



General Assembly

February Session, 2008

Raised Bill No. 5137

LCO No. 1490

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Referred to Committee on Environment

Introduced by:
(ENV)

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, "donation of open space land" means the conveyance of any
4 land or interest in land identified in a municipal, state or regional map
5 as a priority for conservation, without financial consideration or any
6 discount of the sale price in any sale of land or interest in land, to the
7 state, a political subdivision of the state, a water company, as defined
8 in section 25-32a of the general statutes, or to any nonprofit land
9 conservation organization where such land is to be permanently
10 preserved as (1) protected open space, (2) a public water supply
11 source, (3) a natural resource or for biodiversity conservation, or (4)
12 agricultural land, excluding the donation of a golf course or athletic
13 field or other land mandated by local subdivision requirements to be
14 conserved; and "taxpayer" means any individual, estate, trust,
15 beneficiary of an estate or trust or partners in a partnership, including
16 a limited liability corporation, that is considered a partnership for

17 federal income tax purposes.

18 (b) Subject to the provisions of subsection (d) of this section, there
19 shall be allowed a credit for taxpayers against any tax due under the
20 provisions of chapter 229 of the general statutes, in an amount equal to
21 fifty per cent of the value of any donation of open space land. For
22 purposes of calculating the credit under this section, the amount of
23 donation shall be based on the use value of the donated open space
24 land and the amount received for such land. For purposes of this
25 subsection, "use value" means the fair market value of land at its
26 highest and best use, as determined by a real estate appraiser certified
27 or licensed pursuant to chapter 400g of the general statutes. The
28 amount of the credit shall not exceed three hundred thousand dollars.
29 In no case shall a credit exceed such taxpayer's liability under chapter
30 229 of the general statutes for such year.

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

36 (1) A statement indicating whether a deduction was claimed on the
37 taxpayer's federal income tax return for a conservation easement;

38 (2) A summary of the conservation purposes, as specified in
39 subsection (a) of section 1 of this act, that are protected by the
40 easement, the county and municipality where the easement is located,
41 the number of acres subject to the easement, the amount of the tax
42 credit claimed, and the name of the organization holding the easement;
43 and

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

45 (A) A statement specifying the value of the unencumbered property
46 and the total value of the conservation easement;

47 (B) If the appraisal separately allocates the values of sand and
48 gravel, minerals, water or improvements, a statement of the separate
49 value of the sand and gravel, minerals, water or improvements before
50 and after the conservation easement is granted; and

51 (C) A sworn affidavit from the holder of the conservation easement
52 that includes the following:

53 (i) A copy of the information filed by the holder with the
54 Department of Revenue Services and either the Department of
55 Agriculture or Environmental Protection, as applicable, in accordance
56 with section 2 of this act, and a copy of the applicable department's
57 approval;

58 (ii) A statement of whether the transaction is part of a series of
59 transactions by the same donor; and

60 (iii) A statement that the holder has reviewed the form of the
61 taxpayer claiming the conservation easement credit and that the
62 property is accurately described in said form.

63 (d) A credit or any portion of a credit that is allowed under this
64 section, with respect to any taxable year commencing on or after
65 January 1, 2009, but is not used by a taxpayer because the amount of
66 the credit exceeds the taxpayer's liability, may be carried forward to
67 each successive income year until such credit is fully taken. In no case
68 shall a credit or any portion of a credit that is not used be carried
69 forward for a period of more than fifteen years.

70 (e) The total amount of such credits allowed under this section shall
71 not exceed ten million dollars in the aggregate in any fiscal year. For
72 the purposes of calculating the total amount of credits, "fiscal year"
73 means the year that the qualifying donation of open space land
74 occurred, regardless of the carry forward period.

75 (f) Any credit allowed pursuant to this section may be sold,
76 assigned or otherwise transferred to one or more taxpayers. If a

77 taxpayer sells, assigns or otherwise transfers such credit to another
78 taxpayer, the transferor and transferee shall jointly submit written
79 notification of such transfer to the Commissioner of Revenue Services
80 not later than thirty days after such transfer. The notification shall
81 include any information required by said commissioner. Failure to
82 comply with this subsection shall result in a disallowance of such
83 credit until there is full compliance by the transferor and transferee.

84 Sec. 2. (NEW) (*Effective July 1, 2008, and applicable to income years*
85 *commencing on or after January 1, 2009*) (a) Any entity that accepts a
86 donation of a conservation easement for which a credit is claimed
87 against any tax due under chapter 229 of the general statutes, in
88 accordance with the provisions of section 1 of this act, shall submit the
89 following information to the Department of Revenue Services, and for
90 a donation of agricultural land, as defined in section 22-3 of the general
91 statutes, to the Department of Agriculture, and for a donation of any
92 other type of land, to the Department of Environmental Protection:

93 (1) The number of conservation easements held by the entity in the
94 state;

95 (2) The number of acres subject to each conservation easement held
96 in the state;

97 (3) The names of the board members if the entity is a private
98 nonprofit organization or the names of the elected or appointed
99 officials if the entity is a public organization; and

100 (4) A signed statement from the entity acknowledging that the
101 entity: (A) Has a commitment to protect the conservation purpose of
102 the donation and has the resources to enforce the restrictions; and (B)
103 has adequate resources and policies in place to provide annual
104 monitoring of each conservation easement held by the entity.

105 (b) On and after January 1, 2009, no entity may accept any donation
106 of a conservation easement for which a credit is claimed unless the

107 entity has submitted the information required by subsection (a) of this
 108 section with the Department of Revenue Services and either the
 109 Department of Agriculture or the Department of Environmental
 110 Protection, as applicable. Such information shall be submitted no later
 111 than April fifteenth of the calendar year in which the entity wishes to
 112 accept such donation of a conservation easement.

113 (c) The Department of Agriculture or Environmental Protection
 114 shall not approve such donation unless: (1) The appraisal of the
 115 donated land meets federal standards; (2) the donation is a donation of
 116 open space land, as defined in section 1 of this act; and (3) the entity
 117 accepting the donation is qualified to receive land or interest in land
 118 for conservation purposes, as specified in this section and section 1 of
 119 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

Statement of Purpose:

To create a conservation tax credit for individuals who donate open space land.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]