

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 680
Committee Substitute Favorable 6/22/21

Short Title: Reenact Qualified Business Venture Credit.

(Public)

Sponsors:

Referred to:

April 27, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO REENACT INCOME TAX CREDITS FOR QUALIFIED BUSINESS
3 INVESTMENTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part 5 of Article 4 of Subchapter I of Chapter 105 of the General
6 Statutes is reenacted as it existed immediately before its repeal and reads as rewritten:

7 "Part 5. Tax Credits for Qualified Business Investments.

8 **"§ 105-163.010. Definitions.**

9 The following definitions apply in this Part:

- 10 (1) Affiliate. – An individual or business that controls, is controlled by, or is under
11 common control with another individual or business.
- 12 (2) Business. – A corporation, partnership, limited liability company, association,
13 or sole proprietorship operated for profit.
- 14 (3) Control. – A person controls an entity if the person owns, directly or
15 indirectly, more than ten percent (10%) of the voting securities of that entity.
16 As used in this subdivision, the term "voting security" means a security that
17 (i) confers upon the holder the right to vote for the election of members of the
18 board of directors or similar governing body of the business or (ii) is
19 convertible into, or entitles the holder to receive upon its exercise, a security
20 that confers such a right to vote. A general partnership interest is a voting
21 security.
- 22 (3a) Diversity business. – A qualified business that is one or more of the following
23 determined as of the date the investment is made:
- 24 a. Headquartered in a development tier one or development tier two area,
25 as those areas are defined in G.S. 143B-437.08.
- 26 b. Headquartered in a designated qualified opportunity zone under
27 sections 1400Z-1 and 1400Z-2 of the Code.
- 28 (4) Equity security. – Common stock, preferred stock, or an interest in a
29 partnership, or subordinated debt that is convertible into, or entitles the holder
30 to receive upon its exercise, common stock, preferred stock, or an interest in
31 a partnership.
- 32 (5) Financial institution. – A business that is (i) a bank holding company, as
33 defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841, et
34 seq., or its wholly owned subsidiary, (ii) registered as a broker-dealer under
35 the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq., or its wholly
36 owned subsidiary, (iii) an investment company as defined in the Investment



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1 Company Act of 1940, 15 U.S.C. §§ 80a-1, et seq., whether or not it is required
2 to register under that act, (iv) a small business investment company as defined
3 in the Small Business Investment Act of 1958, 15 U.S.C. §§ 661, et seq., (v)
4 a pension or profit-sharing fund or trust, or (vi) a bank, savings institution,
5 trust company, financial services company, or insurance company. The term
6 does not include, however, a business, other than a small business investment
7 company, whose net worth, when added to the net worth of all of its affiliates,
8 is less than ten million dollars (\$10,000,000). The term also does not include
9 a business that does not generally market its services to the public and is
10 controlled by a business that is not a financial institution.

11 (5a) Granting entity. – Any of the following:

12 a. A domestic or foreign corporation that (i) is tax-exempt pursuant to
13 section 501(c)(3) of the Code, (ii) has as its principal purpose the
14 stimulation of the development of the biotechnology industry, and (iii)
15 in furtherance of that purpose has received, or is a successor in interest
16 to an organization that has received, direct appropriations from the
17 State in at least three fiscal years.

18 b. A domestic or foreign corporation that meets the following three
19 conditions:

20 1. It is tax-exempt pursuant to section 501(c)(3) of the Code, is a
21 private foundation pursuant to section 509 of the Code, or is an
22 affiliate of either of the foregoing.

23 2. It has as its principal purpose one of the following: conducting
24 research and development in, or stimulating the development
25 of, electronic, photonic, information, or other technologies,
26 which may include investing in companies that provide
27 research, development, products, or services in these
28 technologies.

29 3. It meets one of the following conditions:

30 I. It received direct appropriations in furtherance of one
31 of these purposes from the State in at least three fiscal
32 years.

33 II. It was organized to perform one of these purposes for
34 an organization that meets condition I of this
35 sub-subdivision.

36 III. It is an affiliate of an entity that meets condition II of
37 this sub-subdivision.

38 c. An institute that (i) is administratively located within a constituent
39 institution of The University of North Carolina, (ii) is financed in part
40 by a domestic or foreign corporation that is tax-exempt pursuant to
41 section 501(c)(3) of the Code, (iii) has as a principal purpose the
42 stimulation of economic development based on the advancement of
43 science, engineering, and technology, and (iv) funds, either directly or
44 in collaboration with other entities, small businesses engaging in
45 developing technology.

46 (6) North Carolina Enterprise Corporation. – A corporation established in
47 accordance with Article 3 of Chapter 53A of the General Statutes or a limited
48 partnership in which a North Carolina Enterprise Corporation is the only
49 general partner.

50 (7) Pass-through entity. – Defined in G.S. 105-228.90.

- 1 (7b) Qualified business. – A qualified business venture, a qualified grantee
2 business, or a qualified licensee business.
- 3 (8) Qualified business venture. – A business that ~~(i) engages primarily in~~
4 ~~manufacturing, processing, warehousing, wholesaling, research and~~
5 ~~development, or a service-related industry, and (ii) is registered with the~~
6 ~~Secretary of State under G.S. 105-163.013-G.S. 105-163.013 and engages~~
7 ~~primarily in one or more of the following activities:~~
8 a. Manufacturing, processing, warehousing, wholesaling, or research and
9 development.
10 b. Service-related industries.
11 c. Commercialization of information technology including hardware and
12 software, health care technology including medical devices and
13 pharmaceuticals, biotechnology, consumer goods, energy technology,
14 food technology, and agricultural technology.
- 15 (9) Qualified grantee business. – A business that (i) is registered with the
16 Secretary of State under G.S. 105-163.013, and (ii) has received during the
17 current year or any of the preceding three years a grant, an investment, or other
18 funding from a federal agency under the Small Business Innovation Research
19 Program administered by the United States Small Business Administration or
20 from a granting entity as defined in this section.
- 21 (9a) Qualified licensee business. – A business that meets all of the following
22 conditions:
23 a. It is registered with the Secretary of State under G.S. 105-163.013.
24 b. During its most recent fiscal year before filing an application for
25 registration under G.S. 105-163.013, it had gross revenues, as
26 determined in accordance with generally accepted accounting
27 principles, of one million dollars (\$1,000,000) or less on a
28 consolidated basis.
29 c. It has been certified by a constituent institution of The University of
30 North Carolina or a research university as currently performing under
31 a licensing agreement with the institution or university for the purpose
32 of commercializing technology developed at the institution or
33 university. For the purpose of this section, a research university is an
34 institution of higher education classified as a Doctoral/Research
35 University, Extensive or Intensive, in the most recent edition of "A
36 Classification of Institutions of Higher Education", the official report
37 of The Carnegie Foundation for the Advancement of Teaching.
- 38 (10) Real estate-related business. – A business that is involved in or related to the
39 brokerage, selling, purchasing, leasing, operating, or managing of hotels,
40 motels, nursing homes or other lodging facilities, golf courses, sports or social
41 clubs, restaurants, storage facilities, or commercial or residential lots or
42 buildings is a real estate-related business, except that a real estate-related
43 business does not include (i) a business that purchases or leases real estate
44 from others for the purpose of providing itself with facilities from which to
45 conduct a business that is not itself a real estate-related business or (ii) a
46 business that is not otherwise a real estate-related business but that leases,
47 subleases, or otherwise provides to one or more other persons a number of
48 square feet of space which in the aggregate does not exceed fifty percent
49 (50%) of the number of square feet of space occupied by the business for its
50 other activities.

- 1 (10a) Related person. – A person described in one of the relationships set forth in
2 section 267(b) or 707(b) of the Code.
- 3 (11) Security. – A security as defined in Section 2(1) of the Securities Act of 1933,
4 15 U.S.C. § 77b(1).
- 5 (12) Selling or leasing at retail. – A business is selling or leasing at retail if the
6 business either (i) sells or leases any product or service of any nature from a
7 store or other location open to the public generally or (ii) sells or leases
8 products or services of any nature by means other than to or through one or
9 more other businesses.
- 10 (13) Service-related industry. – A business is engaged in a service-related industry,
11 whether or not it also sells a product, if it provides services to customers or
12 clients and does not as a substantial part of its business engage in a business
13 described in G.S. 105-163.013(b)(4). A business is engaged as a substantial
14 part of its business in an activity described in G.S. 105-163.013(b)(4) if (i) its
15 gross revenues derived from all activities described in that subdivision exceed
16 twenty-five percent (25%) of its gross revenues in any fiscal year or (ii) it is
17 established as one of its primary purposes to engage in any activities described
18 in that subdivision, whether or not its purposes were stated in its articles of
19 incorporation or similar organization documents.
- 20 (14) Subordinated debt. – Indebtedness that is not secured and is subordinated to
21 all other indebtedness of the issuer issued or to be issued to a financial
22 institution other than a financial institution described in subdivisions (5)(ii)
23 through (5)(v) of this section. Except as provided in G.S. 105-163.014(d1),
24 any portion of indebtedness that matures earlier than five years after its
25 issuance is not subordinated debt.

26 **"§ 105-163.011. Tax credits allowed.**

27 (a) No Credit for Brokered Investments. – No credit is allowed under this section for a
28 purchase of equity securities or subordinated debt if a broker's fee or commission or other similar
29 remuneration is paid or given directly or indirectly for soliciting the purchase.

30 (b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an individual
31 who purchases the equity securities or subordinated debt of a qualified business directly from
32 that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable
33 year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount
34 of credit allowed an individual for one or more investments made in a single taxable year under
35 this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty
36 thousand dollars (\$50,000). The credit may not be taken for the year in which the investment is
37 made but may be taken for the taxable year beginning during the calendar year in which the
38 application for the credit becomes effective as provided in subsection (c) of this section.

39 (b1) Pass-Through Entities. – This subsection does not apply to a pass-through entity that
40 has committed capital under management in excess of ~~five million dollars (\$5,000,000)~~ seven
41 million five hundred thousand dollars (\$7,500,000) or to a pass-through entity that is a qualified
42 business or a North Carolina Enterprise Corporation. Subject to the limitations provided in
43 G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt
44 of a qualified business directly from the business is eligible for a tax credit equal to twenty-five
45 percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through
46 entity for one or more investments made in a single taxable year under this Part, whether directly
47 or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty
48 thousand dollars (\$750,000). The pass-through entity is not eligible for the credit for the year in
49 which the investment by the pass-through entity is made but is eligible for the credit for the
50 taxable year beginning during the calendar year in which the application for the credit becomes
51 effective as provided in subsection (c) of this section.

1 Each individual who is an owner of a pass-through entity is allowed as a credit against the
2 tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated
3 share of the credits for which the pass-through entity is eligible under this subsection. The
4 aggregate amount of credit allowed an individual for one or more investments made in a single
5 taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may
6 not exceed fifty thousand dollars (\$50,000).

7 If an owner's share of the pass-through entity's credit is limited due to the maximum allowable
8 credit under this section for a taxable year, the pass-through entity and its owners may not
9 reallocate the unused credit among the other owners.

10 (b2) Credit Bonus. – The credit allowed under this Part shall be increased by ten percent
11 (10%) of the credit amount if the amount generating the credit is invested in a qualified business
12 that is a diversity business.

13 (c) Application. – To be eligible for the tax credit provided in this section, the taxpayer
14 must file an application for the credit with the Secretary. The application should be filed on or
15 before April 15 of the year following the calendar year in which the investment was made. The
16 Secretary may not accept an application filed after October 15 of the year following the calendar
17 year in which the investment was made. An application is effective for the year in which it is
18 timely filed. The application must be on a form prescribed by the Secretary and must include any
19 supporting documentation that the Secretary may require. If an investment for which a credit is
20 applied for was paid for other than in money, the taxpayer must include with the application a
21 certified appraisal of the value of the property used to pay for the investment. The application for
22 a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

23 (d) Penalties. – The penalties provided in G.S. 105-236 apply in this Part.

24 **"§ 105-163.012. Limit; carry-over; ceiling; reduction in basis.**

25 (a) The credit allowed a taxpayer under G.S. 105-163.011 may not exceed the amount of
26 income tax imposed by Part 2 of this Article for the taxable year reduced by the sum of all other
27 credits allowable except tax payments made by or on behalf of the taxpayer. The amount of
28 unused credit allowed under G.S. 105-163.011 may be carried forward for the next five
29 succeeding years.

30 (b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for
31 investments made in a calendar year may not exceed ~~seven million five hundred thousand dollars~~
32 ~~(\$7,500,000)~~ ten million dollars (\$10,000,000). The Secretary of Revenue shall calculate the
33 total amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c).
34 If the total amount of tax credits claimed for investments made in a calendar year exceeds this
35 maximum amount, the Secretary shall allow a portion of the credits claimed by allocating the
36 maximum amount in tax credits in proportion to the size of the credit claimed by each taxpayer.

37 (c) If a credit claimed under G.S. 105-163.011 is reduced as provided in this section, the
38 Secretary shall notify the taxpayer of the amount of the reduction of the credit on or before
39 December 31 of the year following the calendar year in which the investment was made. The
40 Secretary's allocations based on applications filed pursuant to G.S. 105-163.011(c) are final and
41 shall not be adjusted to account for credits applied for but not claimed.

42 (d) The taxpayer's basis in the equity securities or subordinated debt acquired as a result
43 of an investment in a qualified business shall be reduced for the purposes of this Article by the
44 amount of allowable credit. "Allowable credit" means the amount of credit allowed under
45 G.S. 105-163.011 reduced as provided in subsection (c) of this section.

46 **"§ 105-163.013. Registration.**

47 (a) Repealed by Session Laws 1993, c. 443, s. 4.

48 (b) Qualified Business Ventures. – In order to qualify as a qualified business venture
49 under this Part, a business must be registered with the Securities Division of the Department of
50 the Secretary of State. To register, the business must file with the Secretary of State an application
51 and any supporting documents the Secretary of State may require from time to time to determine

1 that the business meets the requirements for registration as a qualified business venture. A
2 business meets the requirements for registration as a qualified business venture if all of the
3 following are true as of the date the business files the required application:

- 4 (1) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.
5 (1a) Reserved for future codification purposes.
6 (1b) Either (i) it was organized after January 1 of the calendar year in which its
7 application is filed or (ii) during its most recent fiscal year before filing the
8 application, it had gross revenues, as determined in accordance with generally
9 accepted accounting principles, of five million dollars (\$5,000,000) or less on
10 a consolidated basis.
11 (2) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.
12 (3) It is organized to engage primarily in manufacturing, processing,
13 warehousing, wholesaling, research and development, or a service-related
14 industry.
15 (4) It does not engage as a substantial part of its business in any of the following:
16 a. Providing a professional service as defined in Chapter 55B of the
17 General Statutes.
18 b. Construction or contracting.
19 c. Selling or leasing at retail.
20 d. The purchase, sale, or development, or purchasing, selling, or holding
21 for investment of commercial paper, notes, other indebtedness,
22 financial instruments, securities, or real property, or otherwise make
23 investments.
24 e. Providing personal grooming or cosmetics services.
25 f. Offering any form of entertainment, amusement, recreation, or athletic
26 or fitness activity for which an admission or a membership is charged.
27 (5) It was not formed for the primary purpose of acquiring all or part of the stock
28 or assets of one or more existing businesses.
29 (6) It is not a real estate-related business.

30 The effective date of registration for a qualified business venture whose application is
31 accepted for registration is 60 days before the date its application is filed. No credit is allowed
32 under this Part for an investment made before the effective date of the registration or after the
33 registration is revoked. For the purpose of this Article, if a taxpayer's investment is placed
34 initially in escrow conditioned upon other investors' commitment of additional funds, the date of
35 the investment is the date escrowed funds are transferred to the qualified business venture free
36 of the condition.

37 To remain qualified as a qualified business venture, the business must renew its registration
38 annually as prescribed by rule by filing a financial statement for the most recent fiscal year
39 showing gross revenues, as determined in accordance with generally accepted accounting
40 principles, of five million dollars (\$5,000,000) or less on a consolidated basis and an application
41 for renewal in which the business certifies the facts required in the original application.

42 Failure of a qualified business venture to renew its registration by the applicable deadline
43 shall result in revocation of its registration effective as of the next day after the renewal deadline,
44 but shall not result in forfeiture of tax credits previously allowed to taxpayers who invested in
45 the business except as provided in G.S. 105-163.014. The Secretary of State shall send the
46 qualified business venture notice of revocation within 60 days after the renewal deadline. A
47 qualified business venture may apply to have its registration reinstated by the Secretary of State
48 by filing an application for reinstatement, accompanied by the reinstatement application fee and
49 a late filing penalty of one thousand dollars (\$1,000), within 30 days after receipt of the
50 revocation notice from the Secretary of State. A business that seeks approval of a new application

1 for registration after its registration has been revoked must also pay a penalty of one thousand
2 dollars (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

3 If the gross revenues of a qualified business venture exceed five million dollars (\$5,000,000)
4 in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a
5 financial statement showing the revenues of the business for that year.

6 (b1) Qualified Licensee Businesses. – In order to qualify as a qualified licensee business
7 under this Part, a business must be registered with the Securities Division of the Department of
8 the Secretary of State. To register, the business must file with the Secretary of State an application
9 and any supporting documents the Secretary of State may require from time to time to determine
10 that the business meets the requirements for registration as a qualified licensee business. The
11 requirements for registration as a qualified licensee business are set out in G.S. 105-163.010.

12 The effective date of registration for a qualified licensee business whose application is
13 accepted for registration is the filing date of its application. No credit is allowed under this Part
14 for an investment made before the effective date of the registration or after the registration is
15 revoked.

16 To remain qualified as a qualified licensee business, the business must renew its registration
17 annually as prescribed by rule by filing a financial statement for the most recent fiscal year
18 showing gross revenues, as determined in accordance with generally accepted accounting
19 principles, of one million dollars (\$1,000,000) or less on a consolidated basis and an application
20 for renewal in which the business certifies the facts required in the original application.

21 Failure of a qualified licensee venture to renew its registration by the applicable deadline
22 results in revocation of its registration effective as of the next day after the renewal deadline, but
23 does not result in forfeiture of tax credits previously allowed to taxpayers who invested in the
24 business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified
25 licensee business notice of revocation within 60 days after the renewal deadline. A qualified
26 licensee business may apply to have its registration reinstated by the Secretary of State by filing
27 an application for reinstatement, accompanied by the reinstatement application fee and a late
28 filing penalty of one thousand dollars (\$1,000), within 30 days after receipt of the revocation
29 notice from the Secretary of State. A business that seeks approval of a new application for
30 registration after its registration has been revoked must also pay a penalty of one thousand dollars
31 (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

32 If the gross revenues of a qualified business venture exceed one million dollars (\$1,000,000)
33 in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a
34 financial statement showing the revenues of the business for that year.

35 (c) Qualified Grantee Businesses. – In order to qualify as a qualified grantee business
36 under this Part, a business must be registered with the Securities Division of the Department of
37 the Secretary of State. To register, the business must file with the Secretary of State an application
38 and any supporting documents the Secretary of State may require from time to time to determine
39 that the business meets the requirements for registration as a qualified grantee business. The
40 requirements for registration as a qualified grantee business are set out in G.S. 105-163.010.

41 The effective date of registration for a qualified grantee business whose application is
42 accepted for registration is the filing date of its application. No credit is allowed under this Part
43 for an investment made before the effective date of the registration or after the registration is
44 revoked.

45 To remain qualified as a qualified grantee business, the business must renew its registration
46 annually as prescribed by rule by filing an application for renewal in which the business certifies
47 the facts demonstrating that it continues to meet the applicable requirements for qualification.

48 (d) Application Forms; Rules; Fees. – Applications for registration, renewal of
49 registration, and reinstatement of registration under this section shall be in the form required by
50 the Secretary of State. The Secretary of State may, by rule, require applicants to furnish
51 supporting information in addition to the information required by subsections (b), (b1), and (c)

1 of this section. The Secretary of State may adopt rules in accordance with Chapter 150B of the
2 General Statutes that are needed to carry out the Secretary's responsibilities under this Part. The
3 Secretary of State shall prepare blank forms for the applications and shall distribute them
4 throughout the State and furnish them on request. Each application shall be signed by the owners
5 of the business or, in the case of a corporation, by its president, vice-president, treasurer, or
6 secretary. There shall be annexed to the application the affirmation of the person making the
7 application in the following form: "Under penalties prescribed by law, I certify and affirm that
8 to the best of my knowledge and belief this application is true and complete." A person who
9 submits a false application is guilty of a Class 1 misdemeanor.

10 The fee for filing an application for registration under this section is one hundred dollars
11 (\$100.00). The fee for filing an application for renewal of registration under this section is fifty
12 dollars (\$50.00). The fee for filing an application for reinstatement of registration under this
13 section is fifty dollars (\$50.00).

14 An application for renewal of registration under this section must indicate whether the
15 applicant is a minority business, as defined in G.S. 143-128, and include a report of the number
16 of jobs the business created during the preceding year that are attributable to investments that
17 qualify under this section for a tax credit and the average wages paid by each job. An application
18 that does not contain this information is incomplete and the applicant's registration may not be
19 renewed until the information is provided.

20 (e) Revocation of Registration. – If the Securities Division of the Department of the
21 Secretary of State finds that any of the information contained in an application of a business
22 registered under this section is false, it shall revoke the registration of the business. The Secretary
23 of State shall not revoke the registration of a business solely because it ceases business operations
24 for an indefinite period of time, as long as the business renews its registration each year as
25 required under this section.

26 (f) Transfer of Registration. – A registration as a qualified business may not be sold or
27 otherwise transferred, except that if a qualified business enters into a merger, conversion,
28 consolidation, or other similar transaction with another business and the surviving company
29 would otherwise meet the criteria for being a qualified business, the surviving company retains
30 the registration without further application to the Secretary of State. In such a case, the qualified
31 business must provide the Secretary of State with written notice of the merger, conversion,
32 consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or
33 organization of the surviving company.

34 (g) Report by Secretary of State. – The Secretary of State shall report to the Revenue
35 Laws Study Committee by October 1 of each year all of the businesses that have registered with
36 the Secretary of State as qualified business ventures, qualified licensee businesses, and qualified
37 grantee businesses. The report shall include the name and address of each business, the location
38 of its headquarters and principal place of business, a detailed description of the types of business
39 in which it engages, whether the business is a minority business as defined in G.S. 143-128, the
40 number of jobs created by the business during the period covered by the report, and the average
41 wages paid by these jobs.

42 **"§ 105-163.014. Forfeiture of credit.**

43 (a) Participation in Business. – A taxpayer who has received a credit under this Part for
44 an investment in a qualified business forfeits the credit if, within three years after the investment
45 was made, the taxpayer participates in the operation of the qualified business. For the purpose of
46 this section, a taxpayer participates in the operation of a qualified business if the taxpayer, the
47 taxpayer's spouse, parent, sibling, or child, or an employee of any of these individuals or of a
48 business controlled by any of these individuals, provides services of any nature to the qualified
49 business for compensation, whether as an employee, a contractor, or otherwise. However, a
50 person who provides services to a qualified business, whether as an officer, a member of the
51 board of directors, or otherwise does not participate in its operation if the person receives as

1 compensation only reasonable reimbursement of expenses incurred in providing the services,
2 participation in a stock option or stock bonus plan, or both.

3 (b) False Application. – A taxpayer who has received a credit under this Part for an
4 investment in a qualified business forfeits the credit if the registration of the qualified business
5 is revoked because information in the registration application was false at the time the application
6 was filed with the Secretary of State.

7 (c) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

8 (d) Transfer or Redemption of Investment. – A taxpayer who has received a credit under
9 this Part for an investment in a qualified business forfeits the credit in the following cases:

10 (1) Within one year after the investment was made, the taxpayer transfers any of
11 the securities received in the investment that qualified for the tax credit to
12 another person or entity, other than in a transfer resulting from one of the
13 following:

14 a. The death of the taxpayer.

15 b. A final distribution in liquidation to the owners of a taxpayer that is a
16 corporation or other entity.

17 c. A merger, conversion, consolidation, or similar transaction requiring
18 approval by the owners of the qualified business under applicable State
19 law, to the extent the taxpayer does not receive cash or tangible
20 property in the merger, conversion, consolidation, or other similar
21 transaction.

22 (2) Except as provided in subsection (d1) of this section, within five years after
23 the investment was made, the qualified business in which the investment was
24 made makes a redemption with respect to the securities received in the
25 investment.

26 In the event the taxpayer transfers fewer than all the securities in a manner that would result
27 in a forfeiture, the amount of the credit that is forfeited is the product obtained by multiplying
28 the aggregate credit attributable to the investment by a fraction whose numerator equals the
29 number of securities transferred and whose denominator equals the number of securities received
30 on account of the investment to which the credit was attributable. In addition, if the redemption
31 amount is less than the amount invested by the taxpayer in the securities to which the redemption
32 is attributable, the amount of the credit that is forfeited is further reduced by multiplying it by a
33 fraction whose numerator equals the redemption amount and whose denominator equals the
34 aggregate amount invested by the taxpayer in the securities involved in the redemption. The term
35 "redemption amount" means all amounts paid that are treated as a distribution in part or full
36 payment in exchange for securities under section 302(a) of the Code.

37 (d1) Certain Redemptions Allowed. – Forfeiture of a credit does not occur under this
38 section if a qualified business venture that engages primarily in motion picture film production
39 makes a redemption with respect to securities received in an investment and the following
40 conditions are met:

41 (1) The redemption occurred because the qualified business venture completed
42 production of a film, sold the film, and was liquidated.

43 (2) Neither the qualified business venture nor a related person continues to engage
44 in business with respect to the film produced by the qualified business venture.

45 (e) Effect of Forfeiture. – A taxpayer who forfeits a credit under this section is liable for
46 all past taxes avoided as a result of the credit plus interest at the rate established under
47 G.S. 105-241.21, computed from the date the taxes would have been due if the credit had not
48 been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a
49 taxpayer who fails to pay the past taxes and interest by the due date is subject to the penalties
50 provided in G.S. 105-236.

51 "§ 105-163.015. Sunset.

1 This Part is repealed effective for investments made on or after January 1, 2014,2025."
2 **SECTION 2.** This act is effective for taxable years beginning on or after January 1,
3 2021.