

**DEPARTMENT OF TAXATION  
2010 Fiscal Impact Statement**

**REVISED**

1. **Patron** Emmett W. Hanger, Jr.
3. **Committee** Senate Finance
4. **Title** Land Preservation Tax Credit

2. **Bill Number** SB 341  
**House of Origin:**  
  X   **Introduced**  
      **Substitute**  
      **Engrossed**
- Second House:**  
      **In Committee**  
      **Substitute**  
      **Enrolled**

**5. Summary/Purpose:**

TAX understands that the patron will be introducing an amendment in the nature of a substitute for this bill. This fiscal impact statement is applicable to that substitute version.

This bill would increase the Land Preservation Tax Credit to equal 50 percent of the fair market value of donated land or interest in land that is being used for production agriculture or silviculture and is in agricultural operation, provided the land has onsite best management practices that limit the amount of nutrients and sediments that enter state waters. Currently, the percentage is 40 percent for all donations.

This bill would be effective for donations made on or after January 1, 2010.

6. **No Fiscal Impact.** (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

Because the amount of credit that may be issued in a calendar year is capped and credits are effectively limited by that cap, this bill would have no revenue impact. The change in the percentage amount related to some donations could, however, extend the period taxpayers would have to wait in order to receive credits.

### **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 40 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. For donations made prior to January 1, 2007, the percentage was 50 percent.

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.

#### Proposal

This bill would increase the Land Preservation Tax Credit to equal 50 percent of the fair market value of donated land or interest in land that is being used for production agriculture or silviculture and is in agricultural operation as defined in *Va. Code* § 3.2-300, provided the land has onsite best management practices that limit the amount of nutrients and sediments that enter state waters.

*Virginia Code* § 3.2-300 defines "agricultural operation" as any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.

*Virginia Code* § 3.2-300 defines "production agriculture and silviculture" as the bona fide production or harvesting of agricultural or silvicultural products but shall not include the

processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

This bill would be effective for donations made on or after January 1, 2010.

### 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** 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 direct the revenues to 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 632** would increase the Land Preservation Tax Credit to equal 50 percent of the fair market value.

**Senate Bill 233** 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 2011.

**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.

**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: 1/26/2010 JKM  
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