

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Emmett W. Hanger, Jr.
3. **Committee** Passed by House and Senate
4. **Title** Land Preservation Tax Credit

2. **Bill Number** SB 661
House of Origin:
 Introduced
 Substitute
 Engrossed
- Second House:**
 In Committee
 Substitute
 X **Enrolled**

5. Summary/Purpose:

This bill would require a taxpayer to have the Department of Conservation and Recreation verify the conservation value of a donation of land or interest in land if the related application for a Land Preservation Tax Credit would result in a credit of \$250,000 or more. This requirement would be applicable only when the real property that is the subject of the donation was partitioned from or part of another parcel of land and any other portion of the original parcel had received a Land Preservation Tax Credit or had an application for such a credit pending within 3 years of the donation.

Currently, the conservation value of a donation must be verified by the Department of Conservation and Recreation if the taxpayer's application is for a credit of \$1 million or more. In the event that a credit was allowed for any other portion of the recorded parcel of land within the preceding 11 years and any of the applicants are affiliated with or immediate family of the taxpayer who previously received a credit, the conservation value of the donation must be verified when the aggregate of such credits is \$1 million or more.

The effective date of this bill is not specified.

6. **No Fiscal Impact.** (See Line 8.)
7. **Budget amendment necessary:** No.
8. **Fiscal implications:**

Administrative Costs

TAX considers implementation of this bill as "routine," and does not require additional funding.

Revenue Impact

This bill would have no revenue impact.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Conservation and Recreation

10. Technical amendment necessary: No.

11. Other comments:

Land Preservation Tax Credit

The Land Preservation Tax Credit is equal to forty percent of the fair market value of land or interest in land located in Virginia which is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the taxpayer to a public or private conservation agency.

Beginning in calendar year 2007, the amount of Land Preservation Tax Credits that may be issued in any one year is subject to a cap. For 2007, the cap amount was \$100 million. Starting in calendar year 2008, the \$100 million cap will be increased by an amount equal to \$100 million multiplied by the percentage by which the consumer price index for all-urban consumers published by the United States Department of Labor (CPI-U) for the 12-month period ending August 31 of the preceding year exceeds the CPI-U for the 12-month period ending August 31, 2006. For 2010, the cap was \$106,845,000.

If a taxpayer's application for the credit would result in a credit of \$1 million or more, the taxpayer must send a copy of the application to the Department of Conservation and Recreation. The credit will not be issued in the amount of \$1 million or more unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation. The Director must act on applications within 90 days of his receipt of a complete application and must notify the taxpayer and the Department of Taxation of his action.

If any credits were granted for donations of any portion of a recorded parcel of land within the preceding 11 years, the value of such donations are aggregated with the credit application for any other portion of such recorded parcel of land to determine if the conservation value of the donation is required to be verified by the Director of the Department of Conservation and Recreation. The credits are not aggregated for the purpose of the verification if the owners of the parcel are not affiliated with the person or entity seeking credit for the current donation of a different portion of the parcel or if the individual has not previously made a qualified donation for any portion of the parcel and is not an immediate family member of any such owners.

Proposal

This bill would require a taxpayer to have the Department of Conservation and Recreation ("DCR") verify the conservation value of a donation of land or interest in land if the related application for a Land Preservation Tax Credit would result in a credit of \$250,000 or more. This requirement would be applicable only when the real property that is the

subject of the donation was partitioned from or part of another parcel of land and any other portion of the original parcel had received a Land Preservation Tax Credit or had an application for such a credit pending within 3 years of the donation.

The Director of DCR would be required to act on such requests for verification within 90 days of his receipt of a complete application. Notification would be required to be issued to the taxpayer and to TAX.

The changes made by this bill could not be construed or interpreted as allowing additional tax credit for any land or interest in land previously conveyed for which a Land Preservation Tax Credit has already been allowed or as affecting the validity of any Land Preservation Tax Credit allowed for a prior conveyance of any land or interest in land.

The effective date of this bill is not specified.

Similar Bills

House Bill 141 would modify the Land Preservation Tax Credit's restriction preventing certain charitable organizations from qualifying for the credit to clarify that conservation easements must be acquired pursuant to the authority conferred on a "holder" as defined by law in order to prevent the organization from qualifying for the credit.

House Bill 447 and **Senate Bill 264** would remove the \$10,000 cap on the 2 percent fee imposed on the transfer arising from the sale of Land Preservation Tax Credits and provide for distribution of the revenue to various entities.

Senate Bill 233 would extend the reduction in the amount of Land Preservation Credits that may be claimed on income tax returns from \$100,000 per taxpayer to \$50,000 per taxpayer effective for credits claimed for the taxable year beginning on January 1, 2011.

Senate Bill 341 would require the Department of Conservation and Recreation to provide an estimate of the number of acres of land currently being used for "production agriculture and silviculture" when creating its annual report on less-than-free interests qualifying for the Land Preservation Tax Credit.

cc : Secretary of Finance
Date: 3/5/2010 JKM
SB661FER161