

House and Senate Finance Subcommittee Studying the Land Conservation Tax Credit Program

December 12, 2005

Overview

The final meeting of the special subcommittee made up of members of the House and Senate Finance Committees which is studying the land conservation tax credit program was held in Richmond. After the meeting was called to order by Chairman Lee Ware, the single order of business was a subcommittee discussion of draft legislation prepared by staff at the request of certain subcommittee members. A total of eight bill drafts were presented for discussion.

The drafts can be found on the subcommittee's web page at:
<http://dls.state.va.us/landconserv.htm>

Final Recommendations

The following recommendations were approved by a majority of the subcommittee as proposed amendments to the Virginia Land Conservation Incentives Act of 1999:

1. Credit unused at the individual's death should be allowed to be taken as a credit by the decedent's estate against any estate tax. The estate should not be allowed to transfer any unused credit of the decedent.
2. The maximum credit allowed for each donation under the Act should be limited to \$600,000, which includes any credit transferred.
3. In determining the fair market value of any donation, no value should be assigned to any improvements on real estate.
4. In any administrative or judicial case where fair market value is being contested, the burden of proof should be on the taxpayer to show there is a reasonable probability that (i) the property is physically adaptable for the highest and best use that is proposed in the appraisal, and (ii) there is a need or demand for such use in the reasonably near future.
5. The tax credit should only be allowed for donated land that is (i) located in the Chesapeake Bay watershed, (ii) agricultural with reasonable best management practices in place, (iii) devoted to open-space use, or (iv) covered by an individualized Forest Stewardship Plan.

6. No credit should be allowed for land that has been dedicated as open space within, or as part of, a residential subdivision or any other type of residential or commercial development.

7. No credit should be allowed for a donation from the same parcel of land during a 15-year period, unless there is no affiliation between the persons or entities who already have been allowed credit with respect to the parcel and the persons or entities seeking credit.

8. Only the donor should be allowed to transfer any unused credit.

9. Organizations under § 501 (c) of the Internal Revenue Code should not be allowed to transfer any credit.