

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 885
Apr 25, 2017
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10320-MC-167 (04/20)

Short Title: Community Opportunity Tax Credit.

(Public)

Sponsors: Representative Setzer.

Referred to:

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:

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



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

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

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

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

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

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

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

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

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

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

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

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

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

49 (i) Application. – To be eligible for the tax credit provided in this section, the taxpayer
50 must file an application for the credit with the Secretary. The application should be filed on or
51 before October 15 of the calendar year in which the donation is made. The Secretary may not

1 accept an application filed after October 15 of the calendar year in which the donation is made.
2 An application is effective for the year in which it is timely filed. The application must be on a
3 form prescribed by the Secretary.

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

16 (k) Sunset. – This section is repealed for taxable years beginning on or after January 1,
17 2022."

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

20 **"§ 105-130.49. Community opportunity credit.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49 (i) Application. – To be eligible for the tax credit provided in this section, the taxpayer
50 must file an application for the credit with the Secretary. The application should be filed on or
51 before October 15 of the calendar year in which the donation is made. The Secretary may not

1 accept an application filed after October 15 of the calendar year in which the donation is made.
2 An application is effective for the year in which it is timely filed. The application must be on a
3 form prescribed by the Secretary.

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

16 (k) Sunset. – This section is repealed for taxable years beginning on or after January 1,
17 2022."

18 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,
19 2017.