

# DEPARTMENT OF TAXATION

## 2012 Fiscal Impact Statement

1. **Patron** Emmett W. Hanger, Jr.

3. **Committee** Senate Finance

4. **Title** Land Preservation Tax Credit; working farmers

2. **Bill Number** SB 403

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would increase the amount of the Land Preservation Tax Credit to 50 percent if the taxpayer making the conveyance is a working farmer. The amount of the credit for all other conveyances would continue to be 40 percent.

This bill would be effective for conveyances made on or after January 1, 2013.

**6. Budget amendment necessary:**

**7. No Fiscal Impact.** (See Line 8.)

**8. Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

Because the total amount of Land Preservation Tax Credits that may be issued for a calendar year is subject to an annual cap, this bill would have no revenue impact. However, to the extent that working farmers are eligible for larger credit amounts, there will be an offsetting reduction in the amount of credits available to other taxpayers.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

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

## 11. Other comments:

### Current Law

The Land Preservation Tax Credit is currently 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. Prior to the 2007 taxable year, the amount of the credit was equal to 50 percent of the fair market value of the land or interest in land conveyed.

Beginning in calendar year 2007, the aggregate 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. Since calendar year 2008, the \$100 million cap has been increased annually. For 2012, the cap is \$111,054,000.

The fair market value of qualified donations must be determined and substantiated by a qualified appraisal prepared and signed by a qualified appraiser who is licensed in Virginia. Any appraisal that, upon audit by the Department, is determined to be false or fraudulent, may be disregarded by the Department in determining the fair market value of the property.

### Proposal

This bill would increase the amount of the Land Preservation Tax Credit to 50 percent if the taxpayer making the conveyance is a working farmer. The amount of the credit for all other conveyances would continue to be 40 percent.

For purposes of this bill, a “working farmer” would be defined as any person who derives at least 75 percent of his gross income from a farming operation within the Commonwealth as reported on his federal income tax forms the previous year.

This bill would be effective for conveyances made on or after January 1, 2013.

### Similar Legislation

**House Bill 336** would exclude federal government entities from the list of donees entitled to receive a portion of the Land Preservation Tax Credit transfer fee.

**House Bill 908** would allow donors to apply for Land Preservation Tax Credits prior to making any donation of land.

**House Bill 1268** would extend the \$50,000 limitation on the amount of Land Preservation Tax Credits that may be claimed on income tax returns through Taxable Year 2012.

**Senate Bill 352** would allow the executor or administrator of an estate or the trustee of a revocable living trust to transfer Land Preservation Tax Credits on behalf of a deceased taxpayer.

**Senate Bill 355** would require the Department to annually publish certain information about Land Preservation Tax Credits.

cc : Secretary of Finance

Date: 1/23/2012 KLC  
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