

CONSERVATION PARTNERS, LLC:
VIRGINIA LAND PRESERVATION TAX CREDIT

ELEMENTS OF PROPOSED LPC TRANSFER AGENT LICENSING PROGRAM
DECEMBER, 2010

Basic Requirements

- Physical office in Virginia or in-state agent.
- Appropriate insurance.
- Post a significant bond to cover any penalties.

Competency and Transparency

- At least one staff or principal must meet annual continuing education standards in general program knowledge and relevant legal, appraisal, and accounting fields.
- Required to submit to regulating agency and keep current a written set of standards by which licensee will evaluate credits.
- Submit and keep current curricula vitae of the person(s) who will be evaluating credits.
- The names of principals, continuing education records, standards, and CVs are all made available online to the public so that tax credit sellers and buyers can assess the expertise of licensed transfer agents.

Imposing Some Risk of Disallowance on Transfer Agents

- Monetary penalties: transfer agents that repeatedly transfer credits that are subsequently disallowed in whole or in part will be subject to appropriate monetary penalties.
- License revocation: in cases where licensees participate in clearly abusive credit claims, or where they are involved in repeated credit claims that are disallowed, their licenses would be suspended and eventually revoked in extreme cases. Licensees would expressly agree at the time of their application that their licenses will be suspended and even forfeit under certain conditions.
- Note: penalties would apply upon full or partial credit disallowance and would not depend upon credit buyers actually suffering losses. Buyers can be protected by a number of methods that do not reflect compliance with applicable standards or efficient provision of public benefit. The rationale behind this element of the licensing program is to encourage transfer agents to become effective gatekeepers for the LPC program.

Coverage and Preventing Circumvention

- The definition of a “transfer facilitator” should include entities that market single large credits.
- The definition also should include attorneys, accountants, non-profits, and others who facilitate the sale of credits without calling themselves “brokers” or “facilitators.”
- The licensing program should not discourage small credit holders from marketing their own credits directly to purchasers if they want to. However, the definition should include large LPC holders who sell directly to purchasers more than a threshold amount of credit in a calendar year.

Conflicts of Interest

- Certain individuals and entities should be prohibited from acting as a transfer facilitator. For example, attorneys and appraisers could not market credits arising from donations in which they drafted deeds or prepared appraisals.

Conservation Partners, LLC

Conservation Partners was formed to help Virginians realize the benefits of land conservation. To accomplish our mission, we have established a program focused on providing comprehensive support services to donors of high-quality conservation easements and the conservation professionals those donors depend upon. Assisting landowners in their efforts to protect their lands for the future is the primary focus of Conservation Partners.

NOTICE: This document is intended for educational and informational purposes only. Nothing herein is to be considered legal advice, and readers are responsible for obtaining such advice from their own legal counsel.

*Conservation Partners, LLC
P.O. Box 152
13 Court House Square
Lexington, VA 24450
540-464-1899
info@conservationpartnersllc.com
www.conservationpartnersllc.com*