

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 290
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40147-NIF-69

Short Title: Protecting NC's Military and Working Lands. (Public)

Sponsors: Representative Ross.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCENTIVIZE FARMLAND PRESERVATION, FISH AND WILDLIFE
3 CONSERVATION, THE BUFFERING OF MILITARY INSTALLATIONS FROM
4 INCOMPATIBLE DEVELOPMENT, THE PROTECTION OF FLOOD PLAINS IN
5 HURRICANE-DISASTER COUNTIES, HISTORIC LANDSCAPE CONSERVATION,
6 AND THE CONSERVATION OF, AND ACCESS TO, PUBLIC TRAILS.

7 The General Assembly of North Carolina enacts:

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

10 "§ 105-130.34. Credit for certain real property donations.

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

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



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) for fish and wildlife conservation, (iii) as a buffer to limit land use activities
30 that would restrict, impede, or interfere with military training, testing, or operations on a military
31 installation or training area or otherwise be incompatible with the mission of the installation, (iv)
32 for floodplain protection in a county that, in the five years preceding the donation, was the subject
33 of a Type II or Type III gubernatorial disaster declaration, as provided in G.S. 166A-19.21, as a
34 result of a natural disaster, (v) for historic landscape conservation, or (vi) for public trails or
35 access to public trails is allowed a credit against the tax imposed by this Part equal to twenty-five
36 percent (25%) of the fair market value of the donated property interest. To be eligible for this
37 credit, the interest in property must be donated in perpetuity for one of the qualifying uses listed
38 in this subsection and accepted in perpetuity for the qualifying use for which the property is
39 donated. The person to whom the property is donated must be the State, a local government, or
40 a body that is both organized to receive and administer lands for conservation purposes and
41 qualified to receive charitable contributions under the Code. Lands required to be dedicated
42 pursuant to local governmental regulation or ordinance and dedications made to increase building
43 density levels permitted under a regulation or ordinance are not eligible for this credit.

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

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

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

7 (a1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable
8 year under this section for one or more qualified donations made during the taxable year, whether
9 made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty
10 thousand dollars (\$250,000). In the case of property owned by a married couple, if both spouses
11 are required to file North Carolina income tax returns, the credit allowed by this section may be
12 claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a
13 husband and wife filing a joint tax return may not exceed five hundred thousand dollars
14 (\$500,000). If only one spouse is required to file a North Carolina income tax return, that spouse
15 may claim the credit allowed by this section on a separate return.

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

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

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

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

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

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

41 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,
42 2023.