

**DEPARTMENT OF TAXATION
2005 Fiscal Impact Statement**

1. **Patron** Joseph P. Johnson, Jr.

2. **Bill Number** HB 2788

3. **Committee** Senate Finance

House of Origin:

 Introduced

 Substitute

 Engrossed

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

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. Summary/Purpose:

This bill 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.

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:

Revenue Impact

Because only a small number of taxpayers are expected to be affected by this bill, the associated revenue loss would be minimal.

Administrative Impact

The Department would incur minimal costs to implement and administer this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. **Technical amendment necessary:** None.

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 authorize the Department to recognize the transfer of unused Land Preservation Tax Credits for land donated before January 1, 2002 if certain criteria were met. First, the transfer must have occurred on or before December 31, 2004. Next, notification of at least one transfer attributable to such donation must have been filed with the Department on forms prescribed for that purpose on or before December 31, 2004. Finally, the credit holder who transferred the credit must establish that the transfer was made in reliance on erroneous advice from the Department concerning the transferability of the credits.

The effective date of this bill is not specified.

Other Legislation

Senate Bill 1139 would limit the Land Preservation Tax Credit that a taxpayer could claim to the lesser of \$600,000 or 50 percent of the fair market value of any land or interest in land that is donated. In addition, this bill would limit the total amount of this credit that could be claimed by all taxpayers for any qualified donation to \$100,000 per year.

cc : Secretary of Finance

Date: 2/10/2005 AMS
HB2788FES1161