

# DEPARTMENT OF TAXATION

## 2015 Fiscal Impact Statement

1. **Patron** C. Matthew Fariss

3. **Committee** House Finance

4. **Title** Land Preservation Tax Credits for Individuals and Corporations

2. **Bill Number** HB 2382

**House of Origin:**

           **Introduced**

  X   **Substitute**

           **Engrossed**

**Second House:**

           **In Committee**

           **Substitute**

           **Enrolled**

### 5. **Summary/Purpose:**

This bill would limit the amount of the Land Preservation Tax Credit to no more than \$6 million per conveyance.

This bill would also prohibit a taxpayer from directly or indirectly selling more than \$1 million in Land Preservation Tax Credits with respect to a conveyance during the period beginning with the date of the issuance of such tax credits through December 31 of the calendar year following the calendar year of the conveyance. In each calendar year thereafter, taxpayers would be prohibited from directly or indirectly selling more than \$500,000 in tax credits with respect to such conveyance.

The provisions of this bill imposing a \$6 million limitation per conveyance would become effective in due course. The provisions of this bill related to the sale of tax credits would be effective for any land or interest in land conveyed on or after July 1, 2015.

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

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

### 8. **Fiscal implications:**

#### Administrative Costs

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 a positive General Fund revenue impact. However, the timing and magnitude of such impact is unknown. From 2009 through 2014, six conveyances would have been affected by the \$6 million limitation imposed by this bill, and \$24.9 million worth of credits would have been disallowed during this period. Because the Land Preservation

Tax Credit includes a ten-year carryover provision, the timing of credits that would be disallowed under this bill is unknown.

The limitations that this bill would impose on the amount of credits transferred would also have an unknown positive revenue impact. The impact of this provision would depend on the amount of credits that would be disallowed under this bill. Since 2002, approximately 85% percent of all Land Preservation Tax Credits issued has been transferred.

**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 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.

To qualify for the Land Preservation Tax Credit, a taxpayer must submit a credit application to the Department after completing the donation. If a credit application requests a credit of \$1 million or more, or if the real property that is the subject of a donation of at least \$250,000 was partitioned from another parcel of land that received a tax credit within three years of the donation, then a copy of the application must also be filed with the Department of Conservation and Recreation.

*Annual Credit Cap*

Beginning in the 2007 calendar year, the aggregate amount of Land Preservation Tax Credits that may be issued in any one year is subject to a cap. For calendar year 2007, the cap amount was \$100 million. For calendar years 2008 through 2013, the \$100 million cap was increased for inflation. In 2013, the General Assembly enacted legislation (Chapter 798, 2013 Acts of Assembly) that reinstated the \$100 million cap for calendar year 2014 and thereafter, without any adjustments for inflation.

Land Preservation Tax Credits must be issued in the order that each complete application is received. If more than one application is received at the same time, the credits with respect to those applications must be issued in the order that the conveyances were recorded in the appropriate Virginia circuit court. If a credit requires verification of the conservation value by the Department of Conservation and Recreation and such verification has not been received at the time the aggregate cap is reached for the calendar year, the credit shall be issued in the calendar year that the conservation value of the credit is verified.

## *Claiming and Transferring Credits*

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 amount of the credit that may be claimed by each taxpayer is limited to \$50,000 for the 2009, 2010, and 2011 taxable years, and \$100,000 for the 2012 taxable year and for each taxable year thereafter. Any unused portion of a credit issued to a taxpayer may generally be carried forward for a maximum of 10 years. For taxpayers affected by the credit reduction for taxable years 2009, 2010, and 2011, any unused portion of a credit issued to a taxpayer may be carried forward for a maximum of 13 years.

For taxpayers to whom a credit has been transferred, any unused portion may be carried forward for a maximum of 11 years after the credit was originally issued. For taxpayers affected by the credit reduction for taxable years 2009, 2010, and 2011, any portion of a transferred credit may be carried forward for a maximum of 14 years after the credit was originally issued.

### Proposal

This bill would limit the amount of the Land Preservation Tax Credit to no more than \$6 million per conveyance.

This bill would also prohibit a taxpayer from directly or indirectly selling more than \$1 million in Land Preservation Tax Credits with respect to a conveyance during the period beginning with the date of the issuance of such tax credits through December 31 of the calendar year following the calendar year of the conveyance. In each calendar year thereafter, taxpayers would be prohibited from directly or indirectly selling more than \$500,000 in tax credits with respect to such conveyance.

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### Similar Legislation

**House Bill 1828** and **Senate Bill 1019** would limit the fiscal impact of the Land Preservation Tax Credit by reducing the annual credit cap and the amount of credit that may be claimed by each taxpayer annually.

cc : Secretary of Finance

Date: 1/27/2015 KLC  
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