

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 396

Rules and Operations of the Senate Committee Substitute Adopted 6/29/98

Short Title: Downtown Development Zone Improvement.

(Public)

Sponsors:

Referred to: Appropriations.

March 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR DOWNTOWN REVITALIZATION BY ALLOWING A CREDIT FOR CONTRIBUTIONS FOR DEVELOPMENT ZONE PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that downtowns are central to the creation of small, locally owned businesses and that vital downtowns also play a role in the recruitment of larger businesses. Strong downtowns reduce urban sprawl and the costs and quality of life problems associated with urban sprawl. For these reasons, the General Assembly finds that revitalizing declining urban areas is crucial to the well-being of the State as a whole.

Section 2. Article 3A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.13. Credit for contribution for development zone project.

(a) Credit. – A taxpayer who contributes cash or property to a development zone agency for an improvement project in a development zone is allowed a credit equal to twenty-five percent (25%) of the value of the contribution. A contribution is for an improvement project for the purposes of this section if the agency receiving the contribution contracts in writing to use the contribution for the project. The credit may not be taken for the year in which the contribution is made but shall be taken for the

1 taxable year beginning during the calendar year in which the application for the credit
2 becomes effective as provided in subsection (d) of this section.

3 (b) Definitions. – The following definitions apply in this section:

4 (1) Community development corporation. – A nonprofit corporation that
5 meets all of the following conditions:

6 a. It is chartered pursuant to Chapter 55A of the General Statutes
7 and is tax-exempt pursuant to section 501(c)(3) of the Code.

8 b. Its primary mission is to develop and improve low-income
9 communities and neighborhoods through economic and related
10 development.

11 c. Its activities and decisions are initiated, managed, and controlled
12 by the constituents of those local communities.

13 d. Its primary function is to act as deal-maker and packager of
14 projects and activities that will increase its constituency's
15 opportunities to become owners, managers, and producers of
16 small businesses, to obtain affordable housing, and to obtain jobs
17 designed to produce positive cash flow and curb blight in the
18 targeted community.

19 (2) Control. – A person controls an entity if the person owns, directly or
20 indirectly, more than ten percent (10%) of the voting securities of that
21 entity. As used in this subdivision, the term "voting security" means a
22 security that (i) confers upon the holder the right to vote for the election
23 of members of the board of directors or similar governing body of the
24 business or (ii) is convertible into, or entitles the holder to receive upon
25 its exercise, a security that confers such a right to vote. A general
26 partnership interest is a voting security.

27 (3) Development zone agency. – Any of the following agencies that the
28 Department of Commerce certifies will undertake an improvement
29 project in a development zone:

30 a. A community development corporation.

31 b. A community development financial institution certified by the
32 United States Department of the Treasury under the Community
33 Development Banking and Financial Institutions Act of 1994 (12
34 U.S.C. § 4701, et seq.).

35 c. A local housing authority created under Article 1 of Chapter 157
36 of the General Statutes.

37 (4) Improvement project. – A project to construct or improve residential,
38 commercial, or public real property located in a development zone.

39 (c) Limitations. – A taxpayer who claims a credit under this section shall identify
40 in the application the development zone agencies to which the taxpayer made
41 contributions and the amount contributed to each. No credit is allowed for a contribution
42 if the taxpayer is related to the development zone agency as defined in section 1313 of
43 the Code or if the taxpayer controls, is controlled by, or is under common control with an

1 affiliate of the development zone agency. No credit is allowed to the extent the taxpayer
2 receives anything of value in exchange for the contribution.

3 (d) Application. – To be eligible for the tax credit provided in this section, the
4 taxpayer must file an application for the credit with the Secretary on or before April 15 of
5 the year following the calendar year in which the contribution was made. The Secretary
6 may grant extensions of this deadline, as the Secretary finds appropriate, upon the request
7 of the taxpayer, except that the application may not be filed after September 15 of the
8 year following the calendar year in which the contribution was made. An application is
9 effective for the year in which it is timely filed. The application shall be on a form
10 prescribed by the Secretary and shall include any supporting documentation that the
11 Secretary may require. If a contribution for which a credit is applied for was of property
12 rather than cash, the taxpayer shall include with the application a certified appraisal of the
13 value of the property contributed.

14 (e) Ceiling. – The total amount of all tax credits allowed to taxpayers under this
15 section for contributions made in a calendar year may not exceed five million dollars
16 (\$5,000,000). The Secretary of Revenue shall calculate the total amount of tax credits
17 claimed from the applications filed pursuant to subsection (d) of this section. If the total
18 amount of tax credits claimed for contributions made in a calendar year exceeds five
19 million dollars (\$5,000,000), the Secretary shall allow a portion of the credits claimed by
20 allocating a total of five million dollars (\$5,000,000) in tax credits in proportion to the
21 size of the credit claimed by each taxpayer. If a credit is reduced pursuant to this
22 subsection, the Secretary shall notify the taxpayer of the amount of the reduction of the
23 credit on or before December 31 of the year following the calendar year in which the
24 contribution was made. The Secretary's allocations based on applications filed pursuant
25 to subsection (d) of this section are final and shall not be adjusted to account for credits
26 applied for but not claimed.

27 (f) Forfeiture. – A taxpayer forfeits a credit allowed under this section to the
28 extent the development zone agency uses the taxpayer's contribution for any purpose
29 other than an improvement project. Each development zone agency certified by the
30 Department of Commerce shall file with the Department of Commerce annual financial
31 statements audited in accordance with generally accepted accounting principles. The
32 annual statements are required each time the agency receives a contribution eligible for
33 the credit allowed under this section until the entire contribution has been used for
34 improvement projects. If the Department of Commerce determines that a development
35 zone agency has used part or all of a contribution for any purpose other than an
36 improvement project, the Department shall notify the Secretary of Revenue of the
37 forfeiture, the taxpayer who made the contribution, and the amount forfeited."

38 Section 3. G.S. 105-129.4(a) reads as rewritten:

39 "(a) Type of Business. – A taxpayer is eligible for a credit allowed by G.S. 105-
40 129.12 if the real property for which the credit is claimed is used for a central
41 administrative office that creates at least 40 new jobs. A taxpayer is eligible for the credit
42 allowed by G.S. 105-129.13 without regard to the taxpayer's type of business. A taxpayer
43 is eligible for the other credits allowed by this Article if the taxpayer engages in one of

1 the following types of businesses and the jobs with respect to which a credit is claimed
2 are created in that business, the machinery and equipment with respect to which a credit
3 is claimed are used in that business, and the research and development for which a credit
4 is claimed are carried out as part of that business:

- 5 (1) Air courier services.
- 6 (2) Central administrative office that creates at least 40 new jobs.
- 7 (3) Data processing.
- 8 (4) Manufacturing or processing.
- 9 (5) Warehousing or distribution.

10 A central administrative office creates at least 40 new jobs if, during the taxable year
11 the taxpayer first uses the property as a central administrative office, the taxpayer hires at
12 least 40 additional full-time employees to fill new positions at the office. Jobs transferred
13 from one area in the State to another area in the State are not considered new jobs for
14 purposes of this subsection."

15 Section 4. G.S. 105-129.6(a) reads as rewritten:

16 "(a) Application. – To claim the credits allowed by this Article, the taxpayer must
17 provide with the tax return the certification of the Secretary of Commerce that the
18 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13,
19 as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of
20 Commerce for certification of eligibility. The application must be on a form provided by
21 the Secretary of Commerce and must contain any information necessary for the Secretary
22 of Commerce to determine whether the taxpayer meets the eligibility requirements. If the
23 Secretary of Commerce determines that the taxpayer meets all of the eligibility
24 requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a
25 credit, the Secretary shall issue a certificate describing the location with respect to which
26 the credit is claimed, outlining the eligibility requirements for the credit, and stating that
27 the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines
28 that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 or
29 G.S. 105-129.13, as applicable, with respect to a credit, the Secretary must advise the
30 taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The
31 Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General
32 Statutes that are needed to carry out the Secretary of Commerce's responsibilities under
33 this section."

34 Section 5. This act is effective for taxable years beginning on or after January
35 1, 1999.