GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S **1**

SENATE BILL 1225

Short Title: Economic Recovery Act of 1992. (Public)

Sponsors: Senators Hartsell; Carpenter and Cochrane.

Referred to: Finance.

June 8, 1992

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX INCENTIVES TO STIMULATE ECONOMIC RECOVERY.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the Economic Recovery Act of 1992.

Sec. 2. Division II of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**<u>§ 105-151.22. Credit for certain home purchases.</u>**

<u>(a) Definitions. – The following definitions apply in this section:</u>

<u>(1) Eligibility period. – The period from July 1, 1992, through June 30, 1993.</u>

<u>(2) First-time homebuyer. – An individual who has not and whose spouse has not, during the three-year period preceding the date of acquiring the residence for which a credit is claimed, had a present ownership interest in a principal residence.</u>

<u>(3) New principal residence. – A principal residence the original use of which begins with the taxpayer and which is the first principal residence acquired by the taxpayer during the eligibility period.</u>

<u>(4) Purchase price. – The adjusted basis of the residence on the date of its acquisition by the taxpayer.</u>

<u>(b) Credit. – There is allowed as a credit against the tax imposed by this Division an amount equal to ten percent (10%) of the purchase price of:</u>

<u>(1) A new principal residence acquired by the taxpayer during the eligibility period; or</u>

(2) A principal residence acquired by the taxpayer during the eligibility period if the taxpayer is a first-time homebuyer.

(c) Maximum. – The credit allowed under this section may not exceed one thousand dollars ($1,000). The maximum credit must be allocated equally among all individuals acquiring the principal residence.

(d) Carryover. – The credit allowed under this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years.

(e) Contract to Purchase. – A principal residence is considered to have been acquired during the eligibility period if the taxpayer:

(1) During the eligibility period, enters into a binding contract to purchase the residence; and

(2) Within 90 days after the date the contract was entered into, purchases and occupies the residence.

A contract contingent on financing or on the condition of the residence is considered binding.

(f) Limitations. – No credit is allowed under this section for any of the following:

(1) An individual whose tax home is outside the United States or an individual who is a member of the armed forces if, on the date the principal residence is acquired, the period of time specified in section 1034(a) of the Code is suspended with respect to the individual.

(2) A principal residence acquired from a person whose relationship to the taxpayer would result in the disallowance of losses under section 267 or 707(b) of the Code.

(3) A principal residence the basis of which in the hands of the taxpayer is determined either under section 1014(a) of the Code, relating to property acquired from a decedent, or by reference to its adjusted basis in the hands of the person from whom it was acquired.

(g) Recapture. – If, within 36 months after acquiring a principal residence for which a credit was allowed by this section, the taxpayer disposes of the residence, the tax imposed by this Division for the taxable year in which the taxpayer disposed of the residence is increased by the amount of the credit that was allowed. If, after disposing of the residence, the taxpayer acquires another principal residence within the applicable period prescribed in section 1034 of the Code, the increase is reduced, but not below zero, by the amount of the credit that that taxpayer could have claimed under this section for a new principal residence if the residence were the first principal residence acquired by the taxpayer during the eligibility period. The increase required by this section does not apply to the following residences:

(1) A residence disposed of on account of the death of an individual that has a legal or equitable interest in the residence.

(2) A residence substantially or completely destroyed by a casualty described in section 165(c) of the Code.

(3) A residence compulsorily or involuntarily converted within the meaning of section 1033(a) of the Code.

(4) A residence disposed of pursuant to a divorce or legal separation if the residence is sold or one of the spouses retains the residence as a principal residence."

Sec. 3. G.S. 105-163.2(b) reads as rewritten:

"(b) The Secretary shall cause to be prepared and shall promulgate tables for computing amounts to be withheld with respect to different rates of wages for different payroll periods applicable to the various combinations of exemptions to which an employee may be entitled and taking into account the appropriate standard deduction. The tables may provide for the same amount to be withheld within reasonable salary brackets or ranges so designed as to result in the withholding during a year of approximately the amount of an employee's indicated income tax liability for that year. The tables shall provide an adjustment to the amount withheld to apply in the case of an individual who is eligible to claim the credit provided in G.S. 105-151.22. The withholding of wages pursuant to and in accordance with these tables shall be deemed as a matter of law to constitute compliance with the provisions of subsection (a) of this section, notwithstanding any other provisions of this Article."

Sec. 4. G.S. 105-163.010(7) reads as rewritten:

"(7) Qualified business venture. – A North Carolina business that (i) engages primarily in home building, manufacturing, processing, warehousing, wholesaling, research and development, or a service-related industry, and (ii) is registered with the Secretary of State under G.S. 105-163.013."

Sec. 5. G.S. 105-163.011(b) reads as rewritten:

"(b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an individual who invests in the equity securities or subordinated debt of (i) a qualified investment organization, (ii) a qualified business venture, (iii) a qualified grantee business, or (iv) a North Carolina Enterprise Corporation is allowed as a credit against the tax imposed by Division II of this ~~Article~~ Article or the tax imposed by Article 7 of this Chapter for the taxable year an amount equal to twenty-five percent (25%) of the amount invested or one hundred thousand dollars ($100,000), whichever is less. The credit may not be taken for the year in which the investment is made but shall be taken for the taxable year beginning during the calendar year following the calendar year in which the investment was made."

Sec. 6. G.S. 105-163.013(b) reads as rewritten:

"(b) Qualified Business Ventures. – In order to qualify as a qualified business venture under this Division, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State a financial statement certified by an independent certified public accountant for its most recent fiscal year showing revenues, as determined in accordance with generally accepted accounting procedures, of five million dollars

($5,000,000) or less on a consolidated basis and an application in which it certifies the following facts:

(1) Its headquarters and principal business operations are in North Carolina or it has, as a condition of an investment eligible for a credit under this Division, agreed to establish its headquarters and principal business operations in North Carolina within three months after the investment is made;

(2) It has, as a condition of an investment eligible for a credit under this Division, agreed to retain its headquarters and principal business operations in North Carolina for at least three years after the investment is made;

(3) It is organized to engage primarily in <u>home building,</u> manufacturing, processing, warehousing, wholesaling, research and development, or a service-related industry; and

(4) It does not engage as a substantial part of its business in ~~construction, contracting,~~ <u>construction or contracting (other than home building),</u> selling goods at retail, or the purchase, sale, development, or holding for investment of commercial paper, financial instruments, securities, or real property, or otherwise make investments.

To remain qualified as a qualified business venture, the business must renew its registration annually as prescribed by rule by filing a financial statement for the most recent fiscal year showing revenues, as determined in accordance with generally accepted accounting procedures, of five million dollars ($5,000,000) or less on a consolidated basis and an application for renewal in which the business certifies the facts required in the original application and that it has not moved its headquarters or principal business operations out of North Carolina. <u>A business that has been acquired by another business or has moved its principal business operations out of North Carolina may, however, remain qualified as a qualified business venture for the three succeeding calendar years if at the end of that three-year period the total number of full-time employees of the business in North Carolina is at least ten percent (10%) greater than the number at the beginning of the three-year period. A full-time employee is an employee who holds a full-time job. A full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.</u>

If the revenues of a qualified business venture exceed five million dollars ($5,000,000) in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a financial statement showing the revenues of the business for that year."

Sec. 7. Division I of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**<u>§ 105-130.41. Credit for equipment purchased by qualified business ventures.</u>**

<u>(a) Credit. – There is allowed as a credit against the tax imposed by this Division an amount equal to five percent (5%) of the purchase price of equipment purchased by a qualified business venture, as defined in G.S. 105-163.010, during the taxable year for</u>

use in its North Carolina operations. This credit may not exceed twenty thousand dollars ($20,000).

(b) Carryover. – The credit allowed under this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years.

(c) Expiration. – The credit allowed under this section applies only to equipment purchased during the period from July 1, 1992, through June 30, 1993."

Sec. 8. Division II of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.23. Credit for equipment purchased by qualified business ventures.**

(a) Credit. – There is allowed as a credit against the tax imposed by this Division an amount equal to five percent (5%) of the purchase price of equipment purchased by a qualified business venture, as defined in G.S. 105-163.010, during the taxable year for use in its North Carolina operations. This credit may not exceed twenty thousand dollars ($20,000).

(b) Carryover. – The credit allowed under this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years.

(c) Expiration. – The credit allowed under this section applies only to equipment purchased during the period from July 1, 1992, through June 30, 1993."

Sec. 9. G.S. 105-130.5(b) is amended by adding at the end a new subdivision to read:

"(17) One-half of any interest earned on a loan made during the period from July 1, 1992, through June 30, 1993, by a financial institution to a qualified business venture, as defined in G.S. 105-163.010."

Sec. 10. This act is effective for taxable years beginning on or after January 1, 1992. Sections 2, 3, 7, and 8 of this act expire for taxable years beginning on or after January 1, 1999.