

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-226
HOUSE BILL 260

AN ACT TO INCREASE THE CAP ON THE INCOME TAX CREDIT FOR REAL PROPERTY DONATED FOR CONSERVATION PURPOSES, TO ENSURE THAT CONSERVATION AND PRESERVATION AGREEMENTS ARE CONSIDERED IN DETERMINING THE APPRAISED VALUE OF LAND AND IMPROVEMENTS, AND TO ESTABLISH THE CONSERVATION GRANT FUND.

The General Assembly of North Carolina enacts:

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

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

(a) Any corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation ~~purposes, shall be~~ purposes is allowed a credit against the ~~taxes-tax~~ imposed by this Division 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 real property must be donated to and accepted by either the State, ~~local government~~ a local government, or a body that is both organized to receive and administer lands for conservation purposes and ~~is~~ qualified to receive charitable contributions pursuant to G.S. 105-130.9; ~~provided, however, that lands~~ 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under ~~such regulations or ordinances shall not be~~ a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed ~~twenty-five thousand dollars (\$25,000).~~ two hundred fifty thousand dollars (\$250,000). To support the credit allowed by this section, the taxpayer ~~shall~~ must file with its income tax ~~return~~ return, for the taxable year in which the credit is claimed, a certification by the Department of Environment, Health, and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.

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

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

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

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

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

(a) A person who makes a qualified donation of ~~interests~~ 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, shall be~~ purposes is allowed as a credit against the tax imposed by this Division ~~an amount~~ 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 to and accepted by either the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and ~~is~~ qualified to receive charitable contributions under the ~~Code; provided, however, that lands~~ Code. ~~Lands~~ required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under ~~such regulations or ordinances~~ a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed ~~twenty-five thousand dollars (\$25,000).~~ one hundred thousand dollars (\$100,000). To support the credit allowed by this section, the taxpayer ~~shall~~ must file with the income tax return for the taxable year in which the credit is claimed a certification by the Department of Environment, Health, and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth ~~by~~ in this subsection.

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

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

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

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

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

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

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

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

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

- (1) Correct a clerical or mathematical ~~error~~; error.
- (2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general reappraisal or horizontal ~~adjustment~~; or adjustment.
- (2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act.
- (3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b)."

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

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

- (1) In determining the true value of land, to consider as to each tract, parcel, or lot separately listed at least its advantages and disadvantages as to location; zoning; quality of soil; waterpower; water privileges; dedication as a nature preserve; conservation or preservation agreements; mineral, quarry, or other valuable deposits; fertility; adaptability for agricultural, timber-producing, commercial, industrial, or other uses; past income; probable future income; and any other factors that may affect its value except growing crops of a seasonal or annual nature.
- (2) In determining the true value of a building or other improvement, to consider at least its location; type of construction; age; replacement cost; cost; adaptability for residence, commercial, industrial, or other uses; past income; probable future income; and any other factors that may affect its value.
- (3) To appraise partially completed buildings in accordance with the degree of completion on January 1."

Section 6. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 16.

"Conservation Easements Program.

"§ 113A-230. Legislative findings; intent.

The General Assembly finds that a statewide network of protected natural areas, riparian buffers, and greenways can best be accomplished through a conservation easements program. The General Assembly further finds that other public conservation and use programs, such as natural area protection, beach access, trail systems, historic landscape protection, and agricultural preservation, can benefit from increased conservation tools. In this Article, the General Assembly therefore intends to extend the ability of the Department of Environment, Health, and Natural Resources to achieve these purposes and to strengthen the capability of private nonprofit land trusts to participate in land and water conservation.

"§ 113A-231. Program to accomplish conservation purposes.

The Department of Environment, Health, and Natural Resources shall develop a nonregulatory program that uses conservation tax credits as a prominent tool to accomplish conservation purposes, including the maintenance of ecological systems.

"§ 113A-232. Conservation Grant Fund.

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment, Health, and Natural Resources. The Fund shall be administered by that Department. The purpose of the Fund is to stimulate the use of conservation easements, to improve the capacity of private nonprofit land trusts to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase citizen participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

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

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

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

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

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

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

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

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

"§ 113A-234. Administration of grants.

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

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

"§ 113A-235. Conservation easements.

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

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

In the General Assembly read three times and ratified this the 16th day of June, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:10 p.m. this 26th day of June, 1997