



## ***AN ACT RELATIVE TO LAND CONSERVATION INCENTIVES (HB799)***

**Sponsored by: Representative Stephen Kulik (D-Worthington)**

### ***Challenge***

Property values in Massachusetts have skyrocketed over the past decade, far in excess of the rise in household income. As land values escalate and public funding for land conservation is constrained by annual general obligation bond spending caps, voluntary donations of land to public and private conservation organizations are an increasingly important option for protecting Massachusetts' natural resources.

Many landowners—particularly owners of large parcels of lands on the perimeters of the Commonwealth's most rapidly developing areas or 'sprawl frontiers'—want to preserve their property and livelihoods, and if possible, hand down to their children the acreage they own. By permanently donating or selling the future development rights to their land to a non profit conservation organization or a government entity, a landowner may immediately obtain a federal income tax charitable deduction, and reduce the market value of the acreage used to compute estate taxes. However, the out-of-pocket expenses involved in making a donation of land (including attorney fees and appraisal costs) have discouraged many lower and middle income landowners from completing such transactions.

Massachusetts is blessed with a rich variety of natural landscapes, from the barrier beaches and salt marshes of the Atlantic Coast, to the wetlands and meadows of the interior, all the way to the forests of the Berkshire highlands. This extraordinary natural heritage is under threat from uncontrolled development. Every day, 40 acres of woods, fields, and farms in Massachusetts are lost to development. Once land is gone, it is gone forever. Between 1972 and 1998, the developed area in Massachusetts increased by 59%, although the state's population increased by 6%.

If current trends of development continue, the face and function of the Commonwealth will be radically altered within the next decade. Water quality will be degraded and streamflow reduced as more impervious surfaces concentrate pollutants and disrupt watershed hydrology. Biological diversity will be impaired as wildlife habitat is fragmented and destroyed. Local agricultural production will decline as farmland is converted to subdivisions. Communities will be stressed to provide services such as water, schools, and other infrastructure to meet increased service costs.

The actions taken and not taken over the next decade by public agencies, private non-profit organizations, and the private landowners to meet these challenges will permanently shape the future of the Commonwealth's landscape. New incentives are needed to stimulate the capital necessary for investing in the permanent protection of our irreplaceable natural resources, before the window of opportunity closes.

## ***Solution***

This legislation establishes a new financial incentive for property owners to conserve their land, enabling private and public conservation partners to make financially attractive offers on top priority sites. The bill would:

- Establish a state income tax credit for permanent gifts of land or interest in land to public agencies and qualified, non-profit, charitable organizations;
- To qualify, lands must be certified by either the Secretary of the Executive Office of Energy and Environmental Affairs;
- The tax credit is based on 50% of the appraised market value of the gift. The amount of credit which can be claimed is limited to \$50,000. In any one tax year, the credit claimed cannot exceed the tax that would be otherwise due, but unused portions of the \$50,000 credit can be carried forward for up to ten consecutive years.

## ***Benefits***

The proposed state income tax credit is designed for “land rich, cash poor” property owners for whom existing federal tax deductions for donations and other benefits may have limited benefit. The combination of a federal tax deduction and a state tax incentive will make conservation a more attractive option for qualified lands. The accompanying chart compares the hypothetical after-tax return to a landowner from sale on the open market vs. a voluntary donation with proposed conservation tax credit.

Existing Massachusetts tax law (MGL Chapter 62, Section 6) provides income tax incentives for private landowners to conduct a wide range of environmental improvements, including making investments in renewable energy sources, residential lead removal, and Title V septic system upgrades. The proposed state income tax credit would compliment these existing credits by rewarding landowners who choose to conserve their land for current and future public benefit.

Investments in land conservation appreciate and pay economic dividends in perpetuity. Protected land is a form of ‘green’ infrastructure, providing ‘free’ ecological services, including flood control and aquifer recharge, to the taxpayers. Resource economists have estimated that undeveloped land in Massachusetts provides over \$6 billion in non-market ecosystem services annually, such as climate regulation and waste purification, with 85 percent of this value provided by land left largely in its natural state.

Protected land helps channel growth away from sensitive areas toward more appropriate sites that can better accommodate development. Watershed lands filter contaminants, reducing the need for expensive treatment plants. Urban parks provide solace from the congestion of cities. Agricultural lands produce fresh local food. Wildlife habitats preserve biological diversity. When a community’s most treasured places are preserved, so too are its history and character.

Protected land is a stimulus to tourism and related revenues, satisfying the increasing demand for hiking, camping, and outdoor recreation. Travel and tourism generates \$21 billion and supports over 150,000 jobs annually. Nearly 2/3<sup>rd</sup> of all trips are spent outside of greater Boston, in natural areas such as Cape Cod, the Islands, and the Berkshires. Increased investments in land conservation will help make Massachusetts more competitive in retaining state residents’ spending for outdoor recreational experiences versus nearby competing New England states. New businesses, drawn to a Commonwealth of natural beauty and high quality of life, will improve Massachusetts’ economic competitive advantage. Quality of life consistently ranks near the top of relocation criteria considered by high-tech, research & development labs and other emerging technology facilities that place great emphasis on attracting and retaining skilled labor

**For more information about the bill, contact Jennifer Ryan, Mass Audubon’s Assistant Director for Legislative Affairs, at 617-523-8448 or [jryan@massaudubon.org](mailto:jryan@massaudubon.org)**

*July 2007*

## Comparison of Hypothetical After-Tax Return to Landowner From Sale on Open Market vs. No Deduction vs. Donation without Tax Credit vs. Donation with Proposed Conservation Tax Credit

Assumptions: Federal Ordinary Income Tax Rate: 35%; State Income & CG Tax Rate: 5.3%; Federal Capital Gains Tax Rate: 20%  
Provisions of State Tax Credit Law: 50% of FMV of Gift; 6 year carryover period; credit cannot exceed annual tax liability.

	Sale on Open Market	<i>No deduction/credit</i>	<i>Current Donation Deduction</i> without Tax Credit	Donation with Proposed Conservation Tax <b>Credit</b>
Taxable Income	\$100,000	\$100,000	\$100,000	\$100,000
Sale Price/Donation FMV	\$500,000	N/A	\$500,000	\$500,000
Adjusted Basis	50,000		50,000	50,000
Commission on Sale, Expenses	(50,000)		N/A	N/A
Fed.Capital Gains Tax	(90,000)		N/A	N/A
Charitable Deduction				
State	N/A		N/A	N/A
Federal	N/A		\$175,000*	\$175,000
State Income Tax	\$5,300	\$5,300	\$5,000 (estimated due to reduced AGI)	0
State Capital Gains Tax	\$23,850	0	0	0
State Cons. Tax Credit	N/A	N/A	N/A	\$250,000
Value of Conservation Tax Credit Benefit:	N/A	N/A	N/A	\$26,461**
<i>State Tax Paid</i>	\$29,150	\$5,300	\$5,000	0
<b>Net After Tax Return</b>	<b>\$286,150</b>		<b>\$175,000</b>	<b>\$201,461</b>

\* Value of Federal tax deduction is fair market value of the gift times Fed. OI tax rate; gift must be used against 30% of AGI over 6 year period.

\*\* Value of state tax credit is discounted present value at 8% of annual \$5,300 state tax payment avoided for six year period.