

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 260\*  
Committee Substitute Favorable 4/8/97  
Senate Finance Committee Substitute Adopted 4/22/97  
Senate Finance Committee Substitute #2 Adopted 6/4/97

Short Title: Conservation Tax Credit/Fund.

(Public)

Sponsors:

Referred to:

February 17, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE CAP ON THE INCOME TAX CREDIT FOR REAL  
3 PROPERTY DONATED FOR CONSERVATION PURPOSES, TO ENSURE THAT  
4 CONSERVATION AND PRESERVATION AGREEMENTS ARE CONSIDERED  
5 IN DETERMINING THE APPRAISED VALUE OF LAND AND  
6 IMPROVEMENTS, AND TO ESTABLISH THE CONSERVATION GRANT  
7 FUND.

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 105-130.34 reads as rewritten:

10 "§ 105-130.34. Credit for certain real property donations.

11 (a) Any corporation that makes a qualified donation of an interest in real property  
12 located in North Carolina during the taxable year that is useful for public beach access or  
13 use, public access to public waters or trails, fish and wildlife conservation, or other  
14 similar land conservation ~~purposes, shall be purposes is~~ allowed a credit against the ~~taxes~~  
15 tax imposed by this Division equal to twenty-five percent (25%) of the fair market value  
16 of the donated property interest. To be eligible for this credit, the interest in real property  
17 must be donated to and accepted by either the State, ~~local government~~ a local government,

1 or a body that is both organized to receive and administer lands for conservation purposes  
2 and ~~is~~ qualified to receive charitable contributions pursuant to G.S. ~~105-130.9~~; ~~provided,~~  
3 ~~however, that lands~~ 105-130.9. Lands required to be dedicated pursuant to local  
4 governmental regulation or ordinance and dedications made to increase building density  
5 levels permitted under ~~such regulations or ordinances~~ shall not be a regulation or ordinance  
6 are not eligible for this credit. The credit allowed under this section may not exceed  
7 ~~twenty five thousand dollars (\$25,000)~~ two hundred fifty thousand dollars (\$250,000). To  
8 support the credit allowed by this section, the taxpayer ~~shall~~ must file with its income tax  
9 ~~return~~ return, for the taxable year in which the credit is claimed, a certification by the  
10 Department of Environment, Health, and Natural Resources that the property donated is  
11 suitable for one or more of the valid public benefits set forth in this subsection.

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

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

17 (d) ~~The fair market value, or any portion thereof, of a~~ That portion of a qualifying  
18 donation that is ~~not eligible for a credit pursuant to this section may be considered as a~~  
19 charitable contribution pursuant to G.S. 105-130.9. That portion of the donation the basis  
20 for a credit allowed as a credit pursuant to under this section shall not be is not eligible  
21 for deduction as a charitable contribution. contribution under G.S. 105-130.9."

22 Section 2. G.S. 105-151.12 reads as rewritten:

23 "**§ 105-151.12. Credit for certain real property donations.**

24 (a) A person who makes a qualified donation of ~~interests~~ an interest in real  
25 property located in North Carolina during the taxable year that is useful for (i) public  
26 beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife  
27 conservation, or (iv) other similar land conservation ~~purposes, shall be~~ purposes is allowed  
28 ~~as a credit against the tax imposed by this Division an amount equal to twenty-five percent~~  
29 (25%) of the fair market value of the donated property interest. To be eligible for this  
30 credit, the interest in property must be donated to and accepted by either the State, a local  
31 government, or a body that is both organized to receive and administer lands for  
32 conservation purposes and is qualified to receive charitable contributions under the ~~Code;~~  
33 ~~provided, however, that lands~~ Code. Lands required to be dedicated pursuant to local  
34 governmental regulation or ordinance and dedications made to increase building density  
35 levels permitted under ~~such regulations or ordinances~~ a regulation or ordinance are not  
36 eligible for this credit. The credit allowed under this section may not exceed ~~twenty five~~  
37 ~~thousand dollars (\$25,000)~~ one hundred thousand dollars (\$100,000). To support the credit  
38 allowed by this section, the taxpayer ~~shall~~ must file with the income tax return for the  
39 taxable year in which the credit is claimed a certification by the Department of  
40 Environment, Health, and Natural Resources that the property donated is suitable for one  
41 or more of the valid public benefits set forth ~~by~~ in this subsection.

1 (b) The credit allowed by this section may not exceed the amount of tax imposed  
2 by this Division for the taxable year reduced by the sum of all credits ~~allowed under this~~  
3 ~~Division, allowed,~~ except payments of tax made by or on behalf of the taxpayer.

4 Any unused portion of this credit may be carried forward for the next succeeding five  
5 years.

6 (c) In order to claim the credit allowed under this section, the taxpayer must add  
7 the fair market value of the donated property interest, up to a maximum of ~~one hundred~~  
8 ~~thousand dollars (\$100,000),~~ four hundred thousand dollars (\$400,000), to taxable income  
9 as provided in G.S. 105-134.6(c).

10 (d) In the case of property owned by a married couple, if both spouses are required  
11 to file North Carolina income tax returns, the credit allowed by this section may be  
12 claimed only if the spouses file a joint return. If only one spouse is required to file a  
13 North Carolina income tax return, that spouse may claim the credit allowed by this  
14 section on a separate return.

15 (e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-  
16 205, the offer of donation must be made before December 31, 1998, to qualify for the  
17 credit allowed by this section."

18 Section 3. G.S. 105-134.6(c)(5) reads as rewritten:

19 "(5) The fair market value, up to a maximum of ~~one hundred thousand dollars~~  
20 ~~(\$100,000),~~ four hundred thousand dollars (\$400,000), of the donated  
21 property interest for which the taxpayer claims a credit for the taxable  
22 year under G.S. 105-151.12 and the market price of the gleaned crop for  
23 which the taxpayer claims a credit for the taxable year under G.S. 105-  
24 151.14."

25 Section 4. G.S. 105-287(a) reads as rewritten:

26 "(a) In a year in which a general reappraisal or horizontal adjustment of real  
27 property in the county is not made, the assessor shall increase or decrease the appraised  
28 value of real property, as determined under G.S. 105-286, ~~to~~ to accomplish any one or  
29 more of the following:

30 (1) Correct a clerical or mathematical ~~error;~~ error.

31 (2) Correct an appraisal error resulting from a misapplication of the  
32 schedules, standards, and rules used in the county's most recent general  
33 reappraisal or horizontal ~~adjustment;~~ or adjustment.

34 (2a) Recognize an increase or decrease in the value of the property resulting  
35 from a conservation or preservation agreement subject to Article 4 of  
36 Chapter 121 of the General Statutes, the Conservation and Historic  
37 Preservation Agreements Act.

38 (3) Recognize an increase or decrease in the value of the property resulting  
39 from a factor other than one listed in subsection (b)."

40 Section 5. G.S. 105-317(a) reads as rewritten:

41 "(a) Whenever any real property is appraised it shall be the duty of the persons  
42 making appraisals:



1       (b) Fund Sources. – The Conservation Grant Fund shall consist of any monies  
2 appropriated to it by the General Assembly and any monies received from public or  
3 private sources. Unexpended monies in the Fund that were appropriated from the  
4 General Fund by the General Assembly shall revert at the end of the fiscal year unless the  
5 General Assembly otherwise provides. Unexpended monies in the Fund from other  
6 sources shall not revert and shall remain available for expenditure in accordance with this  
7 Article.

8       (c) Eligibility. – In order for land to be the subject of a grant under this Article, the  
9 land must possess or have a high potential to possess ecological value, must be  
10 reasonably restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S.  
11 105-151.12. Private nonprofit land trust organizations must be qualified pursuant to G.S.  
12 105-130.34 and G.S. 105-151.12 and must be certified under section 501(c)(3) of the  
13 Internal Revenue Code.

14       (d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only  
15 for the following purposes:

- 16           (1) The administrative costs of the Department in administering the Fund.
- 17           (2) Conservation grants made in accordance with this Article.
- 18           (3) To establish an endowment account, the interest from which will be  
19 used for a purpose described in G.S. 113A-233(a)(3) or (a)(5).

20 **"§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

21       (a) Allowable Uses. – A grant from the Conservation Grant Fund may be used  
22 only to pay for one or more of the following costs:

- 23           (1) Reimbursement for total or partial transaction costs for donations from  
24 individuals or corporations satisfying either of the following:
  - 25           a. Insufficient financial ability to pay all costs or insufficient  
26 taxable income to allow these costs to be included in the donated  
27 value.
  - 28           b. Insufficient tax burdens to allow these costs to be offset by the  
29 value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or  
30 by charitable deductions.
- 31           (2) Management support, including initial baseline inventory and planning.
- 32           (3) Monitoring compliance with conservation easements, the related use of  
33 riparian buffers, natural areas, and greenways, and the presence of  
34 ecological integrity.
- 35           (4) Education on conservation, including information materials intended for  
36 landowners and education for staff and volunteers.
- 37           (5) Stewardship of land.
- 38           (6) Transaction costs, including legal expenses, closing and title costs, and  
39 unusual direct costs, such as overnight travel.
- 40           (7) Administrative costs for short-term growth or for building capacity.

41       (b) Prohibition. – The Fund shall not be used to pay the purchase price for any  
42 interest in land.

43 **"§ 113A-234. Administration of grants.**

1       The Secretary of Environment, Health, and Natural Resources shall establish the  
2 procedures and criteria for awarding grants from the Conservation Grant Fund. The  
3 criteria shall focus grants on those areas, approaches, and techniques that are likely to  
4 provide the optimum positive effect on environmental protection. The Secretary shall  
5 make the final decision on the award of grants and shall announce the award publicly in a  
6 timely manner.

7       The Secretary may administer the grants under this Article or may contract for  
8 selected activities under this Article. If administrative services are contracted, the  
9 Department shall establish guidance and criteria for its operation and contract with a  
10 statewide nonprofit land trust service organization.

11 **"§ 113A-235. Conservation easements.**

12       Ecological systems and appropriate public use of these systems may be protected  
13 through conservation easements, including conservation agreements under Article 4 of  
14 Chapter 121 of the General Statutes, the Conservation and Historic Preservation  
15 Agreements Act. The Department of Environment, Health, and Natural Resources shall  
16 work cooperatively with State and local agencies and qualified nonprofit organizations to  
17 monitor compliance with conservation easements and conservation agreements and to  
18 ensure the continued viability of the protected ecosystems."

19       Section 7. Sections 1 through 3 of this act are effective for taxable years  
20 beginning on or after January 1, 1997. The remaining sections of this act become  
21 effective July 1, 1997.