





(6) Technology development fund. – A limited liability company that conducts programs to promote job growth and capital formation, is managed solely by a qualified technology development organization, and has been certified by the State Treasurer pursuant to G.S. 105-129.22.

**"§ 105-129.21. Technology development contingent credit.**

(a) Credit. – If a qualified investment default occurs with respect to a qualified investment, the owner of the qualified investment at the time the qualified investment default occurs is allowed a credit in an amount equal to the qualified default amount, adjusted as provided in this section. The credit may not be taken for the taxable year in which the default occurs but must be taken for the taxable year that begins in the calendar year in which the application for the credit becomes effective as provided in subsection (b) of this section.

(b) Application. – To be eligible for the tax credit provided in this section, the taxpayer must file an application with the Secretary on or before April 15 of the year following the calendar year in which the qualified investment default occurred. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the default occurred. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and include any supporting documentation the Secretary requires.

(c) Ceiling. – The total amount of all tax credits allowed to all taxpayers under this section for qualified investment defaults that occur in any calendar year may not exceed the maturity ceiling for the applicable year. The Secretary must calculate the total amount of tax credits claimed under this section for each year from applications filed pursuant to subsection (b) of this section. If the total amount of tax credits claimed for any calendar year exceeds the maturity ceiling for that year, the Secretary must allow a portion of the credits claimed by allocating the maturity ceiling for that year among the taxpayers claiming the credit in proportion to the size of the credit claimed by each taxpayer. If a credit is reduced pursuant to this subsection, the Secretary must notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year the allocation was made. The Secretary's allocations under this subsection are final and will not be adjusted for credits applied for but not claimed.

The maturity ceiling for a calendar year is the applicable amount provided in the table below plus the remaining maturity ceiling at the end of the previous calendar year, if any:

<u>Year</u>	<u>Amount</u>
<u>2006</u>	<u>\$8,250,000</u>
<u>2007</u>	<u>\$16,750,000</u>
<u>2008</u>	<u>\$25,000,000</u>
<u>2009</u>	<u>\$25,000,000</u>
<u>2010</u>	<u>\$25,000,000</u>
<u>Thereafter</u>	<u>-0-</u>

1       (d) No Double Benefit. – A taxpayer who claims a credit under this Part with  
2 respect to a qualified investment default must make the adjustment provided in G.S.  
3 105-130.5(a)(14) or G.S. 105-134.6(c)(8), as applicable.

4       (e) Participation in Business. – No credit is allowed with respect to a qualified  
5 investment if any owner of that investment has participated in the operation of any  
6 business in which the technology development fund invests. For the purpose of this  
7 section, a person participates in the operation of a business if the person, the person's  
8 spouse, parent, sibling, or child, or an employee of any of these individuals or of a  
9 business controlled by any of these individuals, provides services of any nature to the  
10 business for compensation, whether as an employee, a contractor, or otherwise.  
11 However, a person who provides services to a business, whether as an officer, a member  
12 of the board of directors, or otherwise does not participate in its operation if the person  
13 receives as compensation only reasonable reimbursement of expenses incurred in  
14 providing the services, participation in a stock option or stock bonus plan, or both.

15       (f) Forfeiture. – A taxpayer who has received a credit under this Part forfeits the  
16 credit if the Secretary determines that the technology development fund in which the  
17 qualified investment was made either (i) supplied false information to the State  
18 Treasurer under G.S. 105-129.22 or (ii) did not reinvest the entire net proceeds of the  
19 qualified investment in one or more of its programs to assist small businesses in  
20 developing technology. A taxpayer who forfeits a credit under this section is liable for  
21 all past taxes avoided as a result of the credit plus interest at the rate established under  
22 G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit  
23 had not been allowed. The past taxes and interest are due 30 days after the date the  
24 credit is forfeited; a taxpayer who fails to pay the past taxes and interest by the due date  
25 is subject to the penalties provided in G.S. 105-236.

26 **"§ 105-129.22. Procedure.**

27       (a) Certification. – In order to participate in the program provided in this Part, a  
28 technology development fund must obtain the certification of the State Treasurer that it  
29 and the technology development organization that manages it meet the requirements of  
30 this Part. The Treasurer's certification remains in effect until the end of the calendar  
31 year following the calendar year in which it was issued.

32       (b) Qualified Investments. – A cash investment in a technology development  
33 fund may qualify under this Part if all of the following conditions are met:

34           (1) Under the terms of the investment, repayment of the investment by the  
35 technology development fund becomes due no earlier than the fifth  
36 anniversary of the date the investment was received by the technology  
37 development fund and no later than on the tenth anniversary of the  
38 date the investment was received by the technology development fund,  
39 subject to the option of the technology development fund to make  
40 earlier repayment.

41           (2) Under the terms of the investment, the investment must be refunded if  
42 the technology development fund does not timely provide a contingent  
43 credit reservation as required by this section.

1           (3) Under the terms of the investment, the net proceeds of the investment  
2           will be reserved for reinvestment by the technology development fund  
3           in one or more of its programs to assist small businesses in developing  
4           technology.

5           (4) The terms of the investment cancel the technology development fund's  
6           obligations to repay a default amount if the following conditions are  
7           met with respect to the default amount:

8           a. The technology development fund defaults on paying the  
9           default amount.

10          b. The technology development fund delivers to the record holder  
11          of the investment a written certification that the technology  
12          development fund cannot repay the default amount.

13          (5) The technology development fund has issued a contingent credit  
14          reservation for the investment as provided in this section.

15          (c) Registration. – Before issuing a contingent credit reservation for a qualified  
16          investment as provided in this section, the technology development fund must register  
17          the investment with the State Treasurer. The registration must include the investment  
18          amount, the date invested, the date due, the name, address, and taxpayer identification  
19          number of the investor, and any other information required by the State Treasurer. By  
20          February 15 of each year, the State Treasurer must provide the Secretary of Revenue a  
21          compilation of this information for the previous calendar year, in the form required by  
22          the Secretary.

23          (d) Contingent Credit Reservation. – Within 90 days after receiving a qualified  
24          investment, the technology development fund must provide the investor a contingent  
25          credit reservation, which is written certification by the technology development fund of  
26          the amount of the investment that constitutes a qualified investment for purposes of this  
27          Part.

28          (e) Default. – If a technology development fund cannot repay a default amount it  
29          may cancel its obligation to repay the default amount by delivering to the record owner  
30          of the investment a written certification of the amount, of its inability to repay that  
31          amount, and of the fact that the investment was reinvested by the technology  
32          development fund in one or more of its programs to assist small businesses in  
33          developing technology. The certification must be in the form required by the Secretary  
34          of Revenue and must include the name and address of the technology development  
35          fund, the name, address, and taxpayer identification number of the owner of the  
36          investment, and any other information prescribed by the Secretary."

37                 **SECTION 6.** Part 1 of Article 3B of Chapter 105 of the General Statutes, as  
38                 designated by this act, reads as rewritten:

39                                 "Part 1. General Provisions.

40                 "**§ 105-129.15A. Sunset.**

41                 G.S. 105-129.16 is repealed effective for business property placed in service on or  
42                 after January 1, 2002. The remainder of Part 2 of this Article is repealed effective  
43                 January 1, 2006. The repeal of G.S. 105-129.16A applies to renewable energy property  
44                 placed in service on or after January 1, 2006. The repeal of G.S. 105-129.16B applies to

1 buildings to which federal credits are allocated on or after January 1, 2006. Part 3 of this  
2 Article is repealed effective for taxable years beginning on or after January 2011.

3 **"§ 105-129.15B. Tax election; cap.**

4 (a) Tax Election. – The credits allowed in this Article are allowed against the  
5 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4  
6 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed  
7 when filing the return on which the first installment of the credit is claimed. This  
8 election is binding. Any carryforwards of a credit must be claimed against the same tax.

9 (b) Cap. – The credits allowed in this Article may not exceed fifty percent (50%)  
10 of the tax against which they are claimed for the taxable year, reduced by the sum of all  
11 other credits allowed against that tax, except tax payments made by or on behalf of the  
12 taxpayer. This limitation applies to the cumulative amount of credit, including  
13 carryforwards, claimed by the taxpayer under this Article against each tax for the  
14 taxable year. Any unused portion of the credits allowed under Part 2 of this Article may  
15 be carried forward for the succeeding five years. years and any unused portion of the  
16 credit allowed under Part 3 of this Article may be carried forward for the succeeding 20  
17 years.

18 **"§ 105-129.15C. Substantiation.**

19 To claim a credit allowed by this Article, the taxpayer must provide any information  
20 required by the Secretary of Revenue. Every taxpayer claiming a credit under this  
21 Article must maintain and make available for inspection by the Secretary of Revenue  
22 any records the Secretary considers necessary to determine and verify the amount of the  
23 credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and  
24 the amount of the credit rests upon the taxpayer, and no credit may be allowed to a  
25 taxpayer that fails to maintain adequate records or to make them available for  
26 inspection.

27 **"§ 105-129.15D. Reports.**

28 The Department of Revenue shall report to the Legislative Research Commission  
29 and to the Fiscal Research Division of the General Assembly by May 1 of each year the  
30 following information for the 12-month period ending the preceding April 1:

- 31 (1) The number of taxpayers that claimed the credits allowed in this  
32 Article.  
33 (2) The cost of business property and renewable energy property with  
34 respect to which credits were claimed.  
35 (2a) The location of each qualified North Carolina low-income building  
36 with respect to which a low-income housing credit was claimed.  
37 (3) The total cost to the General Fund of the credits ~~claimed~~ claimed,  
38 itemized by type of credit."

39 **SECTION 7.** G.S. 105-130.5(a) is amended by adding a new subdivision to  
40 read:

- 41 "(14) The amount of any loss or deduction allowed under the Code with  
42 respect to the sale, exchange, abandonment, or worthlessness of a  
43 qualified investment or with respect to the cancellation of the

1                   obligation to repay a qualified investment as defined in G.S.  
2                   105-129.20."

3                   **SECTION 8.** G.S. 105-134.6(c) is amended by adding the following new  
4 subdivision to read:

5                   "(8) The amount of any loss or deduction allowed under the Code with  
6                   respect to the sale, exchange, abandonment, or worthlessness of a  
7                   qualified investment or with respect to the cancellation of the  
8                   obligation to repay a qualified investment as defined in G.S.  
9                   105-129.20."

10                   **SECTION 9.** This act is effective when it becomes law.