

DEPARTMENT OF TAXATION

2013 Fiscal Impact Statement

1. **Patron** Lynwood W. Lewis, Jr.

3. **Committee** House Finance

4. **Title** Land Preservation Tax Credit: Conveyances
for Public Use

2. **Bill Number** HB 1800

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would increase the amount of the Land Preservation Tax Credit from 40 percent to 60 percent of the fair market value of the portion of any land or interest in land located in Virginia that is conveyed for certain purposes. To qualify for the increased credit amount, the conveyance must be for (i) the purpose of a public park, public recreational facility, or public trail access easement, or (ii) such other public use that would provide a substantial public benefit as identified in guidelines developed by the Department of Conservation and Recreation ("DCR")

This bill would be applicable to applications for tax credits first made to the Department of Taxation ("the Department") on or after January 1, 2014.

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

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

8. **Fiscal implications:**

Administrative Costs

The Department and DCR consider implementation of this bill as routine, and are not requesting additional funding.

Revenue Impact

Because applications for Land Preservation Tax Credits currently meet or exceed the annual cap, this bill would have no General Fund revenue impact. Increasing the credit from 40 percent to 60 percent would ensure that the credit cap will continue to be met in 2014 and thereafter. However, since the credit is issued on a first-come, first-served basis, increasing the amount of credit permitted for certain taxpayers may limit the amount of Land Preservation Tax Credits available for taxpayers that submit subsequent applications.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Conservation and Recreation

10. Technical amendment necessary: Yes.

The Department accepts applications for donations made in prior years. If the intent is to have the increased percentage apply to donations made after January 1, 2014, then the following amendment is suggested:

Line 199, after Taxation
Insert: with respect to donations made

11. Other comments:

Current Law

The Land Preservation Tax Credit is equal to forty percent of the fair market value of land or an 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. Starting in calendar year 2008, the \$100 million cap must be indexed for inflation. For 2013, the cap is \$113,909,000. Below is a chart detailing the annual cap amount.

Year	CPI-U Amount Over 2006 Base Year	Cap Amount
2007	-	\$100,000,000
2008	2.29%	\$102,287,000
2009	6.6%	\$106,647,000
2010	6.8%	\$106,845,000
2011	8.4%	\$108,424,000
2012	11.05%	\$111,054,000
2013	13.91%	\$113,909,000

Any taxpayer holding a Land Preservation Tax Credit who is unable to use the credit may either carry the credit over to a subsequent year or transfer the unused credit for use by another taxpayer. The taxpayer transferring the credit must notify the Department of the transfer. There is a two percent fee on the value of the donated interest imposed for the transfer of credits. This fee is also applied when pass-through entities distribute the credit to members, managers, partners, shareholders or beneficiaries.

Proposed Legislation

This bill would increase the amount of the Land Preservation Tax Credit from 40 percent to 60 percent of the fair market value of the portion of any land or interest in land located in Virginia that is conveyed for certain purposes.

To qualify for the increased credit amount, the conveyance must be for (i) the purpose of a public park, public recreational facility, or public trail access easement, or (ii) such other public use that would provide a substantial public benefit as identified in guidelines developed by DCR. Such guidelines and any subsequent amendments thereto would be exempt from the Administrative Process Act, but DCR would be required to provide for adequate public participation in the development of the guidelines, including adequate notice and an opportunity for the public to provide comments on the proposed guidelines.

This bill would be applicable to applications for tax credits first made to the Department on or after January 1, 2014.

Similar Legislation

House Bill 1398 would require that, for any year that the Department has not received complete applications for enough Land Preservation Tax Credits to issue the maximum amount of credits allowed for that year, the remaining amount would be transferred to the Virginia Land Conservation Fund, the Civil War Site Preservation Fund, and the Virginia Farmland Preservation Fund.

House Bill 1462 would require the Department to assess additional taxes and penalties relation to Land Preservation Tax Credits within one year of the credit being claimed on an income tax return.

House Bill 1694 would allow taxpayers to apply for Land Preservation Tax Credits prior to making a donation, provided the requested credit is \$1 million or more and the donation is verified by the Department of Conservation and Recreation.

House Bill 2034 would repeal the Land Preservation Tax Credit.

House Bill 2253 would repeal the Land Preservation Tax Credit and would make other significant changes to Virginia's tax structure.

cc : Secretary of Finance

Date: 1/17/2013 KLC
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