

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 885

Short Title: Community Opportunity Tax Credit. (Public)

Sponsors: Representative Setzer.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Finance

April 26, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE COMMUNITY OPPORTUNITY TAX CREDIT.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Part 2 of Article 4 of Subchapter I of Chapter 105 of the General  
5 Statutes is amended by adding a new section to read:

6 "**§ 105-153.11. Community opportunity credit.**

7 (a) Definitions. – The following definitions apply in this section:

8 (1) Community-based development organization. – A North Carolina nonprofit  
9 corporation that is certified in accordance with subsection (h) of this section,  
10 is an exempt organization under section 501(c)(3) of the Code, and devotes a  
11 significant majority of its expenditures and efforts to one or more of the  
12 following:

13 a. Providing capital to underserved communities or persons or both as a  
14 community development financial institution designated by the  
15 Community Development Financial Institution Fund, an agency of  
16 the United States Department of Treasury.

17 b. Engaging in community development activities and eligible for  
18 grants or loans provided by a local government for such activities  
19 pursuant to G.S. 153A-376 or G.S. 160A-456.

20 c. Developing, owning, or operating housing exempt from property  
21 taxation under G.S. 105-278.6.

22 (2) Low-income. – An income level that falls within the eightieth percentile of  
23 the median income for a family of similar size within this State.

24 (3) Moderate-income. – An income level that does not exceed one hundred fifty  
25 percent (150%) of the median income for a family of similar size within this  
26 State.

27 (b) Credit. – A taxpayer who donates money to a community-based development  
28 organization is allowed a credit against the taxes levied in this section equal to thirty-three  
29 percent (33%) of the amount donated.

30 (c) Records. – A community-based development organization must keep a record of all  
31 donations it receives to provide funds for the purposes set forth in subsection (a) of this section  
32 and of the amount of the donations used for those purposes.

33 (d) Limitations. – The following limitations apply:



1           (1)    A taxpayer who claims a credit under this section based on a donation to a  
2           community-based development organization is not allowed to deduct this  
3           donation as a charitable contribution.

4           (2)    The credit provided in this section is not allowed if the taxpayer claims the  
5           donation as a deduction pursuant to Section 170 of the Code.

6           (3)    The credit provided in this section may not exceed the lesser of five million  
7           dollars (\$5,000,000) or twenty-five percent (25%) of the tax against which  
8           they are claimed for the taxable year, reduced by the sum of all other credits  
9           allowed against that tax, except tax payments made by or on behalf of the  
10          taxpayer. This limitation applies to the cumulative amount of credit,  
11          including carryforwards, claimed by the taxpayer under this section against  
12          the tax for the taxable year.

13          (e)    Carryforward. – Any unused portion of the credit provided in this section may be  
14          carried forward for the succeeding year.

15          (f)    Substantiation. – To claim a credit allowed by this section, the taxpayer must  
16          provide any information required by the Secretary of Revenue, including the information  
17          required to be included in the report required by subsection (g) of this section. Every taxpayer  
18          claiming a credit under this section must maintain and make available for inspection by the  
19          Secretary of Revenue any records the Secretary considers necessary to determine and verify the  
20          amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a  
21          credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a  
22          taxpayer that fails to maintain adequate records or to make them available for inspection.

23          (g)    Report. – The Department must include in the economic incentives report required  
24          by G.S. 105-256 the following information:

25               (1)    The number of taxpayers that took the credit allowed in this section.

26               (2)    The total amount of funds contributed to community-based development  
27               organizations.

28               (3)    The number of affordable houses produced as a result of donated funds for  
29               which a credit was given.

30               (4)    The number of jobs created as a result of donated funds for which a credit  
31               was given.

32               (5)    The number of additional dollars from federal or other sources leveraged as  
33               a result of donated funds for which a credit was given.

34               (6)    The total cost to the General Fund of the credits taken.

35          (h)    Certification. – The Department shall establish criteria for the certification of an  
36          entity as a community-based development organization consistent with the requirements of this  
37          section and shall contract with the North Carolina Community Development Initiative, or its  
38          successor, for application of the criteria for and certification of qualifying entities. Application  
39          for certification must contain the information the Department requires in order to verify that the  
40          applicant meets the requirements set forth defining a community-based development  
41          organization and other criteria, as determined by the Department. Certification of a  
42          community-based development organization may not extend beyond the earlier of a failure to  
43          comply with criteria established by the Department or two years from the date of certification  
44          but may be renewed for additional two-year periods upon application by the organization, if the  
45          organization continues to meet the criteria established by the Department.

46          A community-based development organization shall file with the Department, on or before  
47          January 31 of each year, an annual report for the preceding calendar year. The report must give  
48          information about its financial condition and that impact that it has had on the community. The  
49          report must be made in the form prescribed by the Department, which shall make and publish  
50          annually an analysis and recapitulation of the reports for inclusion in its annual report as  
51          provided in G.S. 105-256.

1       (i)     Application. – To be eligible for the tax credit provided in this section, the taxpayer  
2 must file an application for the credit with the Secretary. The application should be filed on or  
3 before October 15 of the calendar year in which the donation is made. The Secretary may not  
4 accept an application filed after October 15 of the calendar year in which the donation is made.  
5 An application is effective for the year in which it is timely filed. The application must be on a  
6 form prescribed by the Secretary.

7       (j)     Aggregate Cap. – The total amount of all tax credits allowed to taxpayers under this  
8 section for donations made in a calendar year may not exceed five million dollars (\$5,000,000).  
9 The Secretary of Revenue shall calculate the total amount of tax credits claimed from the  
10 applications filed pursuant to subsection (i) of this section. If the total amount of tax credits  
11 claimed for donations made in a calendar year exceeds this maximum amount, the Secretary  
12 shall allow a portion of the credits claimed by allocating the maximum amount in tax credits in  
13 proportion to the size of the credit claimed by each taxpayer. If a credit claimed under this  
14 section is reduced as provided in this subsection, the Secretary shall notify the taxpayer of the  
15 amount of the reduction of the credit on or before December 31 of the calendar year in which  
16 the donation was made. The Secretary's allocations based on applications filed pursuant to  
17 subsection (i) of this section are final and shall not be adjusted to account for credits applied for  
18 but not claimed.

19       (k)     Sunset. – This section is repealed for taxable years beginning on or after January 1,  
20 2022."

21             **SECTION 2.** Part 1 of Article 4 of Subchapter I of Chapter 105 of the General  
22 Statutes is amended by adding a new section to read:

23 **"§ 105-130.49. Community opportunity credit.**

24       (a)     Definitions. – The following definitions apply in this section:

25             (1)     Community-based development organization. – A North Carolina nonprofit  
26 corporation that is certified in accordance with subsection (h) of this section,  
27 is an exempt organization under section 501(c)(3) of the Code, and devotes a  
28 significant majority of its expenditures and efforts to one or more of the  
29 following:

30               a.     Providing capital to underserved communities or persons or both as a  
31 community development financial institution designated by the  
32 Community Development Financial Institution Fund, an agency of  
33 the United States Department of Treasury.

34               b.     Engaging in community development activities and eligible for  
35 grants or loans provided by a local government for such activities  
36 pursuant to G.S. 153A-376 or G.S. 160A-456.

37               c.     Developing, owning, or operating housing exempt from property  
38 taxation under G.S. 105-278.6.

39             (2)     Low-income. – An income level that falls within the eightieth percentile of  
40 the median income for a family of similar size within this State.

41             (3)     Moderate-income. – An income level that does not exceed one hundred fifty  
42 percent (150%) of the median income for a family of similar size within this  
43 State.

44       (b)     Credit. – A taxpayer who donates money to a community-based development  
45 organization is allowed a credit against the taxes levied in this section equal to thirty-three  
46 percent (33%) of the amount donated.

47       (c)     Records. – A community-based development organization must keep a record of all  
48 donations it receives to provide funds for the purposes set forth in subsection (a) of this section  
49 and of the amount of the donations used for those purposes.

50       (d)     Limitations. – The following limitations apply:

1           (1)    A taxpayer who claims a credit under this section based on a donation to a  
2           community-based development organization is not allowed to deduct this  
3           donation as a charitable contribution.

4           (2)    The credit provided in this section is not allowed if the taxpayer claims the  
5           donation as a deduction pursuant to Section 170 of the Code.

6           (3)    The credit provided in this section may not exceed the lesser of five million  
7           dollars (\$5,000,000) or twenty-five percent (25%) of the tax against which  
8           they are claimed for the taxable year, reduced by the sum of all other credits  
9           allowed against that tax, except tax payments made by or on behalf of the  
10          taxpayer. This limitation applies to the cumulative amount of credit,  
11          including carryforwards, claimed by the taxpayer under this section against  
12          the tax for the taxable year.

13          (e)    Carryforward. – Any unused portion of the credit provided in this section may be  
14          carried forward for the succeeding year.

15          (f)    Substantiation. – To claim a credit allowed by this section, the taxpayer must  
16          provide any information required by the Secretary of Revenue, including the information  
17          required to be included in the report required by subsection (g) of this section. Every taxpayer  
18          claiming a credit under this section must maintain and make available for inspection by the  
19          Secretary of Revenue any records the Secretary considers necessary to determine and verify the  
20          amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a  
21          credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a  
22          taxpayer that fails to maintain adequate records or to make them available for inspection.

23          (g)    Report. – The Department must include in the economic incentives report required  
24          by G.S. 105-256 the following information:

25               (1)    The number of taxpayers that took the credit allowed in this section.

26               (2)    The total amount of funds contributed to community-based development  
27               organizations.

28               (3)    The number of affordable houses produced as a result of donated funds for  
29               which a credit was given.

30               (4)    The number of jobs created as a result of donated funds for which a credit  
31               was given.

32               (5)    The number of additional dollars from federal or other sources leveraged as  
33               a result of donated funds for which a credit was given.

34               (6)    The total cost to the General Fund of the credits taken.

35          (h)    Certification. – The Department shall establish criteria for the certification of an  
36          entity as a community-based development organization consistent with the requirements of this  
37          section and shall contract with the North Carolina Community Development Initiative, or its  
38          successor, for application of the criteria for and certification of qualifying entities. Application  
39          for certification must contain the information the Department requires in order to verify that the  
40          applicant meets the requirements set forth defining a community-based development  
41          organization and other criteria, as determined by the Department. Certification of a  
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43          comply with criteria established by the Department or two years from the date of certification  
44          but may be renewed for additional two-year periods upon application by the organization, if the  
45          organization continues to meet the criteria established by the Department.

46          A community-based development organization shall file with the Department, on or before  
47          January 31 of each year, an annual report for the preceding calendar year. The report must give  
48          information about its financial condition and that impact that it has had on the community. The  
49          report must be made in the form prescribed by the Department, which shall make and publish  
50          annually an analysis and recapitulation of the reports for inclusion in its annual report as  
51          provided in G.S. 105-256.

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3 before October 15 of the calendar year in which the donation is made. The Secretary may not  
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6 form prescribed by the Secretary.

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11 claimed for donations made in a calendar year exceeds this maximum amount, the Secretary  
12 shall allow a portion of the credits claimed by allocating the maximum amount in tax credits in  
13 proportion to the size of the credit claimed by each taxpayer. If a credit claimed under this  
14 section is reduced as provided in this subsection, the Secretary shall notify the taxpayer of the  
15 amount of the reduction of the credit on or before December 31 of the calendar year in which  
16 the donation was made. The Secretary's allocations based on applications filed pursuant to  
17 subsection (i) of this section are final and shall not be adjusted to account for credits applied for  
18 but not claimed.

19        (k) Sunset. – This section is repealed for taxable years beginning on or after January 1,  
20 2022."

21        **SECTION 3.** This act is effective for taxable years beginning on or after January 1,  
22 2017.