

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2002-155
SENATE BILL 1252

AN ACT TO AMEND THE LAND CONSERVATION STATUTES OF THE STATE
OF NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL
REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-231 reads as rewritten:

"§ 113A-231. Program to accomplish conservation purposes.

The Department of Environment and Natural Resources shall develop a nonregulatory program that uses conservation tax credits as a prominent tool to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real property: donated for tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

SECTION 2. G.S. 113A-232 reads as rewritten:

"§ 113A-232. Conservation Grant Fund.

(a) **Fund Created.** – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by that Department. The purpose of the Fund is to stimulate the use of conservation ~~easements, easements and conservation tax credits,~~ to improve the capacity of private nonprofit land ~~trusts—trust~~ organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase ~~citizen-landowner~~ participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

(b) **Fund Sources.** – The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and any monies received from public or private sources. Unexpended monies in the Fund that were appropriated from the General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise provides. Unexpended monies in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) **Property Eligibility.** – In order for ~~land—real property or an interest in real property~~ to be the subject of a grant under this Article, the ~~land—real property or interest in real property~~ must possess or have a high potential to possess ecological value, must be reasonably restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S. 105-151.12.

(c1) **Grant Eligibility.** – State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be certified under section 501(c)(3) of the Internal Revenue Code.

(d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the following purposes:

- (1) The administrative costs of the Department in administering the Fund.
- (2) Conservation grants made in accordance with this Article.
- (3) To establish an endowment account, the interest from which will be used for a purpose described in ~~G.S. 113A-233(a)(3) or (a)(5)~~. G.S. 113A-233(a)."

SECTION 3. G.S. 113A-233 reads as rewritten:

"§ 113A-233. Uses of a grant from the Conservation Grant Fund.

(a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to pay for one or more of the following costs:

- (1) Reimbursement for total or partial transaction costs for ~~a donation~~ donation of real property or an interest in real property from an individual or corporation satisfying either of the following:
 - a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.
 - b. Insufficient tax burdens to allow these costs to be offset by the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by charitable deductions.
- (2) Management support, including initial baseline inventory and planning.
- (3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.
- (4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.
- (5) Stewardship of land.
- (6) ~~Transaction costs,~~ costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
- (7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price ~~for any interest in land of~~ real property or an interest in real property."

SECTION 4. G.S. 113A-234 reads as rewritten:

"§ 113A-234. Administration of grants.

(a) Grant Procedures and Criteria. – The Secretary of Environment and Natural Resources shall establish the procedures and criteria for awarding grants from the Conservation Grant Fund. The criteria shall focus grants on those areas, approaches, and techniques that are likely to provide the optimum positive effect on environmental protection. The Secretary shall make the final decision on the award of grants and shall announce the award publicly in a timely manner.

(b) Grant Administration. – The Secretary may administer the grants under this Article or may contract for selected activities under this Article. If administrative services are contracted, the Department shall establish guidance and criteria for its operation and contract with a statewide nonprofit land trust service organization."

SECTION 5. G.S. 113A-235 reads as rewritten:

"§ 113A-235. Conservation easements.

(a) Acquisition and Protection of Conservation Easements. – Ecological systems and appropriate public use of these systems may be protected through conservation easements, including conservation agreements under Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act, and conservation easements under the Conservation Reserve Enhancement Program. The Department of Environment and Natural Resources shall work cooperatively with State

and local agencies and qualified nonprofit organizations to monitor compliance with conservation easements and conservation agreements and to ensure the continued viability of the protected ecosystems. Soil and water conservation districts established under Chapter 139 of the General Statutes may acquire easements under the Conservation Reserve Enhancement Program by purchase or gift.

(b) Conveyance of Conservation Lands. – The Department may convey real property or an interest in real property that has been acquired ~~under the Conservation Reserve Enhancement Program for conservation in perpetuity to a federal or agency, State agency, a local government, or a private, private nonprofit conservation organization to acquire, manage,~~ organization in accordance with State law governing the conveyance of real property. The grantee of real property or an interest in real property shall manage and maintain the real property or an interest in real property for the purposes set out in subsection (a) of this section. When conveying real property or an interest in real property under this subsection, the Department shall retain a possibility of reverter, a right of entry, or other appropriate property interest to ensure that the real property or interest in real property will continue to be managed and maintained in a manner that protects ecological systems and the appropriate public use of these systems. A grantee of real property or an interest in real property under this subsection shall grant a conservation easement in the real property or interest in real property to the Department in a form that is acceptable to the Department.

(c) Report. – The Department shall report on the implementation of this Article to the Environmental Review Commission no later than 1 November of each year. The Department shall maintain an inventory of all conservation easements held by the Department. The inventory shall be included in the report required by this subsection."

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

In the General Assembly read three times and ratified this the 1st day of October, 2002.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:39 p.m. this 9th day of October, 2002