

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10584-MCf-176A

Short Title: Real Property Donation Tax Credit. (Public)

Sponsors: Representatives Setzer, Szoka, Ross, and Carney (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCENTIVIZE BUFFERING OF MILITARY INSTALLATIONS FROM  
3 INCOMPATIBLE DEVELOPMENT AND PROTECTION OF FLOODPLAINS IN  
4 HURRICANE-DISASTER COUNTIES THROUGH THE USE OF TIME-LIMITED TAX  
5 CREDITS.

6 The General Assembly of North Carolina enacts:

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

9 **"§ 105-130.34. Credit for certain real property donations.**

10 (a) Credit. – Any C Corporation that makes a qualified donation of an interest in real  
11 property located in North Carolina during the taxable year that is useful for ~~(i) public beach access~~  
12 ~~or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv)~~  
13 ~~forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas~~  
14 ~~as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas~~  
15 ~~as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland,~~  
16 ~~or (ix) historic landscape conservation (i) for farmland preservation, (ii) as a buffer to limit land~~  
17 ~~use activities that would restrict, impede, or interfere with military training, testing, or operations~~  
18 ~~on a military installation or training area or otherwise be incompatible with the mission of the~~  
19 ~~installation, or (iii) for floodplain protection in a county that, in the three years preceding the~~  
20 ~~donation, was the subject of a Type II or Type III gubernatorial disaster declaration, as provided~~  
21 ~~in G.S. 166A-19.21, as a result of a natural disaster is allowed a credit against the tax imposed~~  
22 by this Part equal to twenty-five percent (25%) of the fair market value of the donated property  
23 interest. To be eligible for this credit, the interest in real property must be donated in perpetuity  
24 for one of the qualifying uses listed in this subsection and accepted in perpetuity for the qualifying  
25 use for which the property is donated. The person to whom the property is donated must be the  
26 State, a local government, or a body that is both organized to receive and administer lands for  
27 conservation purposes and qualified to receive charitable contributions pursuant to  
28 G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or  
29 ordinance and dedications made to increase building density levels permitted under a regulation  
30 or ordinance are not eligible for this credit.

31 The credit allowed under this section for one or more qualified donations made in a taxable  
32 year may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by  
33 this section, the taxpayer must file with the income tax return for the taxable year in which the  
34 credit is claimed the following:



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

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

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

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

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

19 **SECTION 2.** G.S. 105-151.12 is reenacted as it existed immediately before its  
20 expiration, is recodified as G.S. 105-153.11, and reads as rewritten:

21 "**§ 105-153.11. Credit for certain real property donations.**

22 (a) Credit. – An individual or pass-through entity that makes a qualified donation of an  
23 interest in real property located in North Carolina during the taxable year that is useful ~~for (i)~~  
24 ~~public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife~~  
25 ~~conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi)~~  
26 ~~conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of~~  
27 ~~natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of~~  
28 ~~predominantly natural parkland, or (ix) historic landscape conservation (i) for farmland~~  
29 preservation, (ii) as a buffer to limit land use activities that would restrict, impede, or interfere  
30 with military training, testing, or operations on a military installation or training area or otherwise  
31 be incompatible with the mission of the installation, or (iii) for floodplain protection in a county  
32 that, in the three years preceding the donation, was the subject of a Type II or Type III  
33 gubernatorial disaster declaration, as provided in G.S. 166A-19.21, as a result of a natural disaster  
34 is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the  
35 fair market value of the donated property interest. To be eligible for this credit, the interest in  
36 property must be donated in perpetuity for one of the qualifying uses listed in this subsection and  
37 accepted in perpetuity for the qualifying use for which the property is donated. The person to  
38 whom the property is donated must be the State, a local government, or a body that is both  
39 organized to receive and administer lands for conservation purposes and qualified to receive  
40 charitable contributions under the Code. Lands required to be dedicated pursuant to local  
41 governmental regulation or ordinance and dedications made to increase building density levels  
42 permitted under a regulation or ordinance are not eligible for this credit.

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

45 (1) A certification by the Department of ~~Environment and~~ Natural and Cultural  
46 Resources that the property donated is suitable for one or more of the valid  
47 public benefits set forth in this subsection. The certification for a qualified  
48 donation made by a pass-through entity must be filed by the pass-through  
49 entity.

50 (2) A self-contained or summary appraisal report as defined in Standards Rule  
51 2-2 in the latest edition of the Uniform Standards of Professional Appraisal

1 Practice as promulgated by the Appraisal Foundation for the property. For fee  
2 simple absolute donations of real property, a taxpayer may submit  
3 documentation of the county's appraised value of the donated property, as  
4 adjusted by the sales assessment ratio, in lieu of an appraisal report.

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

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

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

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

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

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

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

39 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,  
40 2019, and expires for taxable years beginning on or after January 1, 2023.