

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1316 (First Edition)

SHORT TITLE: Amend Conservation Easements Tax Credit

SPONSOR(S): Senator Kinnaird, et al.

FISCAL IMPACT

Yes (X) No () No Estimate Available ()

FY 1998-99 FY 1999-00 FY 2000-01 FY 2001-02 FY 2002-03

REVENUES

General Fund Revenue loss is less than \$100,000 per year

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Environment and Natural Resources;
Department of Revenue

EFFECTIVE DATE: Effective for taxable years beginning on or after January 1, 1997.

BILL SUMMARY: The act amends the income tax credit for real property donated for conservation purposes to require the individual income taxpayer to add back four times the amount claimed as a credit, up to \$400,000, to taxable income.

BACKGROUND: Under prior law, a taxpayer could receive a tax credit equal to 25% of the fair market value of a property interest donated to the State, a unit of local government, or a body organized to receive and administer lands for conservation purposes. The 1997 General Assembly increased the \$25,000 cap on this credit to \$100,000 for individual income taxes and \$250,000 for corporate income taxes. (S.L. 1997-226) The increase in tax credits was effective beginning on or after January 1, 1997. The 1997 act also made a conforming change to ensure that a taxpayer who chooses to claim the State credit does not also claim and receive a deduction for federal income tax purposes. This is necessary since federal taxable income is the starting point for calculating State taxable income. The taxpayer must add back the fair market value of the donated property to federal taxable income the first year the tax credit is claimed.

ASSUMPTIONS AND METHODOLOGY: According to Department of Environment and Natural Resources records, 21 taxpayers claimed the conservation tax credit in 1997. By July

1998, only 8 of these taxpayers had completed and filed tax returns, while the remaining 13 had filed for extensions. The Tax Research Division of the Department of Revenue examined the 8 completed returns and found that changing the add-back had no impact on the tax paid. Determining this estimate required numerous calculations and approximations by the Tax Research staff. For the 1997 returns not yet filed, the Tax Research Division expects the revenue impact to be minimal (less than \$100,000). Tax Research believes tax year 1997 provides a representative sample of conservation credit users and that the 1997 estimate of less than \$100,000 can be used in future years.

TECHNICAL CONSIDERATIONS: When the credit amount exceeds the tax liability, the proposed addback creates a circular equation that increases the difficulty in calculating the conservation credit. Under the bill, claiming the credit requires adding back four times the credit to taxable income. Adding to taxable income increases the amount of tax due. Increasing the tax amount due then increases the amount of tax credit that can be claimed. Increasing the amount of tax credit claimed means again adding four times the new credit amount to taxable income and so on. It takes several iterations to finally get the numbers close enough to stop the calculations and approximate an answer. Such multiple calculations will increase the potential for taxpayer error. In the House version of this bill (HB 1491), the addback was eliminated altogether.

FISCAL RESEARCH DIVISION

733-4910

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