

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 1252*

Short Title: Land Conservation Statutes Amendments. (Public)

Sponsors: Senators Odom; Albertson, Clodfelter, and Kinnaird.

Referred to: Agriculture/Environment/Natural Resources.

June 6, 2002

A BILL TO BE ENTITLED
AN ACT TO AMEND THE LAND CONSERVATION STATUTES OF THE STATE
OF NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL
REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.34(a) reads as rewritten:

"(a) Any corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity to and accepted by either the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection."

SECTION 2. G.S. 105-151.12(a) reads as rewritten:

"(a) A person who makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value

1 of the donated property interest. To be eligible for this credit, the interest in property
2 must be donated in perpetuity to and accepted by either the State, a local government, or
3 a body that is both organized to receive and administer lands for conservation purposes
4 and qualified to receive charitable contributions under the Code. Lands required to be
5 dedicated pursuant to local governmental regulation or ordinance and dedications made
6 to increase building density levels permitted under a regulation or ordinance are not
7 eligible for this credit. The credit allowed under this section may not exceed two
8 hundred fifty thousand dollars (\$250,000). To support the credit allowed by this section,
9 the taxpayer must file with the income tax return for the taxable year in which the credit
10 is claimed a certification by the Department of Environment and Natural Resources that
11 the property donated is suitable for one or more of the valid public benefits set forth in
12 this subsection."

13 **SECTION 3.** G.S. 113A-231 reads as rewritten:

14 "**§ 113A-231. Program to accomplish conservation purposes.**

15 The Department of Environment and Natural Resources shall develop a
16 nonregulatory program that uses conservation tax credits as a prominent tool to
17 accomplish conservation purposes, including the maintenance of ecological systems. As
18 a part of this program, the Department shall exercise its powers to protect those interests
19 in real property donated for tax credit under G.S. 105-130.34 or G.S. 105-151.12,
20 conserved with the use of other financial incentives, or conserved through nonregulatory
21 programs. The Department shall call upon the Attorney General for legal assistance in
22 developing and implementing the program."

23 **SECTION 4.** G.S. 113A-232 reads as rewritten:

24 "**§ 113A-232. Conservation Grant Fund.**

25 (a) Fund Created. – The Conservation Grant Fund is created within the
26 Department of Environment and Natural Resources. The Fund shall be administered by
27 that Department. The purpose of the Fund is to stimulate the use of conservation
28 ~~easements, easements and conservation tax credits~~ to improve the capacity of private
29 nonprofit land trusts to successfully accomplish conservation projects, to better equip
30 real estate related professionals to pursue opportunities for conservation, to increase
31 ~~citizen-landowner~~ participation in land and water conservation, and to provide an
32 opportunity to leverage private and other public monies for conservation easements.

33 (b) Fund Sources. – The Conservation Grant Fund shall consist of any monies
34 appropriated to it by the General Assembly and any monies received from public or
35 private sources. Unexpended monies in the Fund that were appropriated from the
36 General Fund by the General Assembly shall revert at the end of the fiscal year unless
37 the General Assembly otherwise provides. Unexpended monies in the Fund from other
38 sources shall not revert and shall remain available for expenditure in accordance with
39 this Article.

40 (c) Eligibility. – In order for land to be the subject of a grant under this Article,
41 the land must possess or have a high potential to possess ecological value, must be
42 reasonably restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S.
43 105-151.12. Private nonprofit land trust organizations must be qualified pursuant to

1 G.S. 105-130.34 and G.S. 105-151.12 and must be certified under section 501(c)(3) of
2 the Internal Revenue Code.

3 (d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used
4 only for the following purposes:

- 5 (1) The administrative costs of the Department in administering the Fund.
- 6 (2) Conservation grants made in accordance with this Article.
- 7 (3) To establish an endowment account, the interest from which will be
8 used for a purpose described in ~~G.S. 113A-233(a)(3) or (a)(5)~~. G.S.
9 113A-233."

10 **SECTION 5.** G.S. 113A-233 reads as rewritten:

11 "**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

12 (a) Allowable Uses. – A grant from the Conservation Grant Fund may be used
13 only to pay for one or more of the following costs:

- 14 (1) Reimbursement for total or partial transaction costs for donations of real property or interests in real property from individuals or
15 corporations satisfying either of the following:
 - 16 a. Insufficient financial ability to pay all costs or insufficient
17 taxable income to allow these costs to be included in the
18 donated value.
 - 19 b. Insufficient tax burdens to allow these costs to be offset by the
20 value of tax credits under G.S. 105-130.34 or G.S. 105-151.12
21 or by charitable deductions.
- 22 (2) Management support, including initial baseline inventory and
23 planning.
- 24 (3) Monitoring compliance with conservation easements, the related use of
25 riparian buffers, natural areas, and greenways, and the presence of
26 ecological integrity.
- 27 (4) Education on conservation, including information materials intended
28 for landowners and education for staff and volunteers.
- 29 (5) Stewardship of land.
- 30 (6) ~~Transaction costs,~~ costs for recipients, including legal expenses,
31 closing and title costs, and unusual direct costs, such as overnight
32 travel.
- 33 (7) Administrative costs for short-term growth or for building capacity.

34 (b) Prohibition. – The Fund shall not be used to pay the purchase price for any
35 interest in land."
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37 **SECTION 6.** G.S. 113A-234 reads as rewritten:

38 "**§ 113A-234. Administration of grants.**

39 The Secretary of Environment and Natural Resources shall establish the procedures
40 and criteria for awarding grants from the Conservation Grant ~~Fund.~~ Fund to private
41 nonprofit land trust organizations and State and local government conservation land
42 management agencies. The criteria shall focus grants on those areas, approaches, and
43 techniques that are likely to provide the optimum positive effect on environmental

1 protection. The Secretary shall make the final decision on the award of grants and shall
2 announce the award publicly in a timely manner.

3 The Secretary may administer the grants under this Article or may contract for
4 selected activities under this Article. If administrative services are contracted, the
5 Department shall establish guidance and criteria for its operation and contract with a
6 statewide nonprofit land trust service organization."

7 **SECTION 7.** G.S. 113A-235 reads as rewritten:

8 "**§ 113A-235. Conservation easements.**

9 (a) Ecological systems and appropriate public use of these systems may be
10 protected through conservation easements, including conservation agreements under
11 Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic
12 Preservation Agreements Act, and conservation easements under the Conservation
13 Reserve Enhancement Program. The Department of Environment and Natural
14 Resources shall work cooperatively with State and local agencies and qualified
15 nonprofit organizations to monitor compliance with conservation easements and
16 conservation agreements and to ensure the continued viability of the protected
17 ecosystems. Soil and water conservation districts established under Chapter 139 of the
18 General Statutes may acquire easements under the Conservation Reserve Enhancement
19 Program by purchase or gift.

20 (b) The Department may convey real property or an interest in real property that
21 has been acquired ~~under the Conservation Reserve Enhancement Program for~~
22 conservation in perpetuity to a federal or State agency, a local government, or a private,
23 nonprofit conservation organization to ~~acquire, manage, manage and maintain the~~ real
24 property or an interest in real property for the purposes set out in subsection (a) of this
25 section. A grantee of real property or an interest in real property under this subsection
26 ~~shall grant a conservation easement in the real property or interest in real property~~ may
27 be asked to accept a transfer that includes a reverter or other related interest to the
28 Department in a form that is acceptable to the Department.

29 (c) The Department shall report on the implementation of this Article to the
30 Environmental Review Commission no later than 1 November of each year. The
31 Department shall maintain an inventory of all conservation easements held by the
32 Department. The inventory shall be included in the report required by this subsection."

33 **SECTION 8.** This act is effective when it becomes law.