

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 260*
Committee Substitute Favorable 4/8/97
Senate Finance Committee Substitute Adopted 4/22/97

Short Title: Increase Conservation Tax Credit.

(Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CAP ON THE INCOME TAX CREDIT FOR REAL PROPERTY DONATED FOR CONSERVATION PURPOSES AND TO ENSURE THAT CONSERVATION AND PRESERVATION AGREEMENTS ARE CONSIDERED IN DETERMINING THE APPRAISED VALUE OF LAND AND IMPROVEMENTS.

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 public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation ~~purposes, shall be purposes~~ is allowed a credit against the ~~taxes~~ tax imposed by this Division 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 to and accepted by either the State, ~~local government~~ a local government, or a body that is both organized to receive and administer lands for conservation purposes and ~~is~~ qualified to receive charitable contributions pursuant to G.S. ~~105-130.9; provided,~~

1 ~~however, that lands~~ 105-130.9. Lands required to be dedicated pursuant to local
2 governmental regulation or ordinance and dedications made to increase building density
3 levels permitted under ~~such regulations or ordinances shall not be a regulation or ordinance~~
4 are not eligible for this credit. The credit allowed under this section may not exceed
5 ~~twenty five thousand dollars (\$25,000).~~ two hundred fifty thousand dollars (\$250,000). To
6 support the credit allowed by this section, the taxpayer ~~shall~~ must file with its income tax
7 ~~return~~ return, for the taxable year in which the credit is claimed, a certification by the
8 Department of Environment, Health, and Natural Resources that the property donated is
9 suitable for one or more of the valid public benefits set forth in this subsection.

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

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

15 (d) ~~The fair market value, or any portion thereof, of a~~ That portion of a qualifying
16 donation that is ~~not eligible for a credit pursuant to this section may be considered as a~~
17 charitable contribution pursuant to G.S. 105-130.9. ~~That portion of the donation the basis~~
18 for a credit allowed as a credit pursuant to ~~under~~ this section ~~shall not be~~ is not eligible
19 for deduction as a charitable contribution. ~~contribution under G.S. 105-130.9."~~

20 Section 2. G.S. 105-151.12 reads as rewritten:

21 "**§ 105-151.12. Credit for certain real property donations.**

22 (a) A person who makes a qualified donation of ~~interests~~ an interest in real
23 property located in North Carolina during the taxable year that is useful for (i) public
24 beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife
25 conservation, or (iv) other similar land conservation ~~purposes, shall be~~ purposes is allowed
26 ~~as a credit against the tax imposed by this Division an amount equal to twenty-five percent~~
27 (25%) of the fair market value of the donated property interest. To be eligible for this
28 credit, the interest in property must be donated to and accepted by either the State, a local
29 government, or a body that is both organized to receive and administer lands for
30 conservation purposes and ~~is~~ qualified to receive charitable contributions under the ~~Code;~~
31 ~~provided, however, that lands~~ Code. Lands required to be dedicated pursuant to local
32 governmental regulation or ordinance and dedications made to increase building density
33 levels permitted under ~~such regulations or ordinances~~ a regulation or ordinance are not
34 eligible for this credit. The credit allowed under this section may not exceed ~~twenty five~~
35 ~~thousand dollars (\$25,000).~~ one hundred thousand dollars (\$100,000). To support the credit
36 allowed by this section, the taxpayer ~~shall~~ must file with the income tax return for the
37 taxable year in which the credit is claimed a certification by the Department of
38 Environment, Health, and Natural Resources that the property donated is suitable for one
39 or more of the valid public benefits set forth ~~by~~ in this subsection.

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

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

3 (c) In order to claim the credit allowed under this section, the taxpayer must add
4 the fair market value of the donated property interest, up to a maximum of ~~one hundred~~
5 ~~thousand dollars (\$100,000),~~ four hundred thousand dollars (\$400,000), to taxable income
6 as provided in G.S. 105-134.6(c).

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

12 (e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-
13 205, the offer of donation must be made before December 31, 1998, to qualify for the
14 credit allowed by this section."

15 Section 3. G.S. 105-134.6(c)(5) reads as rewritten:

16 "(5) The fair market value, up to a maximum of ~~one hundred thousand dollars~~
17 ~~(\$100,000),~~ four hundred thousand dollars (\$400,000), of the donated
18 property interest for which the taxpayer claims a credit for the taxable
19 year under G.S. 105-151.12 and the market price of the gleaned crop for
20 which the taxpayer claims a credit for the taxable year under G.S. 105-
21 151.14."

22 Section 4. G.S. 105-287(a) reads as rewritten:

23 "(a) In a year in which a general reappraisal or horizontal adjustment of real
24 property in the county is not made, the assessor shall increase or decrease the appraised
25 value of real property, as determined under G.S. 105-286, ~~to~~ to accomplish any one or
26 more of the following:

27 (1) Correct a clerical or mathematical ~~error;~~ error.

28 (2) Correct an appraisal error resulting from a misapplication of the
29 schedules, standards, and rules used in the county's most recent general
30 reappraisal or horizontal ~~adjustment;~~ or adjustment.

31 (2a) Recognize an increase or decrease in the value of the property resulting
32 from a conservation or preservation agreement subject to Article 4 of
33 Chapter 121 of the General Statutes, the Conservation and Historic
34 Preservation Agreements Act.

35 (3) Recognize an increase or decrease in the value of the property resulting
36 from a factor other than one listed in subsection (b)."

37 Section 5. G.S. 105-317(a) reads as rewritten:

38 "(a) Whenever any real property is appraised it shall be the duty of the persons
39 making appraisals:

40 (1) In determining the true value of land, to consider as to each tract, parcel,
41 or lot separately listed at least its advantages and disadvantages as to
42 location; zoning; quality of soil; waterpower; water privileges;
43 dedication as a nature preserve; conservation or preservation

1 agreements; mineral, quarry, or other valuable deposits; fertility;
2 adaptability for agricultural, timber-producing, commercial, industrial,
3 or other uses; past income; probable future income; and any other
4 factors that may affect its value except growing crops of a seasonal or
5 annual nature.

6 (2) In determining the true value of a building or other improvement, to
7 consider at least its location; type of construction; age; replacement
8 cost; cost; adaptability for residence, commercial, industrial, or other
9 uses; past income; probable future income; and any other factors that
10 may affect its value.

11 (3) To appraise partially completed buildings in accordance with the degree
12 of completion on January 1."

13 Section 6. Sections 1 through 3 of this act are effective for taxable years
14 beginning on or after January 1, 1998. The remaining sections of this act become
15 effective July 1, 1997.