

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 290

Short Title: Protecting NC's Military and Working Lands. (Public)

Sponsors: Representatives Ross, Bell, Wray, and Dixon (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Military and Veterans Affairs, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

March 8, 2023

A BILL TO BE ENTITLED

AN ACT TO INCENTIVIZE FARMLAND PRESERVATION, FISH AND WILDLIFE CONSERVATION, THE BUFFERING OF MILITARY INSTALLATIONS FROM INCOMPATIBLE DEVELOPMENT, THE PROTECTION OF FLOOD PLAINS IN HURRICANE-DISASTER COUNTIES, HISTORIC LANDSCAPE CONSERVATION, AND THE CONSERVATION OF, AND ACCESS TO, PUBLIC TRAILS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-130.34 is reenacted as it existed immediately before its expiration and reads as rewritten:

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

(a) Credit. – Any C 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, (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) for farmland preservation, (ii) for fish and wildlife conservation, (iii) as a buffer to limit land use activities that would restrict, impede, or interfere with military training, testing, or operations on a military installation or training area or otherwise be incompatible with the mission of the installation, (iv) for floodplain protection in a county that, in the five years preceding the donation, was the subject of a Type II or Type III gubernatorial disaster declaration, as provided in G.S. 166A-19.21, as a result of a natural disaster, (v) for historic landscape conservation, or (vi) for public trails or access to public trails 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 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 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 for one or more qualified donations made in a taxable year may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by



1 this section, the taxpayer must file with the income tax return for the taxable year in which the  
2 credit is claimed the following:

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

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

13 (b) Limitation. – The credit allowed by this section may not exceed the amount of tax  
14 imposed 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) Carryforward. – Any unused portion of this credit may be carried forward for the next  
17 succeeding five years.

18 (d) No Double Benefit. – That portion of a qualifying donation that is the basis for a credit  
19 allowed 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 is reenacted as it existed immediately before its  
22 expiration, is recodified as G.S. 105-153.11, and reads as rewritten:

23 **"§ 105-153.11. Credit for certain real property donations.**

24 (a) Credit. – An individual or pass-through entity that makes a qualified donation of an  
25 interest in real property located in North Carolina during the taxable year that is useful ~~for (i)~~  
26 ~~public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife~~  
27 ~~conservation, (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) conservation of~~  
29 ~~natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of~~  
30 ~~predominantly natural parkland, or (ix) historic landscape conservation~~ (i) for farmland  
31 preservation, (ii) for fish and wildlife conservation, (iii) as a buffer to limit land use activities  
32 that would restrict, impede, or interfere with military training, testing, or operations on a military  
33 installation or training area or otherwise be incompatible with the mission of the installation, (iv)  
34 for floodplain protection in a county that, in the five years preceding the donation, was the subject  
35 of a Type II or Type III gubernatorial disaster declaration, as provided in G.S. 166A-19.21, as a  
36 result of a natural disaster, (v) for historic landscape conservation, or (vi) for public trails or  
37 access to public trails is allowed a credit against the tax imposed by this Part equal to twenty-five  
38 percent (25%) of the fair market value of the donated property interest. To be eligible for this  
39 credit, the interest in property must be donated in perpetuity for one of the qualifying uses listed  
40 in this subsection and accepted in perpetuity for the qualifying use for which the property is  
41 donated. The person to whom the property is donated must be the State, a local government, or  
42 a body that is both organized to receive and administer lands for conservation purposes and  
43 qualified to receive charitable contributions under the Code. Lands required to be dedicated  
44 pursuant to local governmental regulation or ordinance and dedications made to increase building  
45 density levels permitted under a regulation or ordinance are not eligible for this credit.

46 To support the credit allowed by this section, the taxpayer must file with the income tax return  
47 for the taxable year in which the credit is claimed the following:

48 (1) A certification by the Department of ~~Environment and Natural~~ and Cultural  
49 Resources that the property donated is suitable for one or more of the valid  
50 public benefits set forth in this subsection. The certification for a qualified

1 donation made by a pass-through entity must be filed by the pass-through  
2 entity.

3 (2) A self-contained or summary appraisal report as defined in Standards Rule  
4 2-2 in the latest edition of the Uniform Standards of Professional Appraisal  
5 Practice as promulgated by the Appraisal Foundation for the property. For fee  
6 simple absolute donations of real property, a taxpayer may submit  
7 documentation of the county's appraised value of the donated property, as  
8 adjusted by the sales assessment ratio, in lieu of an appraisal report.

9 (a1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable  
10 year under this section for one or more qualified donations made during the taxable year, whether  
11 made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty  
12 thousand dollars (\$250,000). In the case of property owned by a married couple, if both spouses  
13 are required to file North Carolina income tax returns, the credit allowed by this section may be  
14 claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a  
15 husband and wife filing a joint tax return may not exceed five hundred thousand dollars  
16 (\$500,000). If only one spouse is required to file a North Carolina income tax return, that spouse  
17 may claim the credit allowed by this section on a separate return.

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

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

33 (c) Carryforward. – Any unused portion of this credit may be carried forward for the next  
34 succeeding five years.

35 (d) No Double Benefit. – That portion of a qualifying donation that is the basis for a credit  
36 allowed under this section is not eligible for deduction as a charitable contribution under  
37 G.S. 105-130.9.

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

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

43 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,  
44 2023.