

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1385

Short Title: Cistern Tax Credit/Regulatory Reform. (Public)

Sponsors: Representatives K. Alexander; Braxton, Bryant, Cotham, Gibson, Harrison, Jones, Mackey, Tarleton, and Wilkins.

Referred to: Water Resources and Infrastructure, if favorable, Finance.

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A TAX CREDIT FOR CONSTRUCTION OF CISTERNS ON RESIDENTIAL AND COMMERCIAL PROPERTY AND TO PROVIDE THAT LARGE CITIES MAY REGULATE CERTAIN UNDERGROUND IRRIGATION SYSTEMS AND MAY NOT PROHIBIT RAINWATER RECOVERY SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.49. Credit for cistern installation.

(a) Credit. – A taxpayer that constructs, installs, and places in service in this State an eligible cistern is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and installing the system, including modifications to existing plumbing systems necessary for operation of the system. An eligible cistern is a system that meets each of the following criteria:

(1) It is a watertight storage tank with smooth interior surfaces and an enclosed lid fabricated from nonreactive materials such as reinforced concrete, galvanized steel, or plastic and which is located underground, at ground level, or on elevated stands either outdoors or within a building or other containment structure and that is intended to collect rainfall from a catchment area such as a roof.

(2) It meets all standards for reclaimed or graywater promulgated by the Division of Public Health of the Department of Environment and Natural Resources, the North Carolina Building Code Council, and the local health department with jurisdiction over the facility where the system is located.

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

(c) Substantiation. – A taxpayer allowed a credit under this section must maintain and make available for inspection any information or records required by the Secretary. The taxpayer has the burden of proving eligibility for a credit and the amount of the credit.

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

(e) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2014."

SECTION 2. Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:



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1 **"§ 105-151.33. Credit for cistern installation.**

2 (a) Credit. – A taxpayer that constructs, installs, and places in service in this State an
3 eligible cistern is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer
4 of constructing and installing the system, including modifications to existing plumbing systems
5 necessary for operation of the system. An eligible cistern is a system that meets each of the
6 following criteria:

7 (1) It is a watertight storage tank with smooth interior surfaces and an enclosed
8 lid fabricated from nonreactive materials such as reinforced concrete,
9 galvanized steel, or plastic and which is located underground, at ground
10 level, or on elevated stands either outdoors or within a building or other
11 containment structure and that is intended to collect rainfall from a
12 catchment area such as a roof.

13 (2) It is located at a residence owned by the taxpayer.

14 (3) It meets all standards for reclaimed or graywater promulgated by the
15 Division of Public Health of the Department of Environment and Natural
16 Resources, the North Carolina Building Code Council, and the local health
17 department with jurisdiction over the facility where the system is located.

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

21 (c) Substantiation. – A taxpayer allowed a credit under this section must maintain and
22 make available for inspection any information or records required by the Secretary. The
23 taxpayer has the burden of proving eligibility for a credit and the amount of the credit.

24 (d) Carryforward. – Any unused portion of this credit may be carried forward for the
25 next succeeding five years.

26 (e) Sunset. – This section is repealed effective for taxable years beginning on or after
27 January 1, 2014."

28 **SECTION 3.** Article 8 of Chapter 160A of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 160A-202. Regulation of irrigation systems; regulation of cisterns and rain barrels**
31 **used for irrigation.**

32 (a) A city may by ordinance regulate or prohibit, in new subdivisions and other new
33 residential and new nonresidential developments within its corporate limits and extraterritorial
34 planning jurisdiction, underground irrigation systems that are connected to the local public
35 potable water supply system. For the purposes of this section, an underground irrigation system
36 includes any piping system installed below ground level for the purpose of providing water
37 distribution for lawns, shrubbery, and other landscaping and vegetation through spray, drip,
38 filtration, or other similar method of discharge. As used in this section, "development" has the
39 same meaning as in G.S. 160A-400.21.

40 (b) No city ordinance may prohibit or have the effect of prohibiting the installation and
41 maintenance of cisterns and rain barrel collection systems used to collect water for irrigation
42 purposes on any property within its corporate limits and extraterritorial planning jurisdiction.
43 The city may regulate the installation and maintenance of those cisterns and rain barrel
44 collection systems for the purpose of protecting the public health and safety and for the purpose
45 of preventing them from becoming a public nuisance.

46 (c) This section applies to cities having a population in excess of 100,000 according to
47 the last federal decennial census."

48 **SECTION 4.** Sections 1 and 2 of this act become effective for taxable years
49 beginning on or after January 1, 2010. G.S. 160A-202(a) and (c), as enacted by Section 3 of
50 this act, are effective when they becomes law and apply to developments for which an
51 application for a development permit has been submitted on or after that date. As used in this

1 section, "development" and "development permit" have the same meanings as in
2 G.S. 160A-400.21. G.S. 160A-202(b), as enacted by Section 3 of this act, becomes effective
3 October 1, 2009.