

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1680

By: Representative Wardlaw

By: Senator Irvin

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS PRIVATE LANDS
CONSERVATION INCOME TAX CREDIT ACT; TO AMEND THE GAME
PROTECTION FUND; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS PRIVATE LANDS
CONSERVATION INCOME TAX CREDIT ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 26, Chapter 51, is amended to add an additional subchapter to read as follows:

Subchapter 29 – Arkansas Private Lands Conservation Income Tax Credit Act

26-51-2901. Title.

This act shall be known and may be cited as the "Arkansas Private Lands Conservation Income Tax Credit Act".

26-51-2902. Purpose and intent.

The purpose and intent of this subchapter is to encourage certain conservation practices on private lands that will enhance the Arkansas outdoor economy and habitat for wildlife species native to Arkansas while improving natural ecosystem services for the state's citizens, including without limitation clear water, clean air, and the mitigation of damaging wildfires.



26-51-2903. Definitions.As used in this subchapter:

(1) "Arkansas private lands conservation income tax credit" means the income tax credit allowed under this subchapter against the income tax imposed by this chapter;

(2) "Certification of approval" means a certificate issued by the Arkansas State Game and Fish Commission certifying that an owner of eligible property has submitted an application that proposes to complete a conservation practice on the eligible property that will meet the requirements of this subchapter and the rules promulgated by the commission under this subchapter;

(3) "Certification of completion" means a certificate issued by the commission certifying that an owner of eligible property has completed a certified conservation practice on the eligible property and qualifies for the Arkansas private lands conservation income tax credit in the amount specified in accordance with § 26-51-2904;

(4) "Certified conservation practice" means a conservation practice that the commission has verified that an owner has completed on an eligible property;

(5) "Conservation practice" means a fish or wildlife habitat conservation or enhancement practice that meets the requirements established by the commission in rules that set out the approved conservation practices and the value of each approved conservation practice, which may include without limitation:

(A) Winter-flooded rice fields;

(B) Bottomland hardwood forest management;

(C) Shallow-water wetland management;

(D) Feral hog trapping;

(E) Prescribed fire;

(F) Timber stand improvement;

(G) Increased public access to fish and wildlife habitat;

(H) Rotational or prescribed grazing;

(I) Conversion of pastures to native grasses and forbs;

(J) Stream sediment management; and

(K) Invasive plant control;

(6) "Conservation practice value" means the monetary value that

the commission has assigned to a conservation practice by rule;

(7) "Eligible property" means property that:

(A) Is located in the state;

(B) Is private land;

(C) Meets the requirements of this subchapter and the rules promulgated by the commission under this subchapter; and

(D) Has been approved by the commission for the implementation of one (1) or more conservation practices by the owner;

(8) "Holder" means a person, firm, or corporation that is subject to the income tax imposed by this chapter and that holds a certification of completion;

(9) "Owner" means a person or an entity that owns eligible property and is the initial recipient of a certification of completion from the commission for a certified conservation practice that was completed on or after January 1, 2024; and

(10) "Private land" means land that is not owned by a local, state, or federal governmental entity, including without limitation Native American tribe.

26-51-2904. Arkansas private lands conservation income tax credit.

(a) There is allowed an Arkansas private lands conservation income tax credit in the amount determined under this section for a taxpayer who is a holder.

(b)(1) The amount of the Arkansas private lands conservation income tax credit is the total of the conservation practice values of the certified conservation practices for which the taxpayer has received a certification of completion.

(2) The Arkansas private lands conservation income tax credit shall not exceed ten thousand dollars (\$10,000) in the aggregate per holder in a tax year.

(3)(A) The Arkansas State Game and Fish Commission shall not issue certifications of completion for Arkansas private lands conservation income tax credits that exceed fifteen million dollars (\$15,000,000) in the aggregate in a fiscal year.

(B) If the commission does not issue certifications of completion for Arkansas private lands conservation income tax credits of

fifteen million dollars (\$15,000,000) in the aggregate in a fiscal year, the amount for which certifications of completion were not issued shall not carry forward to the next fiscal year.

(C) An application for a certification of completion that would cause the commission to exceed the limitation stated in subdivision (b)(3)(A) of this section shall carry forward for consideration in the following fiscal year.

26-51-2905. Application and approval procedure.

(a) A person or entity that owns eligible property and wishes to obtain an Arkansas private lands conservation income tax credit shall submit an application to the Arkansas State Game and Fish Commission proposing to complete on the eligible property a conservation practice that meets the requirements of this subchapter and the rules promulgated by the commission under this subchapter.

(b)(1) After reviewing an application submitted under subsection (a) of this section, the commission may issue a certification of approval if the application proposes a conservation practice that meets the requirements of this subchapter and the rules promulgated by the commission under this subchapter.

(2) After receiving a certification of approval, the applicant may proceed to complete the proposed conservation practice on the eligible property.

(3) An applicant is ineligible to receive an Arkansas private lands conservation income tax credit:

(A) For a conservation practice completed before the issuance of a certification of approval under this subsection; or

(B) If the applicant is receiving an income tax credit under any other state law for the same eligible property.

(c) Upon completion of an approved conservation practice on eligible property, the applicant shall submit documentation required by the commission to verify that the completed conservation practice qualifies as a certified conservation practice.

(d) If the commission determines that a conservation practice qualifies as a certified conservation practice and that the certified conservation practice is complete, the commission shall issue a freely

transferable certification of completion specifying the total amount of the certified conservation practice value and the Arkansas private lands conservation income tax credit allowed.

(e)(1) If an applicant requests a review of the commission's determination of its application under subsection (d) of this section, the applicant shall submit a written request for review of the determination.

(2) An applicant shall submit a request for a review of the determination under subdivision (e)(1) of this section in writing to the commission within thirty (30) days of the date of notification to the owner of the determination.

(f)(1) An owner shall certify to the commission the validity of the conservation practice for which the owner is claiming an Arkansas private lands conservation income tax credit and shall maintain a record supporting the claim for at least five (5) years after the issuance of a certification of completion.

(2) An owner's record supporting a claim for an Arkansas private lands conservation income tax credit may be reviewed by the commission, the Department of Finance and Administration, or a holder to which the owner's Arkansas private lands conservation income tax credit has been transferred under § 26-51-2906.

26-51-2906. Procedure to claim tax credit – Transferring credit.

(a)(1) A holder shall submit a certification of completion and documents proving an assignment of the Arkansas private lands conservation income tax credit, if any, to the Department of Finance and Administration at the time of filing the holder's income tax return under this chapter.

(2) The department may refuse to recognize an Arkansas private lands conservation income tax credit if the holder fails to submit the certification of completion and any assignment documents.

(b) The amount of the Arkansas private lands conservation income tax credit that may be claimed by a holder in a tax year shall not exceed the amount of income tax due by the holder.

(c) A holder of an unused Arkansas private lands conservation income tax credit may carry forward part or all of the Arkansas private lands conservation income tax credit for ten (10) consecutive taxable years.

(d)(1) An owner that has been allowed an Arkansas private lands

conservation income tax credit may freely transfer, sell, or assign part or all of the Arkansas private lands conservation income tax credit allowed in the certification of completion issued to the owner by the Arkansas State Game and Fish Commission.

(2) A subsequent holder may transfer, sell, or assign part or all of the remaining Arkansas private lands conservation income tax credit.

(e) An owner may sell the owner's eligible property after the issuance of a certification of completion.

(f) An Arkansas private lands conservation income tax credit granted to a partnership, Subchapter S corporation, limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners respectively on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method.

(g)(1) A holder may use the Arkansas private lands conservation income tax credit to offset up to one hundred percent (100%) of the holder's tax liability under this chapter.

(2) A holder is not required to have any ownership or other interest in the eligible property for which an Arkansas private lands conservation income tax credit is claimed.

(3) An Arkansas private lands conservation income tax credit may be used up to its total amount by any holder without limitation.

(h) An owner or holder that assigns part or all of an Arkansas private lands conservation income tax credit shall perfect the transfer by notifying the commission and the department in writing within thirty (30) calendar days following the effective date of the transfer and shall provide any information as may be required by the commission and the department to administer and carry out this subchapter and to ensure proper tracking of the ownership of the unused Arkansas private lands conservation income tax credit.

(i)(1) Consideration received for the transfer of an Arkansas private lands conservation income tax credit shall not be included as taxable income under this chapter.

(2) Consideration paid for the transfer of an Arkansas private lands conservation income tax credit shall not be deducted from taxable income under this chapter.

26-51-2907. Fees.

(a)(1) The Arkansas State Game and Fish Commission may charge a fee to process:

(A) An application for an Arkansas private lands conservation income tax credit; and

(B) A request to record transfers of interests in an Arkansas private lands conservation income tax credit to other holders.

(2) The fee for processing an application for an Arkansas private lands conservation income tax credit shall not exceed the lesser of two and five-tenths percent (2.5%) of the amount of the Arkansas private lands conservation income tax credit applied for or seventy-five hundredths percent (0.75%) of the amount of the Arkansas private lands conservation income tax credit transferred.

(b) A fee collected under this subchapter by the commission shall be deposited to the Game Protection Fund and shall be used for the administration of this subchapter, including without limitation the funding of personnel costs expended by the commission for the administration of this subchapter.

26-51-2908. Rules.

(a) The Arkansas State Game and Fish Commission shall promulgate rules to implement this subchapter that shall state the eligible conservation practices and the related conservation practice values and include criteria for the prioritization of applications for an Arkansas private lands conservation income tax credit, including without limitation the criteria that the results of conservation practices will be prioritized in the following order:

(1) The expansion of public access to fish and wildlife habitats;

(2) The creation of new fish and wildlife habitats; and

(3) The enhancement of existing fish and wildlife habitats.

(b) The commission shall consult with the Department of Finance and Administration in promulgating rules under this subchapter.

26-51-2909. Sunset.

(a) This subchapter expires on December 31, 2033.

(b) The Arkansas State Game and Fish Commission shall not accept applications under § 26-51-2905 after June 30, 2033.

(c) An Arkansas private lands conservation income tax credit approved under an application that was submitted on or before the expiration of this subchapter, may be claimed until it is exhausted or it expires.

SECTION 2. Arkansas Code § 19-6-301, concerning the enumeration of special revenues, is amended to add an additional subdivision to read as follows:

(274) Fees collected under the Arkansas Private Lands Conservation Income Tax Credit Act, § 26-51-2901 et seq.

SECTION 3. Arkansas Code § 19-6-420 is amended to read as follows:

19-6-420. Game Protection Fund.

The Game Protection Fund shall consist of: ~~those~~

(1) Those special revenues as specified in § 19-6-301(63), thirty-four percent (34%) of those special revenues as specified in § 19-6-301(20), and license plate design-use contribution fees collected under § 27-24-905(b)(2), there to be used for the maintenance, operation, and improvement required by the Arkansas State Game and Fish Commission in carrying out the functions, powers, and duties as set out in Arkansas Constitution, Amendment 35, and other laws enacted by the General Assembly; and

(2) Fees collected under the Arkansas Private Lands Conservation Income Tax Credit Act, § 26-51-2901 et seq., to be used for the purposes stated in § 26-51-2907.

SECTION 4. DO NOT CODIFY. Effective dates.

(a) Section 1 of this act is effective for tax years beginning on or after January 1, 2024, and ending on or before December 31, 2033.

(b) The Arkansas State Game and Fish Commission shall not accept applications under Arkansas Code § 26-51-2905 after June 30, 2033.