

**DEPARTMENT OF TAXATION  
2012 Fiscal Impact Statement**

1. **Patron** Robert H. Brink

3. **Committee** House Finance

4. **Title** Land Preservation Tax Credit

2. **Bill Number** HB 1268

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill 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. Currently, the law limits the annual amount of credit that may be claimed to \$50,000 for Taxable Years 2009, 2010, and 2011 only. This bill would also extend the carryover period by one year for those affected by this limitation.

This bill would be effective for taxable years on or after January 1, 2012.

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

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

**8. Fiscal implications:**

Administrative Impact

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

Revenue Impact

This bill would have no revenue impact, as the introduced Executive Budget and revenue forecast for Land Preservation Tax Credits is based on actual credit history that has the average credit claimed well below either the \$100,000 or \$50,000 limit.

Although the average claim has declined from about \$22,200 per return in Fiscal Year 2007 to \$18,800 in Fiscal Year 2011, the credit has seen a 34 percent increase in usage, from 5,800 taxpayers in Fiscal Year 2007 to 7,800 taxpayers in Fiscal Year 2011.

Over the last five fiscal years, the amount of Land Preservation Tax Credits claimed has been in the \$125 million to \$150 million range. In three of the fiscal years, the cap was limited to \$100,000, and in two years it was limited to \$50,000.

In two of the \$100,000 credit limit years and one of the \$50,000 credit limit years, total credits were about \$125 million. In one of the \$100,000 credit limit years and one of the \$50,000 credit limit years, total credits were about \$150 million.

The methodology for the Fiscal Year 2013 and Fiscal Year 2014 revenue estimates is based on current history actual dollars issued regardless of a cap. The estimated credit for Fiscal Year 2013 is \$150 million and \$125 million for Fiscal Year 2014.

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

Department of Taxation

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

**11. Other comments:**

Land Preservation Tax Credit

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.

For Taxable Years 2009, 2010, and 2011, the amount of Land Preservation Credits that may be claimed on income tax returns was reduced from \$100,000 per taxpayer to \$50,000 per taxpayer. The carryover period is extended by two years for those affected by the limitation.

Proposal

This bill 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. This bill would also extend the carryover period by one year for those affected by this limitation.

This bill would be effective for taxable years on or after January 1, 2012.

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

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

cc : Secretary of Finance

Date: 1/26/2012 KLC  
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