

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2007-309
HOUSE BILL 463**

AN ACT TO MODIFY THE CREDIT FOR CERTAIN REAL PROPERTY DONATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.34 reads as rewritten:

"§ 105-130.34. Credit for certain real property donations.

(a) Any ~~corporation~~ C Corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or other similar land conservation purposes (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by this section, the taxpayer must file with ~~its the income tax return,~~ return for the taxable year in which the credit is ~~claimed, a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.~~ claimed the following:

- (1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.
- (2) A self-contained appraisal report or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) That portion of a qualifying donation that is the basis for a credit allowed under this section is not eligible for deduction as a charitable contribution under G.S. 105-130.9."

SECTION 2. G.S. 105-151.12 reads as rewritten:

"§ 105-151.12. Credit for certain real property donations.

(a) ~~A person who~~An individual or pass-through entity that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, ~~or (iv) other similar land conservation purposes~~(iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. ~~The credit allowed under this section may not exceed two hundred fifty thousand dollars (\$250,000).~~ To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed ~~a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.~~the following:

- (1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection. The certification for a qualified donation made by a pass-through entity must be filed by the pass-through entity.
- (2) A self-contained or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(a1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty thousand dollars (\$250,000). In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a husband and wife filing a joint tax return may not exceed five hundred thousand dollars (\$500,000). If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.

(a2) Pass-Through Entities. – The aggregate amount of credit allowed to a pass-through entity in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of another pass-through entity, may not exceed five hundred thousand dollars (\$500,000). Each individual who is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed two hundred fifty thousand dollars (\$250,000). Each corporation that is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed five hundred thousand dollars (\$500,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

Any unused portion of this credit may be carried forward for the next succeeding five years.

(c) Repealed by Session Laws 1998-212, s. 29A.13(b).

~~(d) In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.~~

(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 2003 to qualify for the credit allowed by this section.

~~(f) Notwithstanding G.S. 105-269.15, the maximum dollar limit that applies in determining the amount of the credit applicable to a partnership that qualifies for the credit applies separately to each partner."~~

SECTION 3. This act is effective for taxable years beginning on or after January 1, 2007.

In the General Assembly read three times and ratified this the 17th day of July, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:15 p.m. this 28th day of July, 2007