

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 1008
Committee Substitute Favorable 8/28/19

Short Title: Real Property Donation Tax Credit.

(Public)

Sponsors:

Referred to:

April 29, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO INCENTIVIZE BUFFERING OF MILITARY INSTALLATIONS FROM
3 INCOMPATIBLE DEVELOPMENT THROUGH THE USE OF TIME-LIMITED TAX
4 CREDITS.

5 The General Assembly of North Carolina enacts:

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

8 "**§ 105-130.34. Credit for certain real property donations.**

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

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

- 31 (1) A certification by the Department of ~~Environment and Natural~~ and Cultural
32 Resources that the property donated is suitable for one or more of the valid
33 public benefits set forth in this subsection.
- 34 (2) A self-contained appraisal report or summary appraisal report as defined in
35 Standards Rule 2-2 in the latest edition of the Uniform Standards of
36 Professional Appraisal Practice as promulgated by the Appraisal Foundation



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

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

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

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

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

15 **"§ 105-153.11. Credit for certain real property donations.**

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

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

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

42 (2) A self-contained or summary appraisal report as defined in Standards Rule
43 2-2 in the latest edition of the Uniform Standards of Professional Appraisal
44 Practice as promulgated by the Appraisal Foundation for the property. For fee
45 simple absolute donations of real property, a taxpayer may submit
46 documentation of the county's appraised value of the donated property, as
47 adjusted by the sales assessment ratio, in lieu of an appraisal report.

48 (a1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable
49 year under this section for one or more qualified donations made during the taxable year, whether
50 made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty
51 thousand dollars (\$250,000). In the case of property owned by a married couple, if both spouses

1 are required to file North Carolina income tax returns, the credit allowed by this section may be
2 claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a
3 husband and wife filing a joint tax return may not exceed five hundred thousand dollars
4 (\$500,000). If only one spouse is required to file a North Carolina income tax return, that spouse
5 may claim the credit allowed by this section on a separate return.

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

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

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

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

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

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

31 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,
32 2020, and expires for taxable years beginning on or after January 1, 2024.