

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE DRH30093-MCxz-59 (2/15)

Short Title: Conservation Tax Credit Modifications. (Public)

Sponsors: Representatives Luebke; Brubaker, Carney, Church, Hill, Wainwright,  
and Wilkins.

Referred to:

A BILL TO BE ENTITLED

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 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~~

1 Resources that the property donated is suitable for one or more of the valid public  
2 benefits set forth in this subsection. ~~claimed the following:~~

3 (1) A certification by the Department of Environment and Natural  
4 Resources that the property donated is suitable for one or more of the  
5 valid public benefits set forth in this subsection.

6 (2) A self-contained appraisal report or summary appraisal report as  
7 defined in Standards Rule 2-2 in the latest edition of the Uniform  
8 Standards of Professional Appraisal Practice as promulgated by the  
9 Appraisal Foundation for the property. For fee simple absolute  
10 donations of real property, a taxpayer may submit documentation of  
11 the county's appraised value of the donated property, as adjusted by the  
12 sales assessment ratio, in lieu of an appraisal report.

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

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

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

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

22 "**§ 105-151.12. Credit for certain real property donations.**

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

1           (1) A certification by the Department of Environment and Natural  
2 Resources that the property donated is suitable for one or more of the  
3 valid public benefits set forth in this subsection. The certification for a  
4 qualified donation made by a pass-through entity must be filed by the  
5 pass-through entity.

6           (2) A self-contained or summary appraisal report as defined in Standards  
7 Rule 2-2 in the latest edition of the Uniform Standards of Professional  
8 Appraisal Practice as promulgated by the Appraisal Foundation for the  
9 property. For fee simple absolute donations of real property, a taxpayer  
10 may submit documentation of the county's appraised value of the  
11 donated property, as adjusted by the sales assessment ratio, in lieu of  
12 an appraisal report.

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

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

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

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

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

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

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

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

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