

Land Preservation Credit



Virginia Department of Taxation

Virginia's Land Preservation Tax Credit

Presented to:

Senate Finance Committee

Subcommittee on Economic Development and Natural Resources

Lake Anna State Park

Spotsylvania, Virginia

May 19, 2008

Presented By:

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Virginia Department of Taxation

Donation History Data

Tax Year	# of Credits	# of Acres	Credit Requests
2000-01	218	30,159	\$ 46,146,310
2002	212	34,391	\$ 62,025,307
2003	139	28,059	\$ 75,358,707
2004	236	49,235	\$140,444,145
2005	277	55,914	\$155,281,875
2006	441	92,075	\$241,727,998
*2007	252	79,848	\$ 99,773,879
Grand Total	1,775	369,681	\$820,758,221

*Through April 2008



Large Donations (>\$1,000,000) Data

Tax Year	# of Credits	# of Acres	Credit Requests
2000-01	6	840	\$ 7,431,200
2002	6	2,910	\$ 21,205,126
2003	11	7,173	\$ 47,754,407
2004	28	12,478	\$ 84,608,471
2005	33	16,648	\$ 86,795,747
2006	55	24,564	\$122,372,820
*2007	14	5,620	\$ 28,255,400
Grand Total	153	70,233	\$398,423,171

*Through April 2008



Breakdown of Large Donations Data

Appraised Value	# of Credits	# of Acres	Credit Req'd
\$2.0M - \$2.4M	35	10,314	\$ 38,378,250
\$2.5M - \$3.6M	54	28,416	\$ 79,753,690
\$3.7M - \$4.9M	21	10,103	\$ 42,205,205
\$5.0M-\$10.0M	22	12,030	\$ 78,849,804
>\$10.0M	21	9,370	\$159,236,222
Total	153	70,233	\$398,423,171

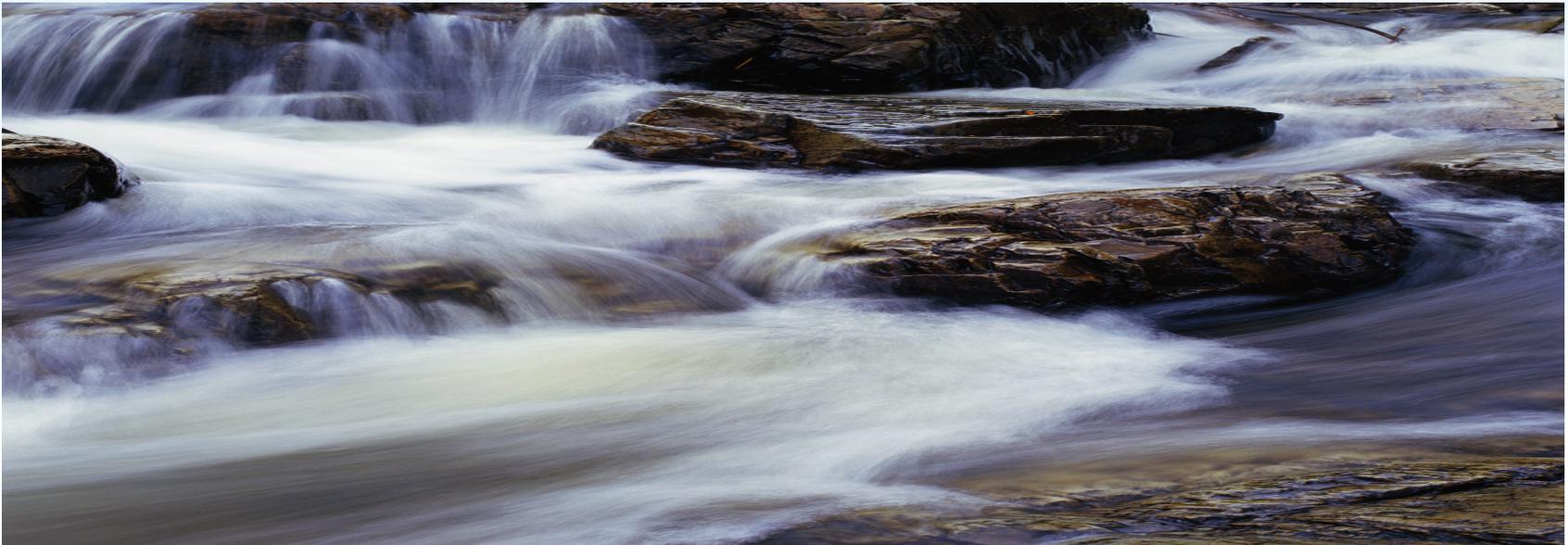
Breakdown of Large Donations

Data cont'd

Tax Year	% of Credits	% of Acres	% of Credit Requested
2000-01	3%	3%	16%
2002	3%	8%	34%
2003	8%	26%	63%
2004	12%	25%	60%
2005	12%	30%	56%
2006	12%	27%	51%
2007	6%	7%	28%

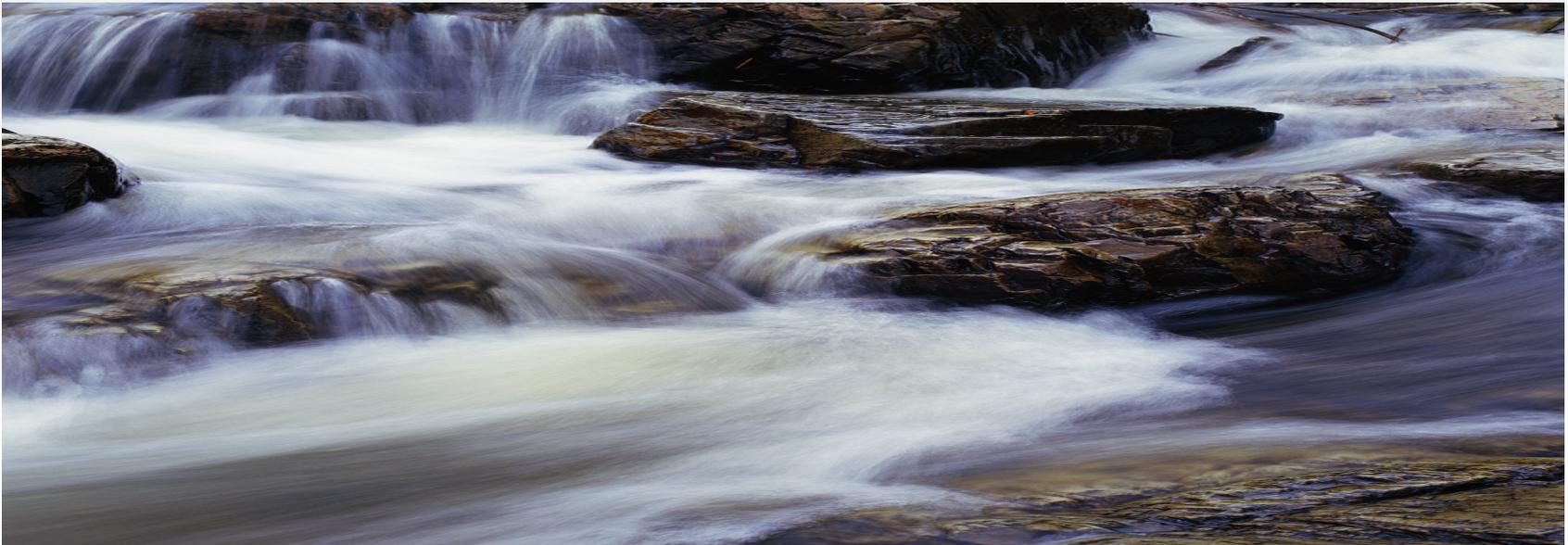
Comparative Donation Data

Type	# Credits	# Acres	Appraised Value	Fair Market/Acre
Large Donation	153	70,233	\$ 768,590,942	\$ 10,943
Small Donation	1,622	299,448	\$ 673,377,740	\$ 2,249
Grand Total	1,775	369,681	\$1,441,968,682	\$ 3,901



Comparative Donation Data

Type	# Credits	# Acres	Credits Req'd	Credit Value/Acre
Large Donation	153	70,233	\$ 398,423,171	\$ 5,673
Small Donation	1,622	299,448	\$ 422,335,049	\$ 1,410
Grand Total	1,775	369,681	\$ 820,758,220	\$ 2,220



Statewide LPC CAP

Tax Year

CAP AMOUNT

2007

\$ 100,000,000

2008

\$ 102,287,081



Transfer History Data

Tax Year	#of Credits	# of Recipients	Amt Transferred	% of Total
2002	164	1,788	\$ 51,121,412	82%
2003	111	1,843	\$ 69,348,301	92%
2004	247	3,038	\$122,374,650	87%
2005	236	2,367	\$134,946,156	87%
2006	388	4,098	\$211,529,802	88%
*2007	162	1,375	\$ 59,165,801	59%
Grand Total	1,308	14,509	\$648,486,122	84%

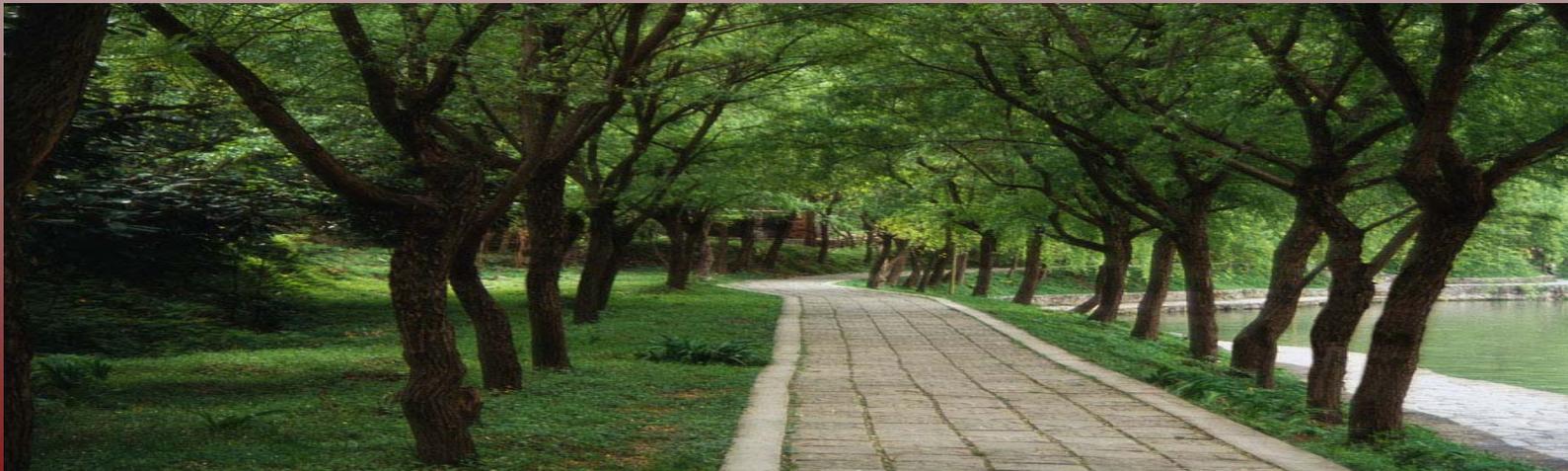
*Through April 2008



LPC Claimed on Returns Data

Tax Year	# of Returns	Amount Claimed
2000-01	460	\$ 6,462,912
2002	440	\$ 5,641,730
2003	1,315	\$ 32,073,310
2004	3,801	\$ 94,746,254
2005	5,512	\$ 114,893,944
2006	7,444	\$ 167,344,613
2007	2,934	\$ 43,726,792
Grand Total	21,906	\$ 464,889,555

*Through April 2008



Easement Value Ratio Data

Reduction % Range	# of Donations	Credit Requested
0-25	326	\$ 79,607,613
26-50	859	\$335,433,207
51-75	260	\$186,781,446
76-100	94	\$149,757,736



Where are donations being made? Number of Donations

Locality	# of Donations	Acres	Credit Value
Fauquier	178	34,798	\$ 91,191,650
Albemarle	161	60,195	\$ 95,505,087
Loudoun	152	19,065	\$114,770,372
Rockbridge	104	19,083	\$ 14,099,515
Rappahannock	79	14,230	\$ 19,887,309
Clark	56	6,739	\$ 14,124,484
Augusta	55	9,151	\$ 5,736,552

Where are donations being made? Dollar Value

Locality	# of Donations	Acres	Credit Value
Loudoun	152	19,065	\$114,770,372
Albemarle	161	60,195	\$ 95,505,087
Fauquier	178	34,798	\$ 91,191,650
New Kent	2	2,688	\$ 24,706,836
Spotsylvania	13	2,169	\$ 21,862,420
Rappahannock	79	14,230	\$ 19,887,309
Fredericksburg	5	190	\$ 17,973,250
Fairfax County	21	208	\$ 15,788,729
Bath	36	11,659	\$ 15,148,625

LPC Review Criteria

- Uniform review criteria applied to all donations regardless of size
- Multiple review factors included
- Review factors are weighted to recognize the degree of variation
- Process recognizes existence of multiple factors
- Specific review/selection based on relevant information.

LPC Review Criteria

Some easements will be reviewed by in-house and/or contract appraisers to:

- Identify Valuation Issues
- Verify USPAP Compliance
- Verify IRC §170(H) Conformity
- Determine if full appraisal is warranted
- Review for specific issues
- Allow specific review/selection based on known issues

Consolidated Group

- PD 07-131
- *“The amount of credit that may be claimed by a taxpayer shall not exceed....\$100,000.”*
- Because the statute imposes the limitation on a per-taxpayer basis, not a per-return basis, it is clear that when more than one taxpayer is included in a return, then the separate limitations must be applied to each taxpayer.
- Each taxpayer must have earned or otherwise acquired credits claimed on the return.

Federal Donee

- PD 07-132
- Qualified donations shall be eligible for the tax credit if the donation is made to the Commonwealth of VA, or a charitable organization described in § 501 (c) (3) of the United States Internal Revenue Code of 1986 as amended
- Property to be assured in perpetuity. Donor must provide sufficient assurance that the purpose for which the conveyance is made, and the credit granted, will be preserved indefinitely.

Credit Requested by Taxpayer

PD 07-172

Under Va. Code §58.1-512 A, a Credit is allowed for certain donations and, effective for donations made on and after January 1, 2007, the Credit “shall be 40% of the fair market value of the land or interest in land so conveyed.” The Credit is not self executing, however. The taxpayer must apply for the Credit; but this does not mean that the taxpayer must apply for the entire allowable amount.

Credit Requested by Taxpayer – Cont.

PD 07-172

The law states, “The taxpayer shall apply for a credit after completing the donation. If the application requests a credit of \$1 million or more, then a copy of the application shall also be filed with the Department of Conservation and Recreation by the taxpayer.” Va. Code §58.1-512 D 1.

Therefore, the taxpayer must request a Credit amount \$1 million or greater in order to be required to file the application with DCR and meet the requirements imposed by the agency.

Fees for PTEs

- ❖ A Pass-Through-Entity (PTE) may elect to pass all of the tax credit through to its partners or shareholders or retain the credit and transfer it at the entity level.
 - ❖ If the PTE elects to transfer the credit at the entity level there will be a single \$10,000 cap applied to the entity. If an entity elects this approach, they must include a letter (preferably on business letterhead) stating such with their LPC application.
 - ❖ If the PTE elects to pass the credit to its members, the \$10,000 cap will apply to the PTE and to each member if they transfer their credit.

2007 Donations

- ❖ Credits will be issued by the tax year that the donation is recorded in until the statewide cap is met. Once the cap is met, credits will be issued for the next available year
- ❖ Credits cannot be transferred until TAX has issued a credit for the donation
- ❖ TAX cannot guarantee that any 2007 LPC-1 application received in December 2007 will be processed in time to make a 2007 transfer

Enforcement

Litigation:

- Ware Creek Preserve, LLC, et al. v. Virginia Dept. of Taxation, et al., Circuit Court of New Kent County, Chancery No. CH05000045-00
- Case is still proceeding through pre-trial stages

Additional Enforcement

- ❑ Tax has performed preliminary reviews on many donations and has contracted for independent appraisals on some.
- ❑ Assessments have been issued and some are being appealed.

IRS Activities

- ❑ IRS has reviewed Tax's LPC database
- ❑ IRS has initiated multiple cases in Virginia