

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL DRH40398-MCf-50

Short Title: Reenact Qualified Business Venture Credit. (Public)

Sponsors: Representative Strickland.

Referred to:

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



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.
- 7 (9) Qualified grantee business. – A business that (i) is registered with the
8 Secretary of State under G.S. 105-163.013, and (ii) has received during the
9 current year or any of the preceding three years a grant, an investment, or other
10 funding from a federal agency under the Small Business Innovation Research
11 Program administered by the United States Small Business Administration or
12 from a granting entity as defined in this section.
- 13 (9a) Qualified licensee business. – A business that meets all of the following
14 conditions:
- 15 a. It is registered with the Secretary of State under G.S. 105-163.013.
- 16 b. During its most recent fiscal year before filing an application for
17 registration under G.S. 105-163.013, it had gross revenues, as
18 determined in accordance with generally accepted accounting
19 principles, of one million dollars (\$1,000,000) or less on a
20 consolidated basis.
- 21 c. It has been certified by a constituent institution of The University of
22 North Carolina or a research university as currently performing under
23 a licensing agreement with the institution or university for the purpose
24 of commercializing technology developed at the institution or
25 university. For the purpose of this section, a research university is an
26 institution of higher education classified as a Doctoral/Research
27 University, Extensive or Intensive, in the most recent edition of "A
28 Classification of Institutions of Higher Education", the official report
29 of The Carnegie Foundation for the Advancement of Teaching.
- 30 (10) Real estate-related business. – A business that is involved in or related to the
31 brokerage, selling, purchasing, leasing, operating, or managing of hotels,
32 motels, nursing homes or other lodging facilities, golf courses, sports or social
33 clubs, restaurants, storage facilities, or commercial or residential lots or
34 buildings is a real estate-related business, except that a real estate-related
35 business does not include (i) a business that purchases or leases real estate
36 from others for the purpose of providing itself with facilities from which to
37 conduct a business that is not itself a real estate-related business or (ii) a
38 business that is not otherwise a real estate-related business but that leases,
39 subleases, or otherwise provides to one or more other persons a number of
40 square feet of space which in the aggregate does not exceed fifty percent
41 (50%) of the number of square feet of space occupied by the business for its
42 other activities.
- 43 (10a) Related person. – A person described in one of the relationships set forth in
44 section 267(b) or 707(b) of the Code.
- 45 (11) Security. – A security as defined in Section 2(1) of the Securities Act of 1933,
46 15 U.S.C. § 77b(1).
- 47 (12) Selling or leasing at retail. – A business is selling or leasing at retail if the
48 business either (i) sells or leases any product or service of any nature from a
49 store or other location open to the public generally or (ii) sells or leases
50 products or services of any nature by means other than to or through one or
51 more other businesses.

1 (13) Service-related industry. – A business is engaged in a service-related industry,
2 whether or not it also sells a product, if it provides services to customers or
3 clients and does not as a substantial part of its business engage in a business
4 described in G.S. 105-163.013(b)(4). A business is engaged as a substantial
5 part of its business in an activity described in G.S. 105-163.013(b)(4) if (i) its
6 gross revenues derived from all activities described in that subdivision exceed
7 twenty-five percent (25%) of its gross revenues in any fiscal year or (ii) it is
8 established as one of its primary purposes to engage in any activities described
9 in that subdivision, whether or not its purposes were stated in its articles of
10 incorporation or similar organization documents.

11 (14) Subordinated debt. – Indebtedness that is not secured and is subordinated to
12 all other indebtedness of the issuer issued or to be issued to a financial
13 institution other than a financial institution described in subdivisions (5)(ii)
14 through (5)(v) of this section. Except as provided in G.S. 105-163.014(d1),
15 any portion of indebtedness that matures earlier than five years after its
16 issuance is not subordinated debt.

17 **"§ 105-163.011. Tax credits allowed.**

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

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

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

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

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

1 (b2) Credit Bonus. – The credit allowed under this Part shall be increased by ten percent
2 (10%) of the credit amount if the amount generating the credit is invested in a qualified business
3 that is a diversity business.

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

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

15 **"§ 105-163.012. Limit; carry-over; ceiling; reduction in basis.**

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

21 (b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for
22 investments made in a calendar year may not exceed ~~seven million five hundred thousand dollars~~
23 ~~(\$7,500,000)~~ ten million dollars (\$10,000,000). The Secretary of Revenue shall calculate the
24 total amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c).
25 If the total amount of tax credits claimed for investments made in a calendar year exceeds this
26 maximum amount, the Secretary shall allow a portion of the credits claimed by allocating the
27 maximum amount in tax credits in proportion to the size of the credit claimed by each taxpayer.

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

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

37 **"§ 105-163.013. Registration.**

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

39 (b) Qualified Business Ventures. – In order to qualify as a qualified business venture
40 under this Part, a business must be registered with the Securities Division of the Department of
41 the Secretary of State. To register, the business must file with the Secretary of State an application
42 and any supporting documents the Secretary of State may require from time to time to determine
43 that the business meets the requirements for registration as a qualified business venture. A
44 business meets the requirements for registration as a qualified business venture if all of the
45 following are true as of the date the business files the required application:

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

47 (1a) Reserved for future codification purposes.

48 (1b) Either (i) it was organized after January 1 of the calendar year in which its
49 application is filed or (ii) during its most recent fiscal year before filing the
50 application, it had gross revenues, as determined in accordance with generally

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

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

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

34 Failure of a qualified business venture to renew its registration by the applicable deadline
35 shall result in revocation of its registration effective as of the next day after the renewal deadline,
36 but shall not result in forfeiture of tax credits previously allowed to taxpayers who invested in
37 the business except as provided in G.S. 105-163.014. The Secretary of State shall send the
38 qualified business venture notice of revocation within 60 days after the renewal deadline. A
39 qualified business venture may apply to have its registration reinstated by the Secretary of State
40 by filing an application for reinstatement, accompanied by the reinstatement application fee and
41 a late filing penalty of one thousand dollars (\$1,000), within 30 days after receipt of the
42 revocation notice from the Secretary of State. A business that seeks approval of a new application
43 for registration after its registration has been revoked must also pay a penalty of one thousand
44 dollars (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

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

48 (b1) Qualified Licensee Businesses. – In order to qualify as a qualified licensee business
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 licensee business. The
2 requirements for registration as a qualified licensee business are set out in G.S. 105-163.010.

3 The effective date of registration for a qualified licensee business whose application is
4 accepted for registration is the filing date of its application. No credit is allowed under this Part
5 for an investment made before the effective date of the registration or after the registration is
6 revoked.

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

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

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

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

32 The effective date of registration for a qualified grantee business whose application is
33 accepted for registration is the filing date of its application. No credit is allowed under this Part
34 for an investment made before the effective date of the registration or after the registration is
35 revoked.

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

39 (d) Application Forms; Rules; Fees. – Applications for registration, renewal of
40 registration, and reinstatement of registration under this section shall be in the form required by
41 the Secretary of State. The Secretary of State may, by rule, require applicants to furnish
42 supporting information in addition to the information required by subsections (b), (b1), and (c)
43 of this section. The Secretary of State may adopt rules in accordance with Chapter 150B of the
44 General Statutes that are needed to carry out the Secretary's responsibilities under this Part. The
45 Secretary of State shall prepare blank forms for the applications and shall distribute them
46 throughout the State and furnish them on request. Each application shall be signed by the owners
47 of the business or, in the case of a corporation, by its president, vice-president, treasurer, or
48 secretary. There shall be annexed to the application the affirmation of the person making the
49 application in the following form: "Under penalties prescribed by law, I certify and affirm that
50 to the best of my knowledge and belief this application is true and complete." A person who
51 submits a false application is guilty of a Class 1 misdemeanor.

1 The fee for filing an application for registration under this section is one hundred dollars
2 (\$100.00). The fee for filing an application for renewal of registration under this section is fifty
3 dollars (\$50.00). The fee for filing an application for reinstatement of registration under this
4 section is fifty dollars (\$50.00).

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

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

17 (f) Transfer of Registration. – A registration as a qualified business may not be sold or
18 otherwise transferred, except that if a qualified business enters into a merger, conversion,
19 consolidation, or other similar transaction with another business and the surviving company
20 would otherwise meet the criteria for being a qualified business, the surviving company retains
21 the registration without further application to the Secretary of State. In such a case, the qualified
22 business must provide the Secretary of State with written notice of the merger, conversion,
23 consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or
24 organization of the surviving company.

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

33 **"§ 105-163.014. Forfeiture of credit.**

34 (a) Participation in Business. – A taxpayer who has received a credit under this Part for
35 an investment in a qualified business forfeits the credit if, within three years after the investment
36 was made, the taxpayer participates in the operation of the qualified business. For the purpose of
37 this section, a taxpayer participates in the operation of a qualified business if the taxpayer, the
38 taxpayer's spouse, parent, sibling, or child, or an employee of any of these individuals or of a
39 business controlled by any of these individuals, provides services of any nature to the qualified
40 business for compensation, whether as an employee, a contractor, or otherwise. However, a
41 person who provides services to a qualified business, whether as an officer, a member of the
42 board of directors, or otherwise does not participate in its operation if the person receives as
43 compensation only reasonable reimbursement of expenses incurred in providing the services,
44 participation in a stock option or stock bonus plan, or both.

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

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

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

- 1 (1) Within one year after the investment was made, the taxpayer transfers any of
2 the securities received in the investment that qualified for the tax credit to
3 another person or entity, other than in a transfer resulting from one of the
4 following:
5 a. The death of the taxpayer.
6 b. A final distribution in liquidation to the owners of a taxpayer that is a
7 corporation or other entity.
8 c. A merger, conversion, consolidation, or similar transaction requiring
9 approval by the owners of the qualified business under applicable State
10 law, to the extent the taxpayer does not receive cash or tangible
11 property in the merger, conversion, consolidation, or other similar
12 transaction.
- 13 (2) Except as provided in subsection (d1) of this section, within five years after
14 the investment was made, the qualified business in which the investment was
15 made makes a redemption with respect to the securities received in the
16 investment.

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

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

- 32 (1) The redemption occurred because the qualified business venture completed
33 production of a film, sold the film, and was liquidated.
34 (2) Neither the qualified business venture nor a related person continues to engage
35 in business with respect to the film produced by the qualified business venture.

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

42 "**§ 105-163.015. Sunset.**

43 This Part is repealed effective for investments made on or after January 1, ~~2014~~2025."

44 **SECTION 2.** This act is effective for taxable years beginning on or after January 1,
45 2021.