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HOUSE BILL NO. 1322

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance
on February 4, 2002)

(Patron Prior to Substitute—Delegate Howell)

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

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 ~~act~~ *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 ~~act~~ *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 taxpayer holding a credit under this article may transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of credit under this article shall file a notification of such transfer to the Department in accordance with procedures and forms prescribed by the Tax Commissioner.

D. To the extent included in and not otherwise subtracted from federal adjusted gross income pursuant to § 58.1-322 or federal taxable income pursuant to § 58.1-402, there shall be subtracted any amount of gain or income recognized by a taxpayer on the application of a tax credit under this article against a Virginia income tax 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.

2. That the provisions of this act shall be effective for qualified donations made during taxable years beginning on or after January 1, 2002.

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SUBSTITUTE

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