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

Sponsored by Virginia's United Land Trusts (VaULT)

December 8, 2022



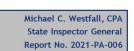
Strengthening LPC Stakeholder Partnerships



Virginia DCR and Virginia Tax Coordination



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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 work with VaULT to educate land trust
	companies on proper completion of the LPC application.

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



LPC Protocol



Common Goals: Private and Public Organizations

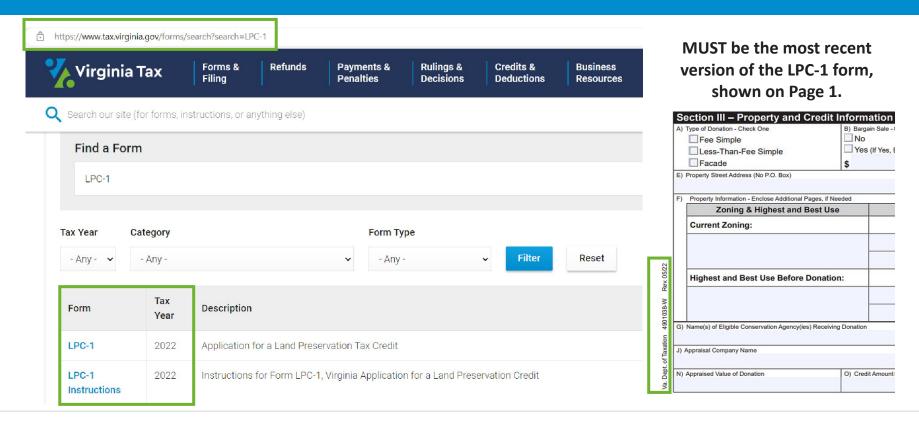
- Tax credit for those who qualify with approved land uses:
 - Historical or conservation preservation
 - Agricultural use
 - Forest use
 - Open space
 - Natural resource conservation
- Nonprofit groups ... must be classified as 501(c)3 nonprofits by the IRS.
- Collaboration with VaULT, DCR, VOF, DOF,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



<u>Tax Year</u>	# of Credits	# of Acres	Credit Amt Issued
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



Finding the Application for a Land Preservation Tax Credit





Baseline Document Report

Required documentation to satisfy criteria

Section VII – Declaration, Signature, and Notarization					
Enclosure Checklist					
DCR - All Donations (2007 & After)	TAX - All Donations				
A Copy of LPC Application	Original LPC Application				
IRS Form 8283	Recorded Deed				
Recorded Deed	A Copy or CD of Full Appraisal				
DCR - Donations of \$1 Million or More (2007 & After)	RS Form 8283				
Baseline Documentation	Signed Statement or Affidavit from Appraiser				
	Baseline Documentation				



Form LPC-1

Section I – Applicant Information							
A) Applicant Type - Check One Individual Taxpayer Corporation	☐ Married Donors ☐ Non-Profit	☐ Multiple Donors ☐ Other Entity - Specify	☐ Trust/Estate	☐ Pass-Through Entities			

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.



Leaving your credits to a designated beneficiary

- 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)



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		
			No one may possess this document without express written authorization of the author and the Land Preservation Tax Credit Unit Manager with the Virginia Department of Taxation		
Weight	Score	% of Overall Score	LPC Requirements	Comments_	Code & Description (If Applicable)
10	7	70%	GENERAL INFORMATION		
			Date of Review	XXXXXXXXXXXXXXXX	
			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)	x000000000000	§ 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	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	
			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)(
			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	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	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	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	
			Date of Appraisal Report	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	
			Inspection Date:	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	
			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	



SITE IMPROVEMENTS 15

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. Hernandez v. Commissioner, 490 U.S. 691 (1989); United States v. American Bar
			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, vacano
			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 Example
			After Value	\$1,000,000
			Easement Value	\$500,000
			Difference in Assessed Value vs. Before Value	30%
			Enhancement	None known

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.



RECONCILIATION 17

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10	8	80%	SITE/IMPROVEMENTS		
30	20	67%	MARKET ANALYSIS		
30 50	30	67% 60%			
30		67%	MARKET ANALYSIS	Description	Code & Description (If Applicable)
30 50	30	67% 60%	MARKET ANALYSIS HIGHEST AND BEST USE + VALUATION	Description Appraisal not prepared in accordance with generally accepted appraisal standards. Appraiser does not have LPC appraisal experience.	
30 50	30	67% 60%	MARKET ANALYSIS HIGHEST AND BEST USE + VALUATION RECONCILIATION	Appraisal not prepared in accordance with generally accepted appraisal standards. Appraiser does not have LPC appraisal	
30 50	30	67% 60%	MARKET ANALYSIS HIGHEST AND BEST USE + VALUATION RECONCILIATION NO	Appraisal not prepared in accordance with generally accepted appraisal standards. Appraiser does not have LPC appraisal	
30 50	30 65	67% 60% 55%	MARKET ANALYSIS HIGHEST AND BEST USE + VALUATION RECONCILIATION No Copyright © 2022 Virginia Department of Taxation. All Rights Reserved.	Appraisal not prepared in accordance with generally accepted appraisal standards. Appraiser does not have LPC appraisal	
30 50	30 65	67% 60% 55%	MARKET ANALYSIS HIGHEST AND BEST USE + VALUATION RECONCILIATION No Copyright © 2022 Virginia Department of Taxation. All Rights Reserved. Acceptable	Appraisal not prepared in accordance with generally accepted appraisal standards. Appraiser does not have LPC appraisal	



Thank You!

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