

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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HOUSE BILL 905

Short Title: Reenact Conservation Tax Credit. (Public)

Sponsors: Representatives Jordan, McGrady, and Setzer (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Finance

April 26, 2017

A BILL TO BE ENTITLED

AN ACT TO REENACT AND MODIFY THE CONSERVATION TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-151.12 is reenacted as it existed immediately before its expiration, is recodified as G.S. 105-153.11, and reads as rewritten:

"§ 105-153.11. Credit for certain real property donations.

(a) Credit. - 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, (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 (i) farmland conservation, (ii) buffering military installations and training areas, (iii) floodplain protection, or (iv) improving public access to public land, water, trails, or beaches 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 for one of the qualifying uses listed in this subsection and accepted in perpetuity for the qualifying use for which the property is donated. The person to whom the property is donated must be 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.

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 the following:

- (1) A certification by the Department of Environment and Natural and Cultural 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



1 documentation of the county's appraised value of the donated property, as
2 adjusted by the sales assessment ratio, in lieu of an appraisal report.

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

12 (a2) Pass-Through Entities. – The aggregate amount of credit allowed to a pass-through
13 entity in a taxable year under this section for one or more qualified donations made during the
14 taxable year, whether made directly or indirectly as owner of another pass-through entity, may
15 not exceed five hundred thousand dollars (\$500,000). Each individual who is an owner of a
16 pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the
17 credit to which the pass-through entity is eligible under this subsection, not to exceed two
18 hundred fifty thousand dollars (\$250,000). Each corporation that is an owner of a pass-through
19 entity is allowed as a credit an amount equal to the owner's allocated share of the credit to
20 which the pass-through entity is eligible under this subsection, not to exceed five hundred
21 thousand dollars (\$500,000). If an owner's share of the pass-through entity's credit is limited
22 due to the maximum allowable credit under this section for a taxable year, the pass-through
23 entity and its owners may not reallocate the unused credit among the other owners.

24 (b) Limitation; Carryforward. – The credit allowed by this section may not exceed the
25 amount of tax imposed by this Part for the taxable year reduced by the sum of all credits
26 allowed, except payments of tax made by or on behalf of the taxpayer. Any
27 ~~Any~~ unused portion of this credit may be carried forward for the next succeeding five years.

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

29 (d) Repealed by Session Laws 2007-309, s. 2, effective for taxable years beginning on
30 or after January 1, 2007.

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

34 (f) Repealed by Session Laws 2007-309, s. 2, effective for taxable years beginning on
35 or after January 1, 2007.

36 (g) No Double Benefit. – That portion of a qualifying donation that is the basis for a
37 credit allowed under this section is not eligible for deduction as a charitable contribution under
38 G.S. 105-153.5."

39 **SECTION 2.** G.S. 105-130.34 is reenacted as it existed immediately before its
40 expiration and reads as rewritten:

41 **"§ 105-130.34. Credit for certain real property donations.**

42 (a) Credit. – Any C Corporation that makes a qualified donation of an interest in real
43 property located in North Carolina during the taxable year that is useful for ~~(i) public beach~~
44 ~~access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation,~~
45 ~~(iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural~~
46 ~~areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river~~
47 ~~areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural~~
48 ~~parkland, or (ix) historic landscape conservation~~ (i) farmland conservation, (ii) buffering
49 military installations and training areas, (iii) floodplain protection, or (iv) improving public
50 access to public land, water, trails, or beaches is allowed a credit against the tax imposed by
51 this Part equal to twenty-five percent (25%) of the fair market value of the donated property

1 interest. To be eligible for this credit, the interest in real property must be donated in perpetuity
2 for one of the qualifying uses listed in this subsection and accepted in perpetuity for the
3 qualifying use for which the property is donated. The person to whom the property is donated
4 must be the State, a local government, or a body that is both organized to receive and
5 administer lands for conservation purposes and qualified to receive charitable contributions
6 pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental
7 regulation or ordinance and dedications made to increase building density levels permitted
8 under a regulation or ordinance are not eligible for this credit.

9 The credit allowed under this section for one or more qualified donations made in a taxable
10 year may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed
11 by this section, the taxpayer must file with the income tax return for the taxable year in which
12 the credit is claimed the following:

- 13 (1) A certification by the Department of ~~Environment and Natural~~ and Cultural
14 Resources that the property donated is suitable for one or more of the valid
15 public benefits set forth in this subsection.
- 16 (2) A self-contained appraisal report or summary appraisal report as defined in
17 Standards Rule 2-2 in the latest edition of the Uniform Standards of
18 Professional Appraisal Practice as promulgated by the Appraisal Foundation
19 for the property. For fee simple absolute donations of real property, a
20 taxpayer may submit documentation of the county's appraised value of the
21 donated property, as adjusted by the sales assessment ratio, in lieu of an
22 appraisal report.
- 23 (b) Limitation. – The credit allowed by this section may not exceed the amount of tax
24 imposed by this Part for the taxable year reduced by the sum of all credits allowed, except
25 payments of tax made by or on behalf of the taxpayer.
- 26 (c) Carryforward. – Any unused portion of this credit may be carried forward for the
27 next succeeding five years.
- 28 (d) No Double Benefit. – That portion of a qualifying donation that is the basis for a
29 credit allowed under this section is not eligible for deduction as a charitable contribution under
30 G.S. 105-130.9."

31 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,
32 2017.