

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

S

D

SENATE DRS35091-LY-151 (3/8)

Short Title: Tax Credit for Certain Real Prop. Donations. (Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO RECODIFY THE CREDIT FOR CERTAIN REAL PROPERTY DONATIONS AND TO INCREASE THE CREDIT FOR CERTAIN PASS-THROUGH ENTITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 105 of the General Statutes is amended by adding a new Part to read:

"Part 6. Tax Credit for Certain Real Property Donations.

"§ 105-163.021. Tax credit allowed.

(a) Qualified Donation. – A person who makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes is allowed a credit against the tax imposed by Article 4 of this Chapter equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection. The certification for a qualified donation made by a pass-through entity must be filed by the pass-through entity.

1 **(b) Corporations.** – The aggregate amount of credit allowed to a corporation in a
2 taxable year under this section for one or more qualified donations, whether made
3 directly or indirectly as owner of a pass-through entity, may not exceed five hundred
4 thousand dollars (\$500,000). That portion of a qualifying donation that is the basis for a
5 credit allowed under this section is not eligible for deduction as a charitable contribution
6 under G.S. 105-130.9.

7 **(b1) Individuals.** – The aggregate amount of credit allowed to an individual in a
8 taxable year under this section for one or more qualified donations, whether made
9 directly or indirectly as owner of a pass-through entity, may not exceed two hundred
10 fifty thousand dollars (\$250,000). In the case of property owned by a married couple, if
11 both spouses are required to file North Carolina income tax returns, the credit allowed
12 by this section may be claimed only if the spouses file a joint return. If only one spouse
13 is required to file a North Carolina income tax return, that spouse may claim the credit
14 allowed by this section on a separate return.

15 **(b2) Pass-Through Entities.** – The aggregate amount of credit allowed to a
16 pass-through entity in a taxable year under this section for one or more qualified
17 donations, whether made directly or indirectly as owner of another pass-through entity,
18 may not exceed five hundred thousand dollars (\$500,000). Each individual who is an
19 owner of a pass-through entity is allowed as a credit an amount equal to the owner's
20 allocated share of the credit to which the pass-through entity is eligible under this
21 subsection, not to exceed two hundred fifty thousand dollars (\$250,000). Each
22 corporation that is an owner of a pass-through entity is allowed as a credit an amount
23 equal to the owner's allocated share of the credit to which the pass-through entity is
24 eligible under this subsection, not to exceed five hundred thousand dollars (\$500,000).

25 **(c) Cap; Carryforward.** – The credit allowed by this section may not exceed the
26 amount of tax imposed by Article 4 of this Chapter for the taxable year reduced by the
27 sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.
28 Any unused portion of this credit may be carried forward for the next succeeding five
29 years.

30 **(d) Marshland.** – In the case of marshland for which a claim has been filed
31 pursuant to G.S. 113-205, the offer of donation must be made before December 31,
32 2003, to qualify for the credit allowed by this section."

33 **SECTION 2.** G.S. 105-130.34 is repealed.

34 **SECTION 3.** G.S. 105-151.12 is repealed.

35 **SECTION 4.** This act is effective for taxable years beginning on or after
36 January 1, 2005.