

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 1008
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10584-MCf-176A

Short Title: Real Property Donation Tax Credit. (Public)

Sponsors: Representatives Setzer, Szoka, Ross, and Carney (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCENTIVIZE BUFFERING OF MILITARY INSTALLATIONS FROM
3 INCOMPATIBLE DEVELOPMENT AND PROTECTION OF FLOODPLAINS IN
4 HURRICANE-DISASTER COUNTIES THROUGH THE USE OF TIME-LIMITED TAX
5 CREDITS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 105-130.34 is reenacted as it existed immediately before its
8 expiration and reads as rewritten:

9 **"§ 105-130.34. Credit for certain real property donations.**

10 (a) Credit. – Any C Corporation that makes a qualified donation of an interest in real
11 property located in North Carolina during the taxable year that is useful for ~~(i) public beach access~~
12 ~~or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv)~~
13 ~~forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas~~
14 ~~as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas~~
15 ~~as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland,~~
16 ~~or (ix) historic landscape conservation (i) for farmland preservation, (ii) as a buffer to limit land~~
17 ~~use activities that would restrict, impede, or interfere with military training, testing, or operations~~
18 ~~on a military installation or training area or otherwise be incompatible with the mission of the~~
19 ~~installation, or (iii) for floodplain protection in a county that, in the three years preceding the~~
20 ~~donation, was the subject of a Type II or Type III gubernatorial disaster declaration, as provided~~
21 ~~in G.S. 166A-19.21, as a result of a natural disaster is allowed a credit against the tax imposed~~
22 by this Part equal to twenty-five percent (25%) of the fair market value of the donated property
23 interest. To be eligible for this credit, the interest in real property must be donated in perpetuity
24 for one of the qualifying uses listed in this subsection and accepted in perpetuity for the qualifying
25 use for which the property is donated. The person to whom the property is donated must be the
26 State, a local government, or a body that is both organized to receive and administer lands for
27 conservation purposes and qualified to receive charitable contributions pursuant to
28 G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or
29 ordinance and dedications made to increase building density levels permitted under a regulation
30 or ordinance are not eligible for this credit.

31 The credit allowed under this section for one or more qualified donations made in a taxable
32 year may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by
33 this section, the taxpayer must file with the income tax return for the taxable year in which the
34 credit is claimed the following:



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1 (1) A certification by the Department of ~~Environment and~~ Natural and Cultural
2 Resources that the property donated is suitable for one or more of the valid
3 public benefits set forth in this subsection.

4 (2) A self-contained appraisal report or summary appraisal report as defined in
5 Standards Rule 2-2 in the latest edition of the Uniform Standards of
6 Professional Appraisal Practice as promulgated by the Appraisal Foundation
7 for the property. For fee simple absolute donations of real property, a taxpayer
8 may submit documentation of the county's appraised value of the donated
9 property, as adjusted by the sales assessment ratio, in lieu of an appraisal
10 report.

11 (b) Limitation. – The credit allowed by this section may not exceed the amount of tax
12 imposed by this Part for the taxable year reduced by the sum of all credits allowed, except
13 payments of tax made by or on behalf of the taxpayer.

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

16 (d) No Double Benefit. – That portion of a qualifying donation that is the basis for a credit
17 allowed under this section is not eligible for deduction as a charitable contribution under
18 G.S. 105-130.9."

19 **SECTION 2.** G.S. 105-151.12 is reenacted as it existed immediately before its
20 expiration, is recodified as G.S. 105-153.11, and reads as rewritten:

21 "**§ 105-153.11. Credit for certain real property donations.**

22 (a) Credit. – An individual or pass-through entity that makes a qualified donation of an
23 interest in real property located in North Carolina during the taxable year that is useful ~~for (i)~~
24 ~~public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife~~
25 ~~conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi)~~
26 ~~conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of~~
27 ~~natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of~~
28 ~~predominantly natural parkland, or (ix) historic landscape conservation (i) for farmland~~
29 ~~preservation, (ii) as a buffer to limit land use activities that would restrict, impede, or interfere~~
30 ~~with military training, testing, or operations on a military installation or training area or otherwise~~
31 ~~be incompatible with the mission of the installation, or (iii) for floodplain protection in a county~~
32 ~~that, in the three years preceding the donation, was the subject of a Type II or Type III~~
33 ~~gubernatorial disaster declaration, as provided in G.S. 166A-19.21, as a result of a natural disaster~~
34 is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the
35 fair market value of the donated property interest. To be eligible for this credit, the interest in
36 property must be donated in perpetuity for one of the qualifying uses listed in this subsection and
37 accepted in perpetuity for the qualifying use for which the property is donated. The person to
38 whom the property is donated must be the State, a local government, or a body that is both
39 organized to receive and administer lands for conservation purposes and qualified to receive
40 charitable contributions under the Code. Lands required to be dedicated pursuant to local
41 governmental regulation or ordinance and dedications made to increase building density levels
42 permitted under a regulation or ordinance are not eligible for this credit.

43 To support the credit allowed by this section, the taxpayer must file with the income tax return
44 for the taxable year in which the credit is claimed the following:

45 (1) A certification by the Department of ~~Environment and~~ Natural and Cultural
46 Resources that the property donated is suitable for one or more of the valid
47 public benefits set forth in this subsection. The certification for a qualified
48 donation made by a pass-through entity must be filed by the pass-through
49 entity.

50 (2) A self-contained or summary appraisal report as defined in Standards Rule
51 2-2 in the latest edition of the Uniform Standards of Professional Appraisal

1 Practice as promulgated by the Appraisal Foundation for the property. For fee
2 simple absolute donations of real property, a taxpayer may submit
3 documentation of the county's appraised value of the donated property, as
4 adjusted by the sales assessment ratio, in lieu of an appraisal report.

5 (a1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable
6 year under this section for one or more qualified donations made during the taxable year, whether
7 made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty
8 thousand dollars (\$250,000). In the case of property owned by a married couple, if both spouses
9 are required to file North Carolina income tax returns, the credit allowed by this section may be
10 claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a
11 husband and wife filing a joint tax return may not exceed five hundred thousand dollars
12 (\$500,000). If only one spouse is required to file a North Carolina income tax return, that spouse
13 may claim the credit allowed by this section on a separate return.

14 (a2) Pass-Through Entities. – The aggregate amount of credit allowed to a pass-through
15 entity in a taxable year under this section for one or more qualified donations made during the
16 taxable year, whether made directly or indirectly as owner of another pass-through entity, may
17 not exceed five hundred thousand dollars (\$500,000). Each individual who is an owner of a
18 pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the
19 credit to which the pass-through entity is eligible under this subsection, not to exceed two
20 hundred fifty thousand dollars (\$250,000). Each corporation that is an owner of a pass-through
21 entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which
22 the pass-through entity is eligible under this subsection, not to exceed five hundred thousand
23 dollars (\$500,000). If an owner's share of the pass-through entity's credit is limited due to the
24 maximum allowable credit under this section for a taxable year, the pass-through entity and its
25 owners may not reallocate the unused credit among the other owners.

26 (b) Limitation. – The credit allowed by this section may not exceed the amount of tax
27 imposed by this Part for the taxable year reduced by the sum of all credits allowed, except
28 payments of tax made by or on behalf of the taxpayer.

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

31 (d) No Double Benefit. – That portion of a qualifying donation that is the basis for a credit
32 allowed under this section is not eligible for deduction as a charitable contribution under
33 G.S. 105-130.9.

34 ~~(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205,~~
35 ~~the offer of donation must be made before December 31, 2003 to qualify for the credit allowed~~
36 ~~by this section.~~

37 (f) Repealed by Session Laws 2007-309, s. 2, effective for taxable years beginning on or
38 after January 1, 2007."

39 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,
40 2019, and expires for taxable years beginning on or after January 1, 2023.