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1 **HOUSE BILL NO. 805**

2 Offered January 14, 2026

3 Prefiled January 13, 2026

4 *A BILL to amend and reenact § 58.1-512 of the Code of Virginia, relating to land preservation tax credit;*
5 *maximum amount increase.*

6 Patron—Carr

7 Committee Referral Pending

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 58.1-512 of the Code of Virginia is amended and reenacted as follows:**10 **§ 58.1-512. Land preservation tax credits for individuals and corporations.**11 A. 1. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the
12 tax liability imposed by §§ 58.1-320 and 58.1-400, an amount equal to 50 percent of the fair market value of
13 any land or interest in land located in Virginia that is conveyed for the purpose of agricultural and forestal
14 use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or
15 historic preservation, as an unconditional donation by the landowner/taxpayer to a public or private
16 conservation agency eligible to hold such land and interests therein for conservation or preservation purposes.
17 For such conveyances made on or after January 1, 2007, the tax credit shall be 40 percent of the fair market
18 value of the land or interest in land so conveyed.19 2. a. If the Commonwealth or an instrumentality thereof operates a facility on a conveyance, including
20 charging fees for the use of such facility, such operation shall not disqualify the conveyance from eligibility
21 for the tax credit, so long as any fees are used for conservation or preservation purposes.22 b. If the Commonwealth or an instrumentality thereof enters into an agreement with a third party to lease
23 or manage a facility on a conveyance, the fact that such third party is operated primarily as a business with
24 intent for profit shall not disqualify the conveyance from eligibility for the tax credit, so long as such
25 agreement is for conservation or preservation purposes.26 B. The fair market value of qualified donations made under this section shall be determined in accordance
27 with § 58.1-512.1 and substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those
28 terms are defined under applicable federal law and regulations governing charitable contributions. The value
29 of the donated interest in land that qualifies for credit under this section, as determined according to
30 appropriate federal law and regulations, shall be subject to the limits established by United States Internal
31 Revenue Code § 170(e). In order to qualify for a tax credit under this section, the qualified appraisal shall be
32 signed by the qualified appraiser, who must be licensed in the Commonwealth of Virginia as provided in
33 § 54.1-2011, and a copy of the appraisal shall be submitted to the Department. In the event that any appraiser
34 falsely or fraudulently overstates the value of the contributed property in an appraisal that the appraiser has
35 signed, the Department may disallow further appraisals signed by the appraiser and shall refer the appraiser to
36 the Real Estate Appraiser Board for appropriate disciplinary action pursuant to § 54.1-2013, which may
37 include, but need not be limited to, revocation of the appraiser's license. Any appraisal that, upon audit by the
38 Department, is determined to be false or fraudulent, may be disregarded by the Department in determining
39 the fair market value of the property and the amount of tax credit to be allowed under this section.40 C. 1. The amount of the credit that may be claimed by each taxpayer, including credit claimed by applying
41 unused credits as provided under subsection C of § 58.1-513, shall not exceed \$50,000 for 2000 taxable
42 years; \$75,000 for 2001 taxable years; \$100,000 for each of 2002 through 2008 taxable years; \$50,000 for
43 each of 2009, 2010, and 2011 taxable years; \$100,000 for each of 2012, 2013, and 2014 taxable years;
44 \$20,000 for each of 2015, 2016, and 2017 taxable years; and \$50,000 for 2018 taxable years and for each
45 taxable year thereafter. However, for any fee simple donation of land conveyed to the Commonwealth on or
46 after January 1, 2015, the amount of the credit claimed shall not exceed \$100,000 for each taxable year,
47 provided that no part of the charitable contributions deduction under § 170 of the Internal Revenue Code
48 related to such fee simple donation is allowable by reason of a sale or exchange of property. In addition, for
49 each taxpayer, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or
50 corporate income tax otherwise due. Any portion of the credit that is unused in any one taxable year may be
51 carried over for a maximum of 10 consecutive taxable years following the taxable year in which the credit
52 originated until fully expended. A credit shall not be reduced by the amount of unused credit that could have
53 been claimed in a prior year by the taxpayer but was unclaimed. For taxpayers affected by the credit
54 reduction for taxable years 2009, 2010, 2011, and 2015 and thereafter, any portion of the credit that is unused
55 in any one taxable year may be carried over for a maximum of 13 consecutive taxable years following the
56 taxable year in which the credit originated until fully expended.

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59 2. Qualified donations shall include the conveyance of a fee interest in real property or the conveyance in
60 perpetuity of a less-than-fee interest in real property, such as a conservation restriction, preservation
61 restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-
62 than-fee interest qualifies as a charitable deduction under § 170(h) of the United States Internal Revenue
63 Code of 1986, as amended.

64 The Department of Conservation and Recreation shall compile an annual report on qualified donations of
65 less-than-fee interests accepted by any public or private conservation agency in the respective calendar year
66 and shall submit the report by December 1 of each year to the Chairmen of the House Committee on
67 Appropriations, House Committee on Finance, and the Senate Committee on Finance and Appropriations. In
68 preparing such report, the Department of Conservation and Recreation shall consult and coordinate with the
69 Department of Taxation and the Departments of Forestry and Agriculture and Consumer Services to provide
70 an estimate of the number of acres of land currently being used for "production agriculture and silviculture"
71 as defined in § 3.2-300 that have been protected by qualified donations of less-than-fee interests. This report
72 shall include information, when available, on land qualifying for credits being used for "production
73 agriculture and silviculture" that have onsite operational best management practices, which are designed to
74 reduce the amount of nutrients and sediment entering public waters. In addition, the report shall include
75 information, when available, on riparian buffers, both vegetated/forested buffers and no-plow buffers,
76 required by deed restriction on land qualifying for credits in order to protect water quality. This information
77 shall be reported in summary fashion as appropriate to preserve confidentiality of information. Qualified
78 donations shall not include the conveyance of a fee interest, or a less-than-fee interest, in real property by a
79 charitable organization that (i) meets the definition of "holder" in § 10.1-1009 and (ii) holds one or more
80 conservation easements acquired pursuant to the authority conferred on a "holder" by § 10.1-1010.

81 3. Any fee interest, or a less-than-fee interest, in real property that has been dedicated as open space
82 within, or as part of, a residential subdivision or any other type of residential or commercial development;
83 dedicated as open space in, or as part of, any real estate development plan; or dedicated for the purpose of
84 fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits shall
85 not be a qualified donation under this article.

86 4. Qualified donations shall be eligible for the tax credit herein described if such donations are made to
87 the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in §
88 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, if such charitable organization (i)
89 meets the requirements of § 509(a)(2) or (ii) meets the requirements of § 509(a)(3) and is controlled by an
90 organization described in § 509(a)(2).

91 5. The preservation, agricultural preservation, historic preservation or similar use and purpose of such
92 property shall be assured in perpetuity. In the case of conveyances of a fee interest to a charitable
93 organization that is a "holder" as defined in § 10.1-1009, the credit shall not be allowed until the charitable
94 organization agrees that subsequent conveyances of the fee interest in the property will be (i) subject to a
95 previous conveyance in perpetuity of a conservation easement, as that term is defined in § 10.1-1009, or
96 subject to the conveyance in perpetuity of an open-space easement, as that term is defined in § 10.1-1700, or
97 (ii) conveyed to the Commonwealth of Virginia or to a federal conservation agency. No credit shall be
98 allowed with respect to any subsequent conveyances by the charitable organization.

99 D. The issuance of tax credits under this article for donations made on and after January 1, 2007, shall be
100 in accordance with procedures and deadlines established by the Department and shall be administered under
101 the following conditions:

102 1. The taxpayer shall apply for a credit after completing the donation by submitting a form or forms
103 prescribed by the Department in consultation with the Department of Conservation and Recreation. If the
104 application requests a credit of \$1 million or more or if the donation meets the conditions of subdivision 3 c,
105 then a copy of the application shall also be filed with the Department of Conservation and Recreation by the
106 taxpayer. The application shall include, but not be limited to:

- 107 a. A description of the conservation purpose or purposes being served by the donation;
- 108 b. The fair market value of land being donated in the absence of any easement or other restriction;
- 109 c. The public benefit derived from the donation;
- 110 d. The extent to which water quality best management practices will be implemented on the property; and
- 111 e. Whether the property is fully or partially forested and a forest management plan is included in the terms
112 of the donation.

113 2. Applications for otherwise qualified donations of a less-than-fee interest shall be accompanied by an
114 affidavit describing how the donated interest in land meets the requirements of § 170(h) of the United States
115 Internal Revenue Code of 1986, as amended, and the regulations adopted thereunder. The application with
116 accompanying affidavit shall be submitted to the Department of Taxation, with a copy also provided to the
117 Department of Conservation and Recreation.

118 3. a. No credit in the amount of \$1 million or more shall be issued with respect to a donation unless the
119 conservation value of the donation has been verified by the Director of the Department of Conservation and
120 Recreation, based on the criteria adopted by the Virginia Land Conservation Foundation for this purpose.

121 Such criteria and subsequent amendments shall be exempt from the Administrative Process Act (§ 2.2-4000
 122 et seq.), but the Virginia Land Conservation Foundation shall provide for adequate public participation,
 123 including adequate notice and opportunity to provide comments on the proposed criteria. The Director shall
 124 act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and
 125 the Department of Taxation of his action.

126 b. For purposes of determining whether a credit requires verification of the conservation value, the credits
 127 allowed under this article with respect to donations of any other portion of a recorded parcel of land within
 128 the preceding 11 years shall be aggregated with the credit claimed for the current donation. This subdivision
 129 shall not apply if (i) all owners of the parcel who have been allowed credit for a qualified donation are not
 130 affiliated with the person or entity seeking credit for the current donation of a different portion of the parcel
 131 and (ii) in the case of an individual seeking credit, the individual has not previously made a qualified
 132 donation for any portion of the parcel and is not an immediate family member of any such owners.

133 c. If (i) the real property that is the subject of the donation was partitioned from or part of another parcel
 134 of land and any other portion of such parcel, or any land partitioned from such parcel of land, has been
 135 allowed a tax credit under this article (or an application for tax credit is pending) within three years of such
 136 donation and (ii) the tax credit that would otherwise be allowed to the donor for such donation is at least
 137 \$250,000, then no credit under this article shall be issued with respect to such donation described in clause (i)
 138 unless the conservation value of the donation has been verified by the Director of the Department of
 139 Conservation and Recreation. The Director shall act on applications within 90 days of his receipt of a
 140 complete application and shall notify the taxpayer and the Department of Taxation of his action. Nothing in
 141 this subdivision shall be construed or interpreted (a) as allowing additional tax credit for any land or interest
 142 in land previously conveyed for which tax credit has already been allowed under this article or (b) affecting
 143 the validity of any tax credit allowed under this article for a prior conveyance of any land or interest in land.

144 4. a. Tax credits shall be issued on a calendar year basis, and in no case shall the Department issue more
 145 than the maximum allowed for the calendar year. The maximum amount of credits that may be issued in a
 146 calendar year shall be \$100 million plus any credits previously issued under this article but subsequently
 147 disallowed or invalidated by the Department. Credits previously issued but subsequently disallowed or
 148 invalidated shall be reissued in a subsequent calendar year. All credits shall be issued in the order that each
 149 complete application is filed. For filings by mail or a recognized commercial delivery service, the postmark
 150 or confirmation of shipment shall determine the date of filing. If within 30 days after an application for
 151 credits has been filed the Tax Commissioner provides written notice to the donor that he has determined that
 152 the preparation of a second qualified appraisal is warranted, the application shall not be deemed complete
 153 until the fair market value of the donation has been finally determined by the Tax Commissioner. The Tax
 154 Commissioner shall make a final determination within 180 days of notifying the donor, unless the donor has
 155 filed an appeal. The donor shall have the right to appeal any decision of the Department in accordance with
 156 the provisions of Chapter 18 (§ 58.1-1800 et seq.). If more than one complete application is filed at the same
 157 time, the credits with respect to those applications shall be issued in the order that the conveyances were
 158 recorded in the appropriate circuit court of the Commonwealth. In the event that a credit requires verification
 159 of the conservation value by the Department of Conservation and Recreation and such verification has not
 160 been received at the time the maximum \$100 million allowed is reached for the calendar year of the donation,
 161 such credit shall not be issued for that calendar year but shall be issued in the calendar year that the
 162 conservation value of the credit is verified by the Department of Conservation and Recreation.

163 No credit shall be allowed for any land or interest in land conveyed unless (i) for a conveyance made
 164 before January 1, 2020, a complete application for tax credit with regard to the conveyance has been filed
 165 with the Department by December 31 of the third year following the calendar year of the conveyance or (ii)
 166 for a conveyance made on or after January 1, 2020, a complete application for tax credit with regard to the
 167 conveyance has been filed with the Department by December 31 of the second year following the calendar
 168 year of the conveyance. For filings by mail or a recognized commercial delivery service, the postmark or
 169 confirmation of shipment shall determine the date of filing. Solely for purposes of this condition, any
 170 application for which the Tax Commissioner has given written notice to the donor that the preparation of a
 171 second qualified appraisal is warranted shall be deemed timely filed, provided that the application was
 172 otherwise complete as of such filing deadline. For conveyances made on and after January 1, 2017, the
 173 deadlines provided by clauses (i) and (ii) of this subdivision shall be extended for any number of days
 174 exceeding 90 during which an application for tax credit is being reviewed for verification of conservation
 175 value by the Department of Conservation and Recreation, if the application was otherwise complete at the
 176 time of the original filing deadline.

177 b. Beginning with calendar year 2008, the \$100 million amount contained in subdivision 4 a shall be
 178 increased by an amount equal to \$100 million multiplied by the percentage by which the consumer price
 179 index for all-urban consumers published by the United States Department of Labor (CPI-U) for the 12-month
 180 period ending August 31 of the preceding year exceeds the CPI-U for the 12-month period ending August 31,
 181 2006.

182 c. Beginning with calendar year 2015, and ending with calendar year 2025, the maximum amount of

183 credits that may be issued in a calendar year shall not exceed \$75 million.

184 *d. Beginning with calendar year 2026, the maximum amount of credits that may be issued in a calendar*
185 *year shall not exceed \$100 million as adjusted annually for each calendar year thereafter based on the total*
186 *change in the CPI-U for the previous calendar year.*

187 In no case shall the Department issue any tax credit for a donation from any allocation or pool of tax
188 credits attributable to a calendar year prior to the year in which the complete tax credit application for the
189 donation was filed.

190 Beginning with the submission due on or before December 20, 2015, and in each year thereafter, the
191 Governor shall include in "The Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his
192 amendments to the general appropriation act in effect submitted pursuant to subsection E of § 2.2-1509 a
193 recommended appropriation from the general fund equal to the difference between the amount calculated
194 pursuant to subdivision b and \$75 million, but not more than \$20 million, to be allocated as follows: 80
195 percent to the Virginia Land Conservation Fund to be used in accordance with § 10.1-1020, with no less than
196 50 percent of such appropriation to be used for fee simple acquisitions with public access or acquisitions of
197 easements with public access; 10 percent to the Virginia Battlefield Preservation Fund to be used in
198 accordance with § 10.1-2202.4; and 10 percent to the Virginia Farmland and Forestland Preservation Fund to
199 be used in accordance with § 10.1-1119.3.

200 5. a. Any taxpayer that has been issued a tax credit by the Department shall be allowed to use such credit
201 for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding
202 taxable years in accordance with the 10 consecutive taxable year carryforward provisions of this article,
203 except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and
204 taxable years thereafter. Such a taxpayer shall be allowed to use such credit for his or its taxable year that
205 begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance
206 with the 13 consecutive taxable year carryforward provisions of this article.

207 b. Any taxpayer to whom a credit has been transferred may use such credit for the taxable year in which
208 the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event
209 may such transferred credit be used more than 11 years after it was originally issued by the Department or in
210 any taxable year of such taxpayer that ended prior to the date of transfer, except for any taxpayer affected by
211 the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a
212 taxpayer may use such credit for the taxable year in which the transfer occurred and unused amounts may be
213 carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 14
214 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior
215 to the date of transfer.

216 6. Neither the verification of conservation value by the Department of Conservation and Recreation nor
217 the issuance of a credit by the Department of Taxation shall in any way be construed or interpreted as
218 prohibiting the Department of Taxation or the Tax Commissioner from auditing any credit claimed pursuant
219 to the provisions of this article or from assessing tax relating to the claiming of any credit under this article.

220 E. In any review or appeal before the Tax Commissioner or in any court in the Commonwealth the burden
221 of proof shall be on the taxpayer to show that the fair market value and conservation value at the time of the
222 qualified donation is consistent with this section and that all requirements of this article have been satisfied.