

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend and reenact § 58.1-513 of the Code of Virginia, relating to transfers of tax credits  
2 under the Virginia Land Conservation Incentives Act of 1999.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That § 58.1-513 of the Code of Virginia is amended and reenacted as follows:**

5 § 58.1-513. Limitations; transfer of credit; gain or loss from tax credit.

6 A. Any taxpayer claiming a tax credit under this article shall not claim a credit under any similar  
7 Virginia law for costs related to the same project. To the extent a credit is taken in accordance with this  
8 article, no subtraction allowed for the gain on the sale of (i) land dedicated to open-space use or (ii) an  
9 easement dedicated to open-space use under subsection C of § 58.1-322 shall be allowed for three years  
10 following the year in which the credit is taken.

11 B. Any tax credits that arise under this article from the donation of land or an interest in land  
12 made by a pass-through tax entity such as a trust, estate, partnership, limited liability company or  
13 partnership, limited partnership, subchapter S corporation or other fiduciary shall be used either by such  
14 entity if it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder or  
15 beneficiary, as the case may be, in proportion to their interest in such entity in the event that income,  
16 deductions and tax liability pass through such entity to such member, manager, partner, shareholder or  
17 beneficiary or as set forth in the agreement of said entity. Such tax credits shall not be claimed by both  
18 the entity and the member, manager, partner, shareholder or beneficiary for the same donation.

19 C. Any taxpayer ~~holding a credit~~ making a qualified donation under this article may transfer any  
20 unused but otherwise allowable credit that relates to such qualified donation for use by another taxpayer  
21 on Virginia income tax returns. A taxpayer who transfers any amount of credit under this article shall  
22 file a notification of such transfer to the Department in accordance with procedures and forms prescribed  
23 by the Tax Commissioner.

24 D. To the extent included in and not otherwise subtracted from federal adjusted gross income  
25 pursuant to § 58.1-322 or federal taxable income pursuant to § 58.1-402, there shall be subtracted any  
26 amount of gain or income recognized by a taxpayer on the application of a tax credit under this article  
27 against a Virginia income tax liability.

28 E. The transfer of the credit and its application against a tax liability shall not create gain or loss  
29 for the transferor or the transferee of such credit.

30 F. A pass-through tax entity, such as a partnership, limited liability company or Subchapter S  
31 corporation, may appoint a tax matters representative, who shall be a general partner, member/manager  
32 or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner  
33 shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom  
34 credits have been allocated or transferred by the entity under this article with respect to those credits. In  
35 the event a pass-through tax entity allocates or transfers tax credits arising under this article to its  
36 partners, members or shareholders and the allocated or transferred credits shall be disallowed, in whole  
37 or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax  
38 Commissioner shall first make written demand for payment of any additional tax, together with interest  
39 and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the  
40 Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of  
41 Chapter 18 (§ 58.1-1800 et seq.) of this title.

42 **2. That the provisions of this act shall be applicable to donations under the Virginia Land**  
43 **Conservation Incentives Act of 1999 (§ 58.1-510 et seq. of the Code of Virginia) that are made on**  
44 **or after July 1, 2006.**

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