

DEPARTMENT OF TAXATION 2010 Fiscal Impact Statement

1. **Patron** Mary Margaret Whipple

3. **Committee** Senate Finance

4. **Title** Land Preservation Tax Credit

2. **Bill Number** SB 264

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would remove the \$10,000 cap on the fee that is assessed when Land Preservation Tax Credits are transferred. Currently, the fee is 2 percent of the value of the donated interest or \$10,000, whichever is less.

This bill would be effective for sales of credits occurring on or after July 1, 2010 and for distributions of credits to members, managers, partners, shareholders or beneficiaries occurring on or after January 1, 2010.

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

7. Budget amendment necessary: No.

8. Fiscal implications:

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill would generate an additional \$2 million in revenue annually over the amount currently collected from the capped fee. This estimate is based on the amount of fees paid since the fee was first imposed and the amount that would have been paid had there been no cap. Currently, the fee with the cap generates sufficient revenue to cover the costs incurred by TAX and the Department of Conservation and Recreation for the administration of the Land Preservation Tax Credit.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Conservation and Recreation

10. Technical amendment necessary: Yes.

In order to clarify the effective date of this bill, the following technical amendment is suggested:

Page 2, Line 61, after on or after
Strike: January
Insert: July

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 2009, the cap was \$106,647,000.

Any taxpayer holding a Land Preservation Tax Credit may transfer the unused credit for use by another taxpayer. The taxpayer transferring the credit must notify TAX of the transfer. There is a 2 percent fee on the value of the donated interest imposed for the transfer of credits. The transfer fee is capped at \$10,000. This fee is also applied when pass-through entities distribute the credit to members, managers, partners, shareholders or beneficiaries. Revenues generated by the fees are used to recover the costs incurred by TAX and the Department of Conservation and Recreation for the administration of the Land Preservation Tax Credit.

Proposal

This bill would remove the \$10,000 cap on the fee that is assessed when Land Preservation Tax Credits are transferred.

This bill would be effective for sales of credits occurring on or after July 1, 2010 and for distributions of credits to members, managers, partners, shareholders or beneficiaries occurring on or after January 1, 2010.

Similar Bills

House Bill 447 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 directs the revenues be paid to TAX and the Department of Conservation and Recreation first; any remaining revenues would be transferred to the public or private conservation agencies responsible for enforcing the conservation purposes of the donated interest.

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 632 and **Senate Bill 341** would increase the Land Preservation Tax Credit to equal 50 percent of the fair market value.

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 661 would require certain taxpayers whose application for the Land Preservation Tax Credit involves a donation of land or interest in land to have the conservation value of the donation verified by the Department of Conservation and Recreation if such application would result in a credit of \$250,000 or more.

cc : Secretary of Finance

Date: 2/8/2010 JKM
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