

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** R. Creigh Deeds

2. **Bill Number** SB 355

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Land Preservation Tax Credits; information about approved credits

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require the Department of Taxation ("the Department") to publish, and update annually, a list that identifies certain information for each tract of land or interest in land for which a Land Preservation Tax Credit was issued. The following information would be required: the tax map parcel number of the property, the assessed value of the property, the appraised value of the property, and the amount of tax credits issued for the property.

This bill would also authorize the Tax Commissioner to disclose such information.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:**

Administrative Costs

The Department 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

10. Technical amendment necessary: Yes.

There is no statutory definition of “tract” for purposes of the Land Preservation Tax Credit. The Department recently began collecting information regarding tracts of land on Land Preservation Tax Credit application forms. The current application form allows taxpayers to submit one Land Preservation Tax Credit application for the donation of several tracts of land. Accordingly, it may be difficult to identify the amount of credit allocated to each individual tract. To resolve this issue, the Department suggests the following technical amendment:

Line 152, after land

Insert: , or group of tracts included in a single application,

Localities lack uniformity as to the identification of land. For example, some localities list property by tax map number while others identify property by parcel identification number. To ensure this bill would allow for the identification of each tract of land as identified by the locality where the land is located, the Department suggests the following technical amendment:

Line 154, after number

Insert: or other identification number

11. Other comments:

Background

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 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.

To receive a Land Preservation Tax Credits, taxpayers must apply after completing the donation by submitting forms prescribed by the Department in consultation with the Department of Conservation and Recreation (“DCR”). The fair market value of qualified donations must be determined and substantiated by a qualified appraisal prepared by a qualified appraiser who is licensed in Virginia. To qualify for a tax credit, the qualified appraisal must be signed by the qualified appraiser and a copy of the appraisal must be submitted to the Department. 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.

If 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 such parcel, or any land partitioned from

such parcel of land, has been allowed a Land Preservation Tax Credit, or an application is pending for a Land Preservation Tax Credit, within three years of such donation and the tax credit that would otherwise be allowed to the donor is at least \$250,000, the conservation value must be verified by the Director of DCR. The Director must act on applications within 90 days of receipt of a complete application and must notify the taxpayer and the Department of Taxation of his action.

Confidentiality of Taxpayer Information

Under Va. Code § 58.1-3, the Tax Commissioner may not divulge any confidential information except in certain circumstances. Such confidential information includes any information acquired by the Tax Commissioner in the performance of his duties with respect to the transactions, property, including personal property, income, or business of any person, firm, or corporation. The law currently allows for the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof. However, any information that could allow the identification of taxpayers cannot be divulged unless expressly permitted under the law.

Proposal

This bill would require the Department of Taxation (“the Department”) to publish, and update annually, a list that identifies certain information for each tract of land or interest in land for which a Land Preservation Tax Credit was issued. The following information would be required: the tax map parcel number of the property, the assessed value of the property, the appraised value of the property, and the amount of tax credits issued for the property.

Assuming the technical amendment is made to reconcile the disclosure of tract information based on information that the Department actually has available, this bill would require the Department to publish and maintain such a list for every credit issued on or after July 1, 2011.

Because the law prohibits the Tax Commissioner from divulging confidential information without a proper judicial order or statutory authority, this bill would expressly authorize the Tax Commissioner to publish such information regarding Land Preservation Tax Credits.

The effective date of this bill is not specified.

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.

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 403 would increase the amount of the Land Preservation Tax Credit for working farmers.

House Bill 664 would require the Tax Commissioner to publish an annual list of certain tax credits that would include the names of all taxpayers claiming a tax credit of at least \$1,000 and the dollar amount of such tax credits.

cc : Secretary of Finance

Date: 1/20/2012 KLC
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