

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 58.1-512 of the Code of Virginia, relating to donations qualifying for
2 tax credit under the Virginia Land Conservation Incentives Act of 1999.

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

4 **1. That § 58.1-512 of the Code of Virginia is amended and reenacted as follows:**

5 § 58.1-512. Land preservation tax credits for individuals and corporations.

6 A. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit
7 against the tax liability imposed by §§ 58.1-320 and 58.1-400, an amount equal to 50 percent of the fair
8 market value of any land or interest in land located in Virginia which is conveyed for the purpose of
9 agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land,
10 agricultural, watershed and/or historic preservation, as an unconditional donation in perpetuity by the
11 landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests
12 therein for conservation or preservation purposes.

13 B. The fair market value of qualified donations made under this section shall be substantiated by
14 a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable
15 federal law and regulations governing charitable contributions. The value of the donated interest in land
16 that qualifies for credit under this section, as determined according to appropriate federal law and
17 regulations, shall be subject to the limits established by U.S. Internal Revenue Code § 170 (e). In order
18 to qualify for a tax credit under this section, the qualified appraisal shall be signed by the qualified
19 appraiser, who must be licensed in the Commonwealth of Virginia as provided in § 54.1-2011, and a
20 copy of the appraisal shall be submitted to the Department. In the event that any appraiser falsely or
21 fraudulently overstates the value of the contributed property in an appraisal that the appraiser has signed,
22 the Department may disallow further appraisals signed by the appraiser and shall refer the appraiser to
23 the Real Estate Appraiser Board for appropriate disciplinary action pursuant to § 54.1-2013, which may
24 include, but need not be limited to, revocation of the appraiser's license. 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 and the amount of tax credit to be allowed under this section.

C. 1. The amount of the credit that may be claimed by a taxpayer shall not exceed \$50,000 for 2000 taxable years, \$75,000 for 2001 taxable years, and \$100,000 for 2002 taxable years and thereafter. In addition, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or corporate income tax otherwise due. Any portion of the credit which is unused in any one taxable year may be carried over for a maximum of five consecutive taxable years following the taxable year in which the credit originated until fully expended.

2. Qualified donations shall include the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-than-fee interest qualifies as a charitable deduction under § 170 (h) of the U.S. Internal Revenue Code of 1986, as amended. Qualified donations shall not include the conveyance of a fee interest, or a less-than-fee interest, in real property that has been dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits.

3. Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501 (c) (3) of the U.S. Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509 (a) (2) or (ii) meets the requirements of § 509 (a) (3) and is controlled by an organization described in § 509 (a) (2).

4. a. Notwithstanding any other provision under this article, credit against the tax liability imposed by § 58.1-320 or § 58.1-400 shall be allowed only for land or an interest in land (i) that is located in the Chesapeake Bay watershed; (ii) that is used for agricultural production for market for which reasonable agricultural best management practices, as described in the most recently approved "Virginia Agricultural BMP Implementation Manual" published by the Department of Conservation and Recreation, are in place in the taxable year in which the donation is made under this article, as certified

by the local Soil and Water Conservation District Board; (iii) that is "real estate devoted to open-space use" as defined in § 58.1-3230 but not including clause (vii) of such definition; or (iv) that, within the taxable year in which the donation is made under this article, is covered by an individualized Forest Stewardship Plan that has been certified by the State Forester.

For purposes of clause (ii), the owner of the land shall also be required to execute a written agreement with the Department of Conservation and Recreation promising to keep the reasonable agricultural best management practices in place for the 15 taxable years immediately following the year of donation.

For purposes of clause (iii), the owner of the land shall also be required to execute a written agreement with the Department promising to keep the land devoted to open-space use or with reasonable agricultural best management practices in place for the 15 taxable years immediately following the year of donation.

The Department shall annually check all land qualifying for credit pursuant to clause (ii) or (iii) to verify that the reasonable agricultural best management practices are in place or that the land is being devoted to open-space use. If the owner of the land fails to keep the agricultural best management practices in place or fails to keep the land devoted to open-space use for the period required herein, the Department of Taxation shall recapture the entire amount of the credit from the taxpayer in the taxable year of such failure.

b. Agricultural best management practices undertaken by the taxpayer shall be approved by the local Soil and Water Conservation District Board. Upon its finding that reasonable agricultural best management practices are in place for the land in question, the local Soil and Water Conservation District Board shall issue a certificate to the taxpayer certifying the same.

c. For purposes of the credit under this article, if the land was covered by an individualized Forest Stewardship Plan during the taxable year of donation under this article, the State Forester shall issue a certificate to the taxpayer certifying the same.

d. The requirements of this subdivision shall be in addition to all other requirements under this article.

79 e. All certifications under this subdivision shall be forwarded by the taxpayer to the Department
80 of Taxation on forms provided by the Department.

81 45. The preservation, agricultural preservation, historic preservation or similar use and purpose
82 of such property shall be assured in perpetuity.

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

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