

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE DRH30344-MCx-188 (03/27)

Short Title: Charitable Exemption Standard.

(Public)

Sponsors: Representative Blust.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT TAX-EXEMPT STATUS FOR CHARITABLE AND  
3 SIMILAR ORGANIZATIONS IS CONDITIONED ON THE ORGANIZATION'S USING  
4 A MINIMUM AMOUNT OF ITS GROSS INCOME FOR ITS CHARITABLE OR  
5 SIMILAR PURPOSE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 105-130.11 reads as rewritten:

8 **"§ 105-130.11. Conditional and other exemptions.**

9 (a) Exempt Organizations. – Except as provided in subsections ~~(b) and (c)~~, (b), (b1), and  
10 (c) of this section, the following organizations and any organization that is exempt from federal  
11 income tax under the Code are exempt from the tax imposed under this Part.

- 12 (1) Fraternal beneficiary societies, orders or associations  
13 a. Operating under the lodge system or for the exclusive benefit of the  
14 members of a fraternity itself operating under the lodge system, and  
15 b. Providing for the payment of life, sick, accident, or other benefits to  
16 the members of such society, order or association, or their  
17 dependents.
- 18 (2) Cooperative banks without capital stock organized and operated for mutual  
19 purposes and without profit; and electric and telephone membership  
20 corporations organized under Chapter 117 of the General Statutes.
- 21 (3) Cemetery corporations and corporations organized for religious, charitable,  
22 scientific, literary, or educational purposes, or for the prevention of cruelty  
23 to children or animals, no part of the net earnings of which inures to the  
24 benefit of any private stockholder or individual.
- 25 (4) Business leagues, chambers of commerce, merchants' associations, or boards  
26 of trade not organized for profit, and no part of the net earnings of which  
27 inures to the benefit of any private stockholder or individual.
- 28 (5) Civic leagues or organizations not organized for profit, but operated  
29 exclusively for the promotion of social welfare.
- 30 (6) Clubs organized and operated exclusively for pleasure, recreation, and other  
31 nonprofitable purposes, no part of the net earnings of which inures to the  
32 benefit of any private stockholder or member.
- 33 (7) Farmers' or other mutual hail, cyclone, or fire insurance companies, mutual  
34 ditch or irrigation companies, mutual or cooperative telephone companies, or  
35 like organizations of a purely local character the income of which consists



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1 solely of assessments, dues, and fees collected from members for the sole  
2 purpose of meeting expenses.

3 (8) Farmers', fruit growers', or like organizations organized and operated as  
4 sales agents for the purpose of marketing the products of members and  
5 turning back to them the proceeds of sales, less the necessary selling  
6 expenses, on the basis of the quantity of product furnished by them.

7 (9) Mutual associations formed under G.S. 54-111 through 54-128 to conduct  
8 agricultural business on the mutual plan and marketing associations  
9 organized under G.S. 54-129 through 54-158.

10 Nothing in this subdivision shall be construed to exempt any  
11 cooperative, mutual association, or other organization from an income tax on  
12 net income that has not been refunded to patrons on a patronage basis and  
13 distributed either in cash, stock, or certificates, or in some other manner that  
14 discloses the amount of each patron's refund. Provided, in arriving at net  
15 income for purposes of this subdivision, no deduction shall be allowed for  
16 dividends paid on capital stock. Patronage refunds made after the close of  
17 the taxable year and on or before the fifteenth day of the ninth month  
18 following the close of the taxable year are considered as to be made on the  
19 last day of the taxable year to the extent the allocations are attributable to  
20 income derived before the close of the year; provided, that no stabilization or  
21 marketing organization that handles agricultural products for sale for  
22 producers on a pool basis is considered to have realized any net income or  
23 profit in the disposition of a pool or any part of a pool until all of the  
24 products in that pool have been sold and the pool has been closed; provided,  
25 further, that a pool is not considered closed until the expiration of at least 90  
26 days after the sale of the last remaining product in that pool. These  
27 cooperatives and other organizations shall file an annual information return  
28 with the Secretary on forms to be furnished by the Secretary and shall  
29 include the names and addresses of all persons, patrons, or shareholders  
30 whose patronage refunds amount to ten dollars (\$10.00) or more.

31 (10) Insurance companies paying the tax on gross premiums as specified in  
32 G.S. 105-228.5.

33 (11) Corporations or organizations, such as condominium associations,  
34 homeowner associations, or cooperative housing corporations not organized  
35 for profit, the membership of which is limited to the owners or occupants of  
36 residential units in the condominium, housing development, or cooperative  
37 housing corporation, and operated exclusively for the management,  
38 operation, preservation, maintenance, or landscaping of the common areas  
39 and facilities owned by the corporation or organization or its members  
40 situated contiguous to the houses, apartments, or other dwellings or for the  
41 management, operation, preservation, maintenance, and repair of the houses,  
42 apartments, or other dwellings owned by the corporation or organization or  
43 its members, but only if no part of the net earnings of the corporation or  
44 organization inures (other than through the performance of related services  
45 for the members of such corporation or organization) to the benefit of any  
46 member of such corporation or organization or other person.

47 (b) Unrelated Business Income. – Except as provided in this subsection, an organization  
48 described in subdivision (a)(1), (3), (4), (5), (6), (7), (8), or (9) of this section and any  
49 organization exempt from federal income tax under the Code is subject to the tax provided in  
50 G.S. 105-130.3 on its unrelated business taxable income, as defined in section 512 of the Code,

1 adjusted as provided in G.S. 105-130.5. The tax does not apply, however, to net income derived  
2 from any of the following:

- 3 (1) Research performed by a college, university, or hospital.
- 4 (2) Research performed for the United States or its instrumentality or for a state  
5 or its political subdivision.
- 6 (3) Research performed by an organization operated primarily to carry on  
7 fundamental research, the results of which are freely available to the general  
8 public.

9 (b1) Charitable and Similar Organizations. – This subsection does not apply to  
10 organizations organized primarily for religious purposes. An organization that is exempt  
11 pursuant to subdivision (a)(3) of this section or pursuant to section 501(c)(3) of the Code  
12 because of its charitable or other purpose must meet the following standard in order to qualify  
13 for exemption under subsection (a) of this section. Of the organization's gross receipts for the  
14 income year, at least sixty-five percent (65%) of the amount that was spent for any purpose  
15 must have been spent for the charitable or other purpose that is the basis for the organization's  
16 exemption. For the purpose of this subsection, an organization's gross receipts include the gross  
17 amount solicited on its behalf by a paid solicitor. For the purpose of this subsection, funds spent  
18 for any purpose include the amount retained by a paid solicitor for solicitation on behalf of the  
19 organization and any other part of gross receipts not held by the organization as of the end of  
20 the income year.

21 (c) Homeowner Association Income. – An organization described in subdivision (a)(11)  
22 of this section is subject to the tax provided in G.S. 105-130.3 on its gross income other than  
23 membership income less the deductions allowed by this Article that are directly connected with  
24 the production of the gross income other than membership income. The term "membership  
25 income" means the gross income from assessments, fees, charges, or similar amounts received  
26 from members of the organization for expenditure in the preservation, maintenance, and  
27 management of the common areas and facilities of or the residential units in the condominium  
28 or housing development.

29 (d) Real Estate Mortgage Investment Conduits. – An entity that qualifies as a real estate  
30 mortgage investment conduit, as defined in section 860D of the Code, is exempt from the tax  
31 imposed under this Part, except that any net income derived from a prohibited transaction, as  
32 defined in section 860F of the Code, is taxable to the real estate mortgage investment conduit  
33 under G.S. 105-130.3 and G.S. 105-130.3A, subject to the adjustments provided in  
34 G.S. 105-130.5. This subsection does not exempt the holders of a regular or residual interest in  
35 a real estate mortgage investment conduit as defined in section 860G of the Code from any tax  
36 on the income from that interest."

37 **SECTION 2.** This act is effective for taxable years beginning on or after January 1,  
38 2009.