

**DEPARTMENT OF TAXATION
2005 Fiscal Impact Statement**

1. **Patron** Emmett W. Hanger, Jr.
3. **Committee** Passed House and Senate

2. **Bill Number** SB 1139
House of Origin:
 Introduced
 Substitute
 Engrossed

4. **Title** Virginia Land Conservation Incentives Act

- Second House:**
 In Committee
 Substitute
 X **Enrolled**

5. Summary/Purpose:

This bill would modify the Land Preservation Tax Credit by adding several provisions to the requirement that the fair market value of a qualified donation must be substantiated by a qualified appraisal prepared by a qualified appraiser and the value must be reduced to the extent that any short-term gain or ordinary income would be recognized for federal tax purposes if the interest had been sold instead of donated. In addition, this bill would extend the denial of the credit to fee simple donations that are related to fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** No.

8. Fiscal implications:

The bill would reduce the number of fraudulent appraisals, reduce the credit if the land were purchased shortly before claiming the credit, and extend denial of the credit to fee simple donations that are related to fulfilling density requirements. While each of these actions is likely to generate a positive revenue impact, the magnitude of the potential gain is unknown.

The Department would incur minimal administrative costs to implement this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. **Technical amendment necessary:** No.

11. Other comments:

Current Law

At this time, the fair market value of a qualified donation made to earn the Land Preservation Tax Credit must be substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal law and regulations governing charitable contributions.

Proposed Legislation

This bill would create several new features for the appraisal requirement. First, the value of the donated interest in land would be reduced by the amount of gain that would not have been long-term capital gain if the property had been sold by the taxpayer at its fair market value. This bill would also require that the qualified appraiser be licensed in the Commonwealth. Should the appraiser falsely or fraudulently overstate the value of the contributed property, the Department would be authorized to disallow further appraisals signed by that appraiser and refer the appraiser to the Real Estate Appraisal Board for appropriate disciplinary action. In addition, if the Department determined that an appraisal was false or fraudulent, it would be allowed to disregard the appraisal in determining the fair market value of the property and the amount of the tax credit to be allowed.

This bill would also extend an existing provision that excludes open space dedications that fulfill any density requirements to obtain approvals for zoning, subdivision, site plan, or building permits. This bill would extend the limitation to fee simple donations in addition to donations of a less than fee interest.

The effective date of this bill is not specified.

Other Legislation

House Bill 2788 would authorize the Department to recognize the transfer of unused Land Preservation Tax Credits for land donated prior to January 1, 2002 if the transfer occurred on or before December 31, 2004, notification of at least one transfer attributable to such donation was filed with the Department on forms prescribed for that purpose on or before December 31, 2004, and the credit holder who transferred the credit can establish that the transfer was made in reliance on erroneous advice from the Department concerning the transferability of the credits.

cc : Secretary of Finance

Date: 3/9/2005 AMS
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