

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE BILL 1747*

Short Title: Sunset Recycling Facility Credits. (Public)

Sponsors: Senators Hoyle, Kerr, Brunstetter, Dalton, Hartsell; and Stevens.

Referred to: Finance.

May 21, 2008

1 A BILL TO BE ENTITLED
2 AN ACT TO PLACE A SUNSET ON THE CREDIT FOR INVESTING IN A LARGE
3 OR MAJOR RECYCLING FACILITY AND TO EXTEND THE CREDIT FOR
4 REINVESTMENT.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 105-129.27 is amended by adding a new subsection to
7 read:

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 – This section is repealed effective for taxable years beginning on or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

10 **SECTION 2.** Section 19 of S.L. 1998-55 is repealed.

11 **SECTION 3.** G.S. 105-129.28 reads as rewritten:

12 "**§ 105-129.28. Credit for reinvestment.**

13 (a) Credit. – A major recycling facility that is accessible by neither ocean barge
14 nor ship and that transports materials to the facility or products away from the facility is
15 allowed a credit against the tax imposed by Part 1 of Article 4 of this Chapter equal to
16 its additional transportation and transloading expenses incurred with respect to the
17 materials and products due to its inability to use ocean barges or ships. The additional
18 expenses for which credit is allowed are expenses due to using river barges and
19 expenses due to having to use another mode of transportation because the quantity that
20 is transported by river barge is insufficient to meet the facility's needs. In order to claim
21 the credit allowed by this section, the facility must provide the Secretary of Commerce
22 audited documentation of the amount of its additional transportation and transloading
23 expenses incurred during the taxable year.

24 (b) Cap. – The credit allowed to a major recycling facility under this section for
25 the taxable year may not exceed ten million four hundred thousand dollars
26 (\$10,400,000).~~the applicable annual cap provided in the following table:~~

Taxable Year	Cap
27 1998	\$ 150,000
28 1999	\$ 640,000

1	2000	\$ 3,860,000
2	2001	\$ 8,050,000
3	2002	\$ 9,550,000
4	2003	\$10,100,000
5	2004-2007	\$10,400,000

6 (c) Reduction. – ~~For the first ten taxable years after the owner begins~~
7 ~~transporting materials and products to and from the major recycling facility, the~~ The
8 credit allowed by this section must be reduced by the amount of credit allowed in
9 previous years that was used for a purpose other than an allowable purpose under
10 subsection (d) of this section, as certified by the Secretary of Commerce.

11 (d) Use of Credited Amount. – ~~For the first ten taxable years after the owner~~
12 ~~begins construction of the major recycling facility, the~~ The owner must use the amount
13 of credit allowed under this section to pay for (i) investment in rail or roads associated
14 with the facility, (ii) investment in water system infrastructure designed to reduce the
15 expense of transporting materials and products to and from the recycling facility, and
16 (iii) investment in land and infrastructure for other industrial sites located in the same
17 county as the recycling facility. If the owner determines that there are no reasonable
18 economic opportunities in a given year to use the total amount of credit for the
19 expenditures described above, the owner may use the excess for investment at or in
20 connection with the recycling ~~facility.~~ facility above the initial required investment of
21 ~~three hundred million dollars (\$300,000,000).~~

22 Expenses incurred for the purposes allowed in this subsection during a taxable year
23 ~~in the ten year period~~ may be counted toward a credit allowed in a later taxable year.
24 ~~year in the ten year period.~~ If the owner is not able to use the full amount of the credit
25 during a taxable year for any of the purposes allowed by this subsection, the excess may
26 be used for these purposes in subsequent taxable years.

27 The owner must provide the Secretary of Commerce with annual audited
28 documentation demonstrating that the amount of credit received under this section
29 during the previous twelve-month period has not been used for a purpose inconsistent
30 with this subsection. If the Secretary of Commerce determines that the owner has used
31 any of the credit for a purpose that is inconsistent with the requirements of this
32 subsection, the Secretary of Commerce ~~shall~~ must certify the amount so used to the
33 Secretary of ~~Revenue~~ Revenue, and the credit allowed the owner under this section for
34 the following taxable year ~~shall be~~ is reduced by that amount in accordance with
35 subsection (c) of this section.

36 ~~After the end of the ten year period, the amount of any credit allowed under this~~
37 ~~section that has not yet been used may be used for investment at or in connection with~~
38 ~~the recycling facility above the initial required investment of three hundred million~~
39 ~~dollars (\$300,000,000).~~

40 (e) Credit Refundable. – If the credit allowed by this section exceeds the amount
41 of tax imposed by Part 1 of Article 4 of this Chapter for the taxable year reduced by the
42 sum of all credits allowable, the Secretary ~~shall~~ must refund the excess to the taxpayer.
43 The refundable excess is considered an overpayment by the taxpayer, governed by the
44 ~~provisions governing a refund of an overpayment by the taxpayer of the tax imposed in~~

1 ~~Part 1 of Article 4 of this Chapter.~~ In computing the amount of tax against which
2 multiple credits are allowed, nonrefundable credits are subtracted before refundable
3 credits.

4 (f) Sunset. – This section expires for taxable years beginning on or after January
5 1, 2014."

6 **SECTION 4.** This act is effective when it becomes law.