or her federal income tax return;
2. summary of the conservation purposes protected by the contribution, the county and municipality where the land is located, the number of acres that qualify, the amount of tax credit claimed, and the recipient;
3. sworn affidavit from the appraiser, including (a) a statement specifying the value of the unencumbered property and the total value of the qualified conservation contribution and, if the appraisal separately values sand and gravel, minerals, water, or improvements, (b) a statement of the separate value of these before and after the qualified conservation contribution is granted;
4. sworn affidavit from the recipient, including:
 - a. a copy of the information the holder filed with the Department of Environmental Protection (DEP) or Agriculture Department, as appropriate, and a copy of the

department's certification;

- b. a statement of whether the transaction is part of a series of transactions by the same donor; and
 - c. a statement that the recipient has reviewed the taxpayer form claiming the credit, and that it accurately describes the property; and
5. documentation of the closing date.

UNUSED CREDITS

A credit or portion of a credit allowed for a taxable year beginning on or after January 1, 2009, but not used because the amount exceeds the taxpayer's liability, may be carried forward to each successive income year until it is fully taken, up to 15 years. A taxpayer cannot claim an additional credit while carrying a credit forward.

TOTAL AMOUNT OF CREDITS

The total amount of credits allowed in a fiscal year cannot exceed \$10 million. For the purposes of the bill, the fiscal year is the year the qualified conservation contribution took place, regardless of the carry forward period.

SALE OR TRANSFER OF CREDITS

A taxpayer may sell, assign, or otherwise transfer a credit. The transferor and transferee must jointly submit written notice of the transfer to the revenue services commissioner, as he requires, no later than 30 days after the transfer. The notification must include any information the commissioner requires. Failure to comply with this requirement disallows the credit.

A taxpayer may claim only one credit per income tax year. But transferees may claim an unlimited number of credits. A taxpayer who has transferred a credit cannot claim an additional credit for any income tax year in which he or she claimed the transferred credit.

DEPARTMENTAL REQUIREMENTS AND CERTIFICATION

Before accepting the donation of land for which a credit may be claimed, the recipient must submit the following to the Agriculture Department (for a donation of farmland) or the DEP (for any other donation).

1. the number of conservation properties or easements it holds in the state;
2. the number of conserved acres it holds in the state;
3. the names of board members (if a private nonprofit organization) or elected or appointed officials (if a public or tribal organization);
4. a signed statement acknowledging the recipient has
 - a. a commitment to protect the conservation purpose of the donated land, and the resources to enforce the restrictions, apparently on its use; and
 - b. adequate resources and policies to provide annual monitoring of each qualified conservation contribution holds;
5. a qualified appraisal of the donation, prepared by a qualified appraiser, as the terms are defined by the U.S. Department of Agriculture, Fish and Wildlife Service, Forest Service, National Park Service and National Oceanic and Atmospheric Administration;
6. documentation that the donation is identified as a conservation, preservation, or agricultural land in an adopted local, regional, or tribal conservation plan, or as a conservation or preservation area in the state Plan of Conservation and Development;
7. documentation that the donation meets the bill's conservation purposes; and
8. if the recipient is a private, nonprofit land conservation

organization, a copy of its 501(c)(3) approval letter.

Starting January 1, 2009, a recipient must submit the information to DEP or the Agriculture Department, as appropriate. The information must be submitted by February 1 of the calendar year following the year in which the recipient accepted the qualifying donation.

DEP or the Agriculture Department must certify that a taxpayer is eligible to claim a credit no later than 60 days after receiving the above information, provided:

1. a qualified appraisal prepared by a qualified appraiser has been submitted,
2. the donation is a qualified conservation contribution, and
3. the recipient is qualified under the bill to receive a qualified conservation contribution.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 0 (03/12/2008)