



General Assembly

**Substitute Bill No. 5137**

February Session, 2008

\*            HB05137ENV            031308            \*

**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

**ENV**      **Joint Favorable Subst.**