

**DEPARTMENT OF TAXATION
2005 Fiscal Impact Statement**

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| <p>1. Patron Emmett W. Hanger, Jr.</p> <p>3. Committee House Finance</p> <p>4. Title Virginia Land Conservation Incentives Act</p> | <p>2. Bill Number <u>SB 1139</u></p> <p>House of Origin:
<u> </u> Introduced
<u> </u> Substitute
<u> </u> Engrossed</p> <p>Second House:
<u> X </u> In Committee
<u> </u> Substitute
<u> </u> Enrolled</p> |
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5. Summary/Purpose:

This bill would limit the Land Preservation Tax Credit that a taxpayer could earn for each qualified donation to the lesser of \$600,000 or fifty percent of the fair market value of the land or interest in land. In addition, this bill would limit the total amount of credit that could be claimed by all taxpayers for any qualified donation to \$100,000 per taxable year.

The bill would be effective for conveyances of land made on or after July 1, 2005.

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

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill would result in a revenue gain of an unknown amount, as it limits the amount of credit that can be earned and may have the effect of forcing the credit amounts resulting from larger donations to be taken over a longer period of time.

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: Yes.

In order to correct a drafting error, the following technical amendment is suggested:

Page 2, Line 63 after means
Strike: the

11. Other comments:

Land Preservation Tax Credit

Individuals and corporations can claim an income tax credit equal to 50% of the fair market value for donations of real property and interests in real property located in Virginia to governmental and nonprofit organizations whose purpose is to conserve natural resources, save land, and preserve historical sites. The types of property that would qualify for this credit include conservation easements, any partial interest, mineral right, remainder or future interest, or other interest or right in real property as defined under the Internal Revenue Code. Any conveyance of real property under this credit must be permanent and irrevocable.

The maximum credit a taxpayer can claim in any taxable year is limited to the lesser of the total income tax imposed or \$100,000. The amount of credit earned in excess of tax imposed or annual limit can be carried forward to the five succeeding taxable years. In addition, a taxpayer that earns the Land Preservation Tax Credit for land donated on or after January 1, 2002, may transfer the credit to another corporate or individual taxpayer.

Proposed Legislation

This bill would limit the Land Preservation Tax Credit that a taxpayer could earn for each qualified donation to the lesser of \$600,000 or fifty percent of the fair market value of the land or interest in land. In addition, this bill would limit the total amount of credit that could be claimed by all taxpayers for any qualified donation to \$100,000 per taxable year, and no taxpayer could claim a credit in excess of his own tax liability for the taxable year.

For example, if a donor earned the maximum \$600,000 credit and transferred \$400,000 of the credit to two taxpayers, then the donor and two taxpayers would each have \$200,000 of credit from the donation. Each taxable year the three of them would have to split the \$100,000 annual allowable credit among themselves in a manner of their choosing. The bill does not specify the method to be used to allocate the \$100,000 annual limitation among credit holders when they fail to agree among themselves, or if the taxable income of one or more credit holders is not sufficient to use the agreed share of the credit.

This bill would also clarify that the amount of credit available to be transferred would be the lesser of \$600,000 or fifty percent of the qualified donation minus the amount claimed as credit by the taxpayer who made the qualified donation.

The bill would be effective for conveyances of land made on or after July 1, 2005. Thus, taxpayers who have donated land or an interest in land prior to that time may continue to claim and transfer credits under the current system.

Other Legislation

House Bill 2788 would authorize the Department to recognize the transfer of unused Land Preservation Tax Credits for land donated before 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: 2/11/2005 AMS
SB1139FES1161