

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1049

Short Title: Clarify Investment Tax Credit.

(Public)

Sponsors: Senator Sherron.

Referred to: Finance

May 4, 1995

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THE QUALIFIED BUSINESS TAX CREDIT TO ELIMINATE
2 AN UNINTENDED LOOPHOLE THAT ALLOWS DOUBLE CREDITS FOR THE
3 SAME INVESTMENT AND ALLOWS CREDITS FOR INVESTMENTS IN
4 CERTAIN INVESTMENT BUSINESSES.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 105-163.011(b1) reads as rewritten:

8 "(b1) Pass-Through Entities. – This subsection does not apply to a pass-through
9 entity that is a qualified grantee business, a qualified business venture, or a North
10 Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-
11 163.012, a pass-through entity that purchases the equity securities or subordinated debt of
12 a qualified grantee business, a qualified business venture, or a North Carolina Enterprise
13 Corporation directly from the business or Corporation is eligible for a tax credit equal to
14 twenty-five percent (25%) of the amount invested. The aggregate amount of credit
15 allowed a pass-through entity for one or more investments in a single taxable year under
16 this Division, whether directly or indirectly as owner of another pass-through entity, may
17 not exceed seven hundred fifty thousand dollars (\$750,000). The pass-through entity is
18 not eligible for the credit for the year in which the investment by the pass-through entity
19 is made but shall be eligible for the credit for the taxable year beginning during the

1 calendar year in which the application for the credit becomes effective as provided in
2 subsection (c) of this section.

3 Each individual who is an owner of a pass-through entity is allowed as a credit against
4 the tax imposed by Division II of this Article for the taxable year an amount equal to the
5 owner's allocated share of the credits for which the pass-through entity is eligible under
6 this subsection. The aggregate amount of credit allowed an individual for one or more
7 investments in a single taxable year under this Division, whether directly or indirectly as
8 owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000).

9 Each corporation that is an owner of a pass-through entity is allowed as a credit for
10 the taxable year an amount equal to the corporation's allocated share of the tax credits for
11 which the pass-through entity is eligible under this subsection as a result of the pass-
12 through entity's investment in equity securities of a North Carolina Enterprise
13 Corporation. The credit is allowed against one or more of the following taxes:

- 14 (1) The income tax imposed by Division I of this Article.
- 15 (2) The franchise tax imposed by G.S. 105-116, 105-120.2, and 105-122.
- 16 (3) The gross premiums tax imposed by G.S. 105-228.5 and G.S. 105-
17 228.8.

18 The aggregate amount of credit allowed a corporation for one or more investments in
19 a single taxable year under this Division, whether directly or indirectly as owner of a
20 pass-through entity, may not exceed seven hundred fifty thousand dollars (\$750,000).

21 If an owner's share of the pass-through entity's credit is limited due to the maximum
22 allowable credit under this section for a taxable year or if a corporate owner is not
23 eligible for the credit because the investment was not made in a North Carolina
24 Enterprise Corporation, the pass-through entity and its owners may not reallocate the
25 unused credit among the other owners."

26 Sec. 2. G.S. 105-163.013(c) is amended by adding a new subdivision to read:

27 "(4) It does not engage as a substantial part of its business in the purchase,
28 sale, or development, or purchasing, selling, or holding for investment
29 of commercial paper, notes, other indebtedness, financial instruments,
30 securities, or real property, or in otherwise making investments."

31 Sec. 3. This act is effective for taxable years beginning on or after January 1,
32 1995.