



October 6, 2015

The Honorable Brian Dempsey, Chairman
House Committee on Ways and Means
State House
Boston, MA 02133

RE: In Support of HB.3771 Conservation Land Tax Credit

Dear Chairman Dempsey,

Thank you for the opportunity to provide testimony to the House Committee on Ways and Means in support of H.3771, An Act Relative to Land Conservation Incentives.

Thank you also for your continued support of land conservation with a robust Environmental Bond and the inclusion of the increase to the Conservation Land Tax Credit (CLTC) in the Fiscal Year 2016 State Operating Budget

This bill as amended by the Joint Committee on Revenue would:

- Raise the annual cap of the CLTC Program from \$2 million to \$5 million per year (a combine total of credits for individuals and corporations).
- Amend the definition of "public or private conservation agency" which may receive donations of land subject to a conservation tax credit to include realty trusts organized for conservation purposes pursuant to Chapter 203 (please note that more than a third of land trusts in Massachusetts are organized as realty trusts).
- Set a five year sunset at the end of 2021.

We believe the increase of the annual cap and expanding the definition of eligible conservation agencies would greatly increase private land donations with multiple public benefits.

Program Description

The CLTC program allows taxpayers (individuals and corporations) a refundable conservation land tax credit for qualified donations of certified land to a public or private conservation agency. Currently, the credit is subject to an annual \$2 million cap and is equal to 50% of the fair market value of the qualified donation up to a maximum credit of \$75,000 for each qualified donation. The certification process is conducted by the Executive Office of Energy and Environmental Affairs (EEA) for land that is permanently protected and has significant conservation value, such as farming or forestry, wildlife protection or water quality.

Conservation Outcomes and Efficiency

Enacted in 2008, program was launched in the fall of 2011. For Calendar Years 2011 through 2014 combined: *Each \$1 of state tax credits has leveraged \$4.79 of private land donated value.*

- The total appraised value of the donated conservation land is: \$36.36 million
- The total cost to the state of the tax credits paid is: \$7.59 million

Total acres permanently protected 11,771 including following acres of critical resources, including: habitat for rare species; prime forest soils (working forests); prime agricultural soils (working farms); and natural good/services (water quality protection).

CLTC is a highly efficient way to permanently conserve land. For example, between 2011 and 2013, the program conserved land for an average cost to the state of just under \$1,000 per acre. This is an economical figure given the high value of the land protected. Another benefit of the program is that the vast majority of land will be protected by land trusts and to lesser extent towns so that the future stewardship cost of this protected land will not affect future state budgets.

Supply and Demand

Since the first application in September of 2011 through September 23, 2015 the state received a total of 301 applications requesting over \$11 million worth of tax credits and applications continue to be received weekly. As of September 23, 2015, the program has pending requests of \$3.75 million in tax credits. That means that not only is 2015 fully spoken for, but all of 2016 and over half of 2017 is also spoken for. Landowners applying today to donate their land will have to wait until calendar 2017 to do so.

Timeliness

We are eager to see the Legislature increase the cap as soon as possible. The long wait for the credits is impacting the effective use of the credit as a conservation tool. Many land trusts have will donors who are waiting on the credit to close a land deal.

Many landowners are cash poor and land rich and need the credit to help with family expenses such as medical or college. Many landowners are aging and cannot wait for the credit. Surveys of private landowners by the U.S. Forest Service and EEA document that owners want to preserve and actively manage their land – which is a perfect match with the CLTC Program.

Justification: Economic Benefits of Land Conservation

In a report released in September 2013, The Trust for Public Land analyzed the economic value of natural goods and services provided by lands conserved by Massachusetts between 1998 and 2011

(<http://cloud.tpl.org/pubs/benefits-ma-roi-report.pdf>). For every \$1 invested in land conservation, \$4 in natural resource goods and services is returned to the Massachusetts economy. These services benefits municipalities and include water quality protection, flood control, air pollution removal and storm water management.

Justification: Revenue Cycling

Land conserved under the CLTC Program helps generate revenue from private sector activity in forestry and agriculture or saves public revenues in water supply protection.

- **Forestry:** A recent northeast US study found that every 1,000 acres of working forests support 8 jobs in the harvesting, trucking, forester, and mill sectors. The CLTC Program permanently protected 4,271 acres of prime forest soils (the soils that support the most productive forests). Assuming only half of those forests are actively managed, 17 permanent full time jobs (mostly in rural areas) are supported by these tax credits (or nearly one million in annual salaries - assuming the average forestry sector job of \$50-60,000 - studies show MA mill jobs average \$60,000).
- **Agriculture:** The average acre of Massachusetts farm produces \$26,000 in total annual output (direct and indirect value from processing). The CLTC Program permanently protected 1,730 acres of prime farm soils (soils that are the most productive for farming) from 2011-14. Assuming 1/2 of those acres are actively farmed each year, \$22.4 million in total output per year.
- **Water Supply Protection:** Each forested acre that drains to a public water supply source filters 543,000 gallons of drinking water per year (providing the equivalent need of 19 persons) with an annual value of \$2,500. The CLTC Program permanently protected 513 acres in drinking water priority zones that drain to public water supplies.

Justification: Strategic Investment

The Commonwealth has protected about half of the high priority conservation land identified in collaboration between the environmental agencies and conservation community. Currently about 24 percent of the Commonwealth is protected as open space which is owned by state and federal agencies, municipalities, private landowners and nonprofit conservation organizations, and about 23% is developed. Therefore, there are about 2.75 million acres of private land that is unprotected and undeveloped which is owned by approximately 350,000 land owners. Statewide conservation plans recommend ultimate protection of about 1 million acres of those remaining acres, which include prime drinking water supply protection, wildlife habitat, coastal resources, farmland, recreation sites and working forests. Assuming these remaining “top priority conservation” lands of the state are owned by about 100,000 owners, the potential applicant pool for this program is huge. The program has already become a key conservation tool to highlight when they approach landowners for donations. The land trusts are also driving the high quality of the natural resources conserved under this program – as they are actively reaching out to owners of strategic land and Massachusetts has the most land trusts on a per capita basis in the nation.

Justification: Leveraging the Commonwealth Capital Investment

Commonwealth bond funds for land acquisition and this tax credit for private donation of conservation land interests are two very different approaches to further a shared objective: the strategic and leveraged conservation of open space and natural resources. In essence, the tax incentive has been a great way to stretch the bond dollars and achieve more with the same bond spending.

State agencies work to leverage the bond funds by collaborating with other entities and leveraging additional investments (e.g., nonprofit conservation organizations, municipalities, federal agencies, private landowners,

etc.) and by negotiating below fair market value “bargain sales” with owners, for purchase at below the market value of the land. When a state agency or land trust negotiator sits down with a landowner, the CLTC is part of a broad array of complementary strategies to eventually bring the project to completion.

Tax Expenditure Commission

The CLTC Program meets the recommendations of the *Tax Expenditure Commission (April 2012)* which provides guidelines, including the following, along with our answer in parentheses.

- **Clear public policy purposes:** The CLTC provides incentives for donation of high-priority conservation land to permanently protect: wildlife, forestry, agriculture, historic, water supply) The certification criteria are outlined in EEA’s regulation, (301 CMR 14.00) and Department of Revenue’s regulation (830 CMR 62.6.4).
- **Effective means of accomplishing those public policy purposes:** EEA certifies land for conservation value; the land is permanently conserved; land trusts do the local leg-work; private landowners voluntarily donate land.
- **Appropriate metrics for assessing the effectiveness of tax expenditures:** See above under Justifications: -- acreage of land conserved by category; value of land compared to state investment; leveraging private resources.
- **Claw-back:** The land is permanently conserved so there is no need for clawback.
- **Sun-setting:** Massachusetts still has a ways to go to reach the goal of preserving high priority conservation land. The Revenue Committee amended the bill to include a five-year sunset.

Thank you for your time and consideration. Please feel free to contact Steve Long of The Nature Conservancy at 617-532-8367 or slong@tnc.org should you have any questions.

Sincerely,

Mary Griffin, Executive Director, Massachusetts Land Trust Coalition
Karen Heymann, Legislative Director, Mass Audubon
Steve Long, Director of Government Relations, The Nature Conservancy
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