

AN ACT

RELATING TO TAX CREDITS; CLARIFYING PORTIONS OF THE LAND CONSERVATION INCENTIVES ACT; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 75-9-3 NMSA 1978 (being Laws 2003, Chapter 331, Section 3) is amended to read:

"75-9-3. DEFINITIONS.--As used in the Land Conservation Incentives Act:

A. "interest in real property" means a right in real property, including access, improvements, water rights, fee simple interest, easement, land use easement, partial interest, mineral interest, remainder interest, future or other interest or right in real property. The interest shall comply with the requirements of Section 170(h) of the Internal Revenue Code of 1986;

B. "land" means real property, including an interest in real property; and

C. "public or private conservation agency" means a governmental body or a private not-for-profit charitable corporation or trust authorized to do business in this state that is organized and operated for natural resources, land conservation or historic preservation purposes and that has tax-exempt status as a public charity under the Internal

Revenue Code of 1986, and the power to acquire, hold or maintain land or interests in land."

Section 2. Section 75-9-4 NMSA 1978 (being Laws 2003, Chapter 331, Section 4) is amended to read:

"75-9-4. ADMINISTRATION.--

A. The Land Conservation Incentives Act shall be administered by the secretary of energy, minerals and natural resources in consultation with the committee established pursuant to the Natural Lands Protection Act.

B. The secretary of energy, minerals and natural resources may promulgate rules to certify eligible conveyances in fulfillment of the purposes of the Land Conservation Incentives Act. The secretary of taxation and revenue, in consultation with the secretary of energy, minerals and natural resources, may promulgate rules to administer the tax credits provided in Sections 7-2-18.10 and 7-2A-8.9 NMSA 1978 and shall coordinate the preparation of a report to the legislature showing the fiscal impact on the state treasury of the credits claimed pursuant to those sections."

Section 3. Section 75-9-5 NMSA 1978 (being Laws 2003, Chapter 331, Section 5) is amended to read:

"75-9-5. APPLICABILITY AND LIMITATIONS.--

A. The tax credits provided by Sections 7-2-18.10 and 7-2A-8.9 NMSA 1978 apply to transfers of land or interests therein in taxable years beginning on or after January 1, 2004

and all taxable years thereafter.

B. A taxpayer claiming a tax credit pursuant to Section 7-2-18.10 or 7-2A-8.9 NMSA 1978 may not claim a credit pursuant to a similar law for costs related to the same project.

C. A tax credit that is claimed pursuant to Section 7-2-18.10 or 7-2A-8.9 NMSA 1978 from the donation of land or an interest in land made by a pass-through tax entity, such as a trust, estate, partnership, limited liability corporation or partnership, limited partnership, S corporation or other fiduciary, shall be used either by an entity in the event it is the taxpayer on behalf of the entity or by the member, manager, partner, shareholder or beneficiary, as the case may be, in proportion to his interest in the entity in the event that income, deductions and tax liability pass through the entity to the member, manager, partner, shareholder or beneficiary. Tax credits may not be claimed by both the entity and the member, manager, partner, shareholder or beneficiary for the same donation.

D. No person shall have a third-party enforcement right pertaining to a conveyance made pursuant to the Land Conservation Incentives Act.

E. No land or interest in real property for which a tax credit has been claimed pursuant to Section 7-2-18.10 or 7-2A-8.9 NMSA 1978 may be transferred to a third party without

