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HOUSE BILL NO. 1322

Offered January 18, 2002

A BILL to amend and reenact § 58.1-513 of the Code of Virginia, relating to the land preservation income tax credit.

Patron—Howell

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-513 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-513. Limitations.

A. Any taxpayer claiming a tax credit under this ~~aet~~ *article* shall not claim a credit under any similar Virginia law for costs related to the same project. To the extent a credit is taken in accordance with this article, no subtraction allowed for the gain on the sale of (i) land dedicated to open-space use or (ii) an easement dedicated to open-space use under subsection C of § 58.1-322 shall be allowed for three years following the year in which the credit is taken.

B. Any tax credits ~~which~~ *that* arise under this ~~aet~~ *article* from the donation of land or an interest in land made by a pass-through tax entity such as a trust, estate, partnership, limited liability corporation or partnership, limited partnership, subchapter S corporation or other fiduciary shall be used either by such entity if it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder and/or beneficiary, as the case may be, in proportion to their interest in such entity in the event that income, deductions and tax liability pass through such entity to such member, manager, partner, shareholder and/or beneficiary or as set forth in the agreement of said entity. Such tax credits shall not be claimed by both the entity and the member, manager partner, shareholder and/or beneficiary for the same donation.

C. Any tax credit allowed under this article may be transferred, in accordance with procedures and forms prescribed by the Tax Commissioner, by the taxpayer originally entitled to such credit to any other taxpayer.

D. Any tax credit allowed under this article shall not be applied against the tax liability of the taxpayer earlier than January 15 of the second consecutive year following the year in which the property giving rise to the credit is donated pursuant to § 58.1-512. From the time claimed as a credit on the taxpayer's tax return until applied to reduce or eliminate such taxpayer's tax liability, the credit shall be treated as a deposit against the taxpayer's tax liability for the year the credit is claimed. The Commonwealth shall not (i) impose interest on the taxpayer's tax liability, nor (ii) pay interest on the deposit during the period that the credit is treated as a deposit against such taxpayer's liability.

E. The transfer of the credit and its application against a tax liability shall not create gain or loss for the transferor or the transferee of such credit.

INTRODUCED

HB1322