

LPC Preservation Tax Credit (LPC) Form: Dos and Don'ts

Sponsored by Virginia's United Land Trusts (VaULT)

December 8, 2022

Strengthening LPC Stakeholder Partnerships

OFFICE OF THE STATE INSPECTOR GENERAL

Department of Conservation and Recreation
and Department of Taxation
Conservation Easement/Land Preservation
Tax Credit

Performance Audit
June 2021



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State Inspector General
Report No. 2021-PA-006

Recommendations

- ▶ Improve Quality of Conservation
- ▶ Reduced Tax Credits
- ▶ Easement Monitoring

RECOMMENDATION NO.	RECOMMENDATION
5(2)	Virginia Tax , in conjunction with DCR and Virginia Outdoors Foundation, should <u>work with VaULT to educate land trust companies on proper completion of the LPC application.</u>

2023: The Virginia Department of Taxation intends to share relevant LPC training with stakeholders

LPC Protocol

- ▶ Tax credit for those who qualify with approved land uses:
 - ▶ Historical or conservation preservation
 - ▶ Agricultural use
 - ▶ Forest use
 - ▶ Open space
 - ▶ Natural resource conservation
- ▶ Nonprofit groups ... must be classified as 501(c)3 nonprofits by the IRS.
- ▶ Collaboration with VaULT, DCR, VOF, DOF, and other public/private agencies.

<u>Tax Year</u>	<u># of Credits</u>	<u># of Acres</u>	<u>Credit Amt Issued</u>
2000-2008	2,035	414,574	\$939,125,062
2009-2014	1,296	312,618	\$504,623,179
2015	182	42,362	\$48,625,672
2016	162	30,981	\$59,968,175
2017	200	49,127	\$75,000,000
2018	165	35,384	\$50,533,208
2019	193	34,677	\$75,000,000
2020	156	37,975	\$75,000,000
2021	183	41,859	\$75,000,000
2022	105	21,338	\$55,018,862
Grand Total	4,677	1,020,895	\$1,957,894,158

* Through December 8, 2022

Finding the Application for a Land Preservation Tax Credit

7

<https://www.tax.virginia.gov/forms/search?search=LPC-1>

Virginia Tax | Forms & Filing | Refunds | Payments & Penalties | Rulings & Decisions | Credits & Deductions | Business Resources

Search our site (for forms, instructions, or anything else)

Find a Form

LPC-1

Tax Year: - Any - | Category: - Any - | Form Type: - Any - | **Filter** | Reset

Form	Tax Year	Description
LPC-1	2022	Application for a Land Preservation Tax Credit
LPC-1 Instructions	2022	Instructions for Form LPC-1, Virginia Application for a Land Preservation Credit

MUST be the most recent version of the LPC-1 form, shown on Page 1.

Section III – Property and Credit Information

A) Type of Donation - Check One
☐ Fee Simple
☐ Less-Than-Fee Simple
☐ Facade

B) Bargain Sale - ☐ No ☐ Yes (If Yes, Enter Amount in Box)
\$

E) Property Street Address (No P.O. Box)

F) Property Information - Enclose Additional Pages, If Needed

Zoning & Highest and Best Use	
Current Zoning:	
Highest and Best Use Before Donation:	

G) Name(s) of Eligible Conservation Agency(ies) Receiving Donation

J) Appraisal Company Name

N) Appraised Value of Donation | O) Credit Amount

Va. Dept. of Taxation 4901038-W Rev. 05/22

Required documentation to satisfy criteria

Section VII – Declaration, Signature, and Notarization

Enclosure Checklist

DCR - All Donations (2007 & After)

- ☐ A Copy of LPC Application
- ☐ IRS Form 8283
- ☐ Recorded Deed

DCR - Donations of \$1 Million or More (2007 & After)

- ☐ Baseline Documentation

TAX - All Donations

- ☐ Original LPC Application
- ☐ Recorded Deed
- ☐ A Copy or CD of Full Appraisal
- ☐ IRS Form 8283
- ☐ Signed Statement or Affidavit from Appraiser
- ☐ Baseline Documentation



Form LPC-1

Section I – Applicant Information				
A) Applicant Type - Check One				
<input type="checkbox"/> Individual Taxpayer	<input type="checkbox"/> Married Donors	<input type="checkbox"/> Multiple Donors	<input type="checkbox"/> Trust/Estate	<input type="checkbox"/> Pass-Through Entities
<input type="checkbox"/> Corporation	<input type="checkbox"/> Non-Profit	<input type="checkbox"/> Other Entity - Specify _____		

Form R-1

Virginia Department of Taxation Business Registration Form

Go to www.tax.virginia.gov/iReg to register or update your business information online.

- ▶ Unused credits can be given to someone you name in your will, bequest, or other document to receive them.
- ▶ If the donor dies without a will, any unused credits will transfer to the next person who is eligible to receive them according to Virginia law.
- ▶ These credits are also transferrable.
 - ▶ Transfer fees may be applicable.

<https://www.tax.virginia.gov/transferring-land-preservation-tax-credit>

<https://www.tax.virginia.gov/forms/search?search=LPC-2>

LPC Appraisal Protocol

- ▶ Development of LPC Appraisal log and compliance review checklist
 - ▶ Code of Virginia
 - ▶ Internal Revenue Code (IRC)
 - ▶ Appraisal Foundation (USPAP)
 - ▶ Appraisal Institute (AI) Standards
 - ▶ American Society of Farm Managers & Rural Appraisers (ASFMRA)
- ▶ GIS mapping of ALL Conservation Easements
 - ▶ 2024: LPCs \$5,001 + Land Sales (FMV and Conservation Easements)

<https://www.tax.virginia.gov/land-preservation-credit-appraisers-information>

Code of Virginia Code - Chapter 10.1. Virginia Conservation Easement Act

§ 10.1-648. Acquisition of lands, easements, and rights-of-way

§ 10.1-1009. Definitions.

§ 10.1-1010. Creation, acceptance and duration.

§ 10.1-1700. Definitions.

§ 10.1-2202.2. Preservation Easement Fund

§ 54.1-2011. Necessity for license.

§ 54.1-2013. General powers of Real Estate Appraiser Board; regulations; educational requirements for licensure.

§ 58.1-512. Land preservation tax credits for individuals and corporations (virginia.gov)

§ 58.1-512.1. Determination of fair market value of donation.

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

§ 64.2-108. Power granted to personal representatives and trustees to donate conservation or open-space easements

§ 58.1-339.10. Riparian forest buffer protection for waterways tax credit.

Chapter 10.2. Virginia Land Conservation Foundation

LPC Advisory
DRAFT

Internal Use Only

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Weight	Score	% of Overall Score	LPC Requirements	Comments	Code & Description (If Applicable)
10	7	70%	GENERAL INFORMATION		
			Date of Review	xxxxxxxxxxxxxx	
			Reviewer	Reviewed appraisal, BDR, and LPC-1.	
			Subject:	Lore DeAstra	
			DCR Final Verification	Not Applicable	
			LPC-1	Yes	
			8283	No	IRC § 170(f)(8)
			Appraiser's Declaration and Affidavit (§ 58.1-512.1C)	xxxxxxxxxxxxxx	§ 58.1-512.1: Appraisal and Appraiser: Qualify. (1) Section 58.1-512(D)(2) +(2) Section 58.1-512.1 (C): Affidavit: Qualify? 170(f)(11)(E)(ii), 1.170A-13(c)(3)(i)(B); Notice 2006-96, §3.03
			Qualified Organization	Yes	§ 58.1-512 + § 10.1-1009,
			Date Easement Filed	xxxxxxxxxxxxxx	
			Conservation Easement	Yes	
			Conservation Purpose	Yes	§ 58.1-512 +170(a); 1.170A-1(h) and/or 1.170A-1(e); 1.170A-7(a)(3)
			Baseline Documentation Report	Yes	1.170A-14(g)(5)(i), 1.170A-13(c)(4)(ii)(M)
			Restrictions	None known	
			Perpetual Easement	Yes	§ 1.170A-14(g) + § 170(h) + § 10.1-1010.
			Name of the Appraiser	xxxxxxxxxxxxxx	170(f)(11)(E)(ii) 1.170A-13(c)(3)(i)(B); Notice 2006-96, §3.03
			Signed certification	Yes	
			Appraisal Date <60 days prior to the recorded date	No	
			Appraisal Report <90 days prior to the recorded date	No	
			Effective Date of Appraisal	xxxxxxxxxxxxxx	
			Date of Appraisal Report	xxxxxxxxxxxxxx	
			Inspection Date:	xxxxxxxxxxxxxx	
			Funding available at time of Advisory	None known	
			Interest Appraised (Fee Simple, etc.)	Fee Simple	
			Interests remaining to previous/current Landowner	None	
			Area Map	Yes	
			Photographs of the Subject	Yes	

10	8	80%	SITE/IMPROVEMENTS		
			Property Location	Yes	
			Property Description	Yes	
			Acres	Yes	
			Type of Parcel	Yes	1.170A-14(h)(3)(i)
			Excess land identified/described	No	
			Access	Yes	1.170A-14(d)(2)(ii) or 1.170A-14(d)(4)(iii)(C)
			Topography	Yes	
			Proposed Use	Yes	If the benefits received or expected to be received are greater than those that inure to the general public, the transfer does not satisfy the charitable intent requirement under IRC § 170. <i>Hernandez v. Commissioner</i> , 490 U.S. 691 (1989); <i>United States v. American Bar</i>
			History (Listing and Sale Details for the past 5 years)	No	
			Purpose of the Appraisal	Yes	5. The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity. In the case of conveyances of a fee interest to a charitable organization that is a "holder" as defined in § 10.1-1009, Treas.
			Intended User	Yes	
			Scope of the Appraisal	Yes	
			Use of the RE as of the Date of Appraisal	Yes	
			Extraordinary Assumptions/Hypothetical Conditions	Yes	Decreasing the portion of the proceeds that is required to be allocated to the donee upon extinguishment under Treas. Reg. § 1.170A-14(g)(6)(ii) causes the easement to fail to satisfy the requirements of section 170(h) unless, as provided in Treas. Reg. § 1.170A-
			Permit history (including applications & results)	No	

30	20	67%	MARKET ANALYSIS	
			Definition of Market Value	Yes
			Neighborhood Description	Yes
			Improvement Description	Yes
			Zoning (Present and Future, based on the Comp Plan)	Yes
			Riparian Rights (Flood, RPA, RMA, Wetlands, etc.)	Yes - minimal
			• Property Productivity Analysis: Physical, Legal and Location Attributes	Yes
			• Market Delineation: Competitive Market Area	No
			• Demand Analysis: Demand Segmentation, Historical Growth & Demand Drivers	No
			• Supply Analysis: Existing, Under Construction and Proposed Competition	No
			• Interaction of Supply and Demand: Competitive and Residual Demand	No
			• Forecast Subject Capture: Reconciliation of Inferred and Fundamental Forecasts	No
50	30	60%	HIGHEST AND BEST USE + VALUATION	
			Highest & Best Use "Before" Easement	Yes
			Highest & Best Use "After" Easement	No
			Marketing/Exposure Time	Yes
			Cost Approach	N/A
			Income Approach	N/A
			Subdivision Approach	Unreasonable market support for income, expenses, vacancy
			Sales Comparison Approach	Inadequate reasoning is provided for adjustments, analysis, opinions, conclusions
			Analysis of Sales (<3 Yrs from date of appraisal. Sales Analysis USPAP SR 2-2(a)(ix), 2-2(b)(x), and 2-2(c)(ix))	Unreasonable market support for income rates
			Reconciliation	Concerns regarding overvaluation
			Assessed Value	\$150,000
			Before Value	\$500,000
			After Value	\$1,000,000
			Easement Value	\$500,000
			Difference in Assessed Value vs. Before Value	30%
			Enhancement	None known

Example

NOTE: References are subject to change and were recent at the time of the advisory review. Copyrighted references from the Appraisal Institute, Appraisal Foundation, the American Society of Farm Managers & Rural Appraisers, are not for distribution because of the lack of authorization for public distribution from the publisher, organization, and authors.



Virginia Tax

Thank You!

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