

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1680

5 By: Representative Wardlaw  
6 By: Senator Irvin  
7

## For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS PRIVATE LANDS  
10 CONSERVATION INCOME TAX CREDIT ACT; TO AMEND THE GAME  
11 PROTECTION FUND; AND FOR OTHER PURPOSES.  
12  
13

## Subtitle

15 TO CREATE THE ARKANSAS PRIVATE LANDS  
16 CONSERVATION INCOME TAX CREDIT ACT.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

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

23 Subchapter 29 – Arkansas Private Lands Conservation Income Tax Credit Act  
24

25 26-51-2901. Title.

26 This act shall be known and may be cited as the "Arkansas Private Lands  
27 Conservation Income Tax Credit Act".  
28

29 26-51-2902. Purpose and intent.

30 The purpose and intent of this subchapter is to encourage certain  
31 conservation practices on private lands that will enhance the Arkansas  
32 outdoor economy and habitat for wildlife species native to Arkansas while  
33 improving natural ecosystem services for the state's citizens, including  
34 without limitation clear water, clean air, and the mitigation of damaging  
35 wildfires.  
36



1           26-51-2903. Definitions.

2           As used in this subchapter:

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

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

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

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

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

25                           (A) Winter-flooded rice fields;

26                           (B) Bottomland hardwood forest management;

27                           (C) Shallow-water wetland management;

28                           (D) Feral hog trapping;

29                           (E) Prescribed fire;

30                           (F) Timber stand improvement;

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

32                           (H) Rotational or prescribed grazing;

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

34                           (J) Stream sediment management; and

35                           (K) Invasive plant control;

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

1 the commission has assigned to a conservation practice by rule;

2 (7) "Eligible property" means property that:

3 (A) Is located in the state;

4 (B) Is private land;

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

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

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

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

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

19  
20 26-51-2904. Arkansas private lands conservation income tax credit.

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

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

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

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

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

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

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

8  
9 26-51-2905. Application and approval procedure.

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

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

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

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

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

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

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

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

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

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

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

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

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

21  
22 26-51-2906. Procedure to claim tax credit – Transferring credit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (2) Consideration paid for the transfer of an Arkansas private  
35 lands conservation income tax credit shall not be deducted from taxable  
36 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.

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

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

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

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

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

13  
 14           SECTION 3. Arkansas Code § 19-6-420 is amended to read as follows:

15           19-6-420. Game Protection Fund.

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

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

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

28  
 29           SECTION 4. DO NOT CODIFY. Effective dates.

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

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