**South Carolina General Assembly**

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**S. 154**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Campsen

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Introduced in the Senate on January 13, 2009

Currently residing in the Senate Committee on **Finance**

Summary: Income tax credit

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2008 Senate Prefiled

12/10/2008 Senate Referred to Committee on **Finance**

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**VERSIONS OF THIS BILL**

[12/10/2008](file:///p:\pprever\2009-10\154_20081210.docx)

**A** **BILL**

TO AMEND SECTION 12‑6‑3515 OF THE 1976 CODE, RELATING TO THE STATE INCOME TAX CREDIT ALLOWED FOR DONATIONS OF A GIFT OF LAND FOR CONSERVATION OR A QUALIFIED CONSERVATION CONTRIBUTION, TO PROVIDE THAT THE CREDIT EQUALS TWENTY‑FIVE PERCENT OF THE TOTAL VALUE OF THE GIFT RATHER THAN TWENTY‑FIVE PERCENT OF THE CHARITABLE DEDUCTION FOR THE GIFT ALLOWED ON THE TAXPAYER’S FEDERAL INCOME TAX RETURN, TO INCREASE THE MAXIMUM ANNUAL CREDIT ALLOWED A TAXPAYER FROM $52,500 TO $150,000, AND TO ADJUST THE MAXIMUM ANNUAL CREDIT FOR INCREASES IN THE CONSUMER PRICE INDEX, AND TO DELETE OBSOLETE PROVISIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 12‑6‑3515 of the 1976 Code is amended to read:

“Section 12‑6‑3515. (A) A taxpayer who has qualified for and claimed on the taxpayer’s federal income tax return a charitable deduction for a gift of land for conservation or for a qualified conservation contribution donated after May 31, 2001, on a qualified real property interest located in this State may elect to claim a credit against a tax imposed by this chapter for the applicable tax year in an amount equal to twenty‑five percent of the total ~~amount of the deduction~~ value attributable to the gift of land for conservation or to the qualified real property interest located in this State~~;~~. ~~provided, however~~ However, ~~that~~ the credit is subject to the caps provided in subsection (C). If the amount of the credit exceeds the taxpayer’s tax liability under this chapter for the taxable year, or if it exceeds the maximum credit that may be used in any particular taxable year as provided in subsection (C)(2), the excess credit may be carried forward to succeeding taxable years until all the credit is claimed. In addition to the carry forward of unused credit, unused credit may be transferred, devised, or distributed, with or without consideration, by an individual, partnership, limited liability company, corporation, trust, or estate. To be ~~effectual~~ effective, such a transfer, devise, or distribution requires written notification to and approval by the department with the unused credit maintaining all its original attributes in the hands of the recipient. With regard to the sale or exchange of a credit allowed under this section, general income tax principles apply for purposes of the state income tax. In the hands of the original donor of a qualified conservation contribution of a qualified real property interest, or of a gift of land for conservation, and of any subsequent transferee, devisee, or distributee, the credit allowed by this section that may be used to offset state income tax liability in any one taxable year is limited to an amount that, when combined with all other state income tax credits of the taxpayer, does not exceed the taxpayer’s total state income tax liability for the taxable year. The fair market value of qualified donations made pursuant to this section must be substantiated by a ‘qualified appraisal’ prepared by a ‘qualified appraiser’ as those terms are defined under applicable federal law and regulations applicable to charitable contributions.

(B)(1) For purposes of this section:

(a) ‘Qualified conservation contribution’ and a ‘qualified real property interest’ are defined as provided in Internal Revenue Code Section 170(h)~~;~~ .

(b) ‘Gift of land for conservation’ means a charitable contribution of fee simple title to real property conveyed for conservation purposes as defined in Internal Revenue Code Section 170(h)(4)(A) to a qualified conservation organization as described in Internal Revenue Code Section 170(h)(3)~~; and~~.

(c) ~~No~~ A credit is not allowed pursuant to this section unless the contribution meets the requirements of Section 170 of the Internal Revenue Code, this section, and Section 12‑6‑5590. Property used for or associated with the playing of golf, or is planned to be so used or associated, is not eligible for the credits allowed by this section.

(2) Notwithstanding the provisions of Internal Revenue Code Section 170(h) and applicable regulations pertaining to forestry and silvaculture practices, a taxpayer is not disqualified for the tax credit allowed in this section because of silvacultural and forestry practices permitted by or undertaken pursuant to a conservation contribution on a real property interest if:

(a) the forestry and silvacultural practices permitted by or undertaken pursuant to the conservation contribution conform to Best Management Practices established by the South Carolina Forestry Commission existing either at the time the conservation contribution is made, or at the time a particular forestry or silvacultural practice is undertaken;

(b) the conservation contribution on a real property interest in all other respects conforms to the requirements of Internal Revenue Code Section 170(h) and applicable regulations for a ‘qualified conservation contribution’ of a ‘qualified real property interest’; and

(c) the taxpayer provides the Department of Revenue with the information the department considers necessary to determine that the taxpayer would otherwise be eligible for the deduction allowed under Section 170(h).

The amount of the credit allowable under this item is equal to twenty‑five percent of the ~~deduction~~ total value attributable to the gift of land for conservation or to the qualified real property interest that would otherwise be allowable under Section 170(h) but for the silvacultural and forestry activities performed on the real property interest, subject to the same conditions and limitations as the credit allowed by this section.

(C)(1) The credit provided for in this section may not exceed two hundred fifty dollars per acre of property to which the qualified conservation contribution or gift of land for conservation applies. For the purpose of calculating the per acre tax credit cap of this subsection, all upland and wetland acreage subject to the qualified conservation contribution shall be taken into account, except for property lying within the intertidal zone. All other wetland acreage subject to the qualified conservation contribution including, but not limited to, ponds, wetland impoundments, hardwood bottomlands, and Carolina Bays shall be taken into account when calculating the two hundred fifty dollar per acre tax credit cap.

(2)(a) Regardless of the amount of the credit allowed by this section, the total credit a taxpayer may use under this section for any particular taxable year may not exceed ~~fifty‑two~~ one hundred fifty thousand ~~five hundred~~ dollars.

(b) For taxable years beginning after 2008, the total annual credit allowed pursuant to this item must be adjusted cumulatively by the Department of Revenue by the percentage and in the manner that adjustments are made pursuant to Internal Revenue Code Section 1(f) and this amount, as adjusted, applies for the succeeding taxable year.

(3) For purposes of applying the per acre limitation and per taxpayer limitation on the credit allowed by this section, the attribution rules of Section 267 of the Internal Revenue Code apply.

~~(D)~~ ~~The South Carolina Department of Revenue shall report to the Governor, the House Ways and Means Committee, and Senate Finance Committee the activity generated on taxable year 2001 and 2002 state income tax returns by the credit allowed by this item.~~”

SECTION 2. This act takes effect upon approval by the Governor and applies for qualified conservation contributions made after 2008.

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