



2015-2016 General Assembly

# SENATE BILL 770: North Carolina Farm Act of 2016, Sec. 10: Extend Sunset for Constructing Certain Renewable Fuel Facilities

**Committee:**  
**Introduced by:**  
**Analysis of:** Sec. 10 of S.L. 2016-113

**Date:** August 31, 2016  
**Prepared by:** Trina Griffin  
Staff Attorney

**OVERVIEW:** *Sec. 10 of S.L. 2016-113 extends for three years the sunset for the tax credit for constructing a commercial facility that processes renewable fuel but only for a taxpayer that signed a letter of commitment with the Department of Commerce to that effect prior to September 1, 2013, and that began construction of the facility prior to January 1, 2014.*

*This section became effective July 26, 2016.*

**CURRENT LAW:** In 2004, the General Assembly enacted a new tax credit, effective beginning in 2005, for a taxpayer that constructs and places in service a commercial facility for processing renewable fuel, defined as biodiesel or ethanol. The credit is equal to 25% of the cost of constructing and equipping the facility. Unlike the other Article 3B renewable energy property credit, this credit is not limited to a certain amount per facility and must be taken in seven annual installments. There is no double credit – the taxpayer must choose between any available credits and take only one with respect to the same costs. The credit may be claimed against income tax or franchise tax, is limited to 50% of the amount of tax liability against which it is claimed, and any excess may be carried forward for up to five years.

Since its enactment, the sunset has been extended three times.<sup>1</sup> In 2013, the sunset was further extended from January 1, 2014, to January 1, 2017, for a taxpayer meeting the following conditions<sup>2</sup>:

- Has signed a letter of commitment with the Department of Commerce on or before September 1, 2013, stating the taxpayer's intent to construct and place into service in this State a commercial facility for processing renewable fuel.
- Began construction of the facility on or before December 31, 2013.

Carolina Cellulosic Biofuels, LLC (CCB), being developed by Chemtex International, Inc., is in the process of constructing a facility in Sampson County that will produce cellulosic ethanol from North Carolina grown grasses, residuals, and wood chips. CCB meets the conditions set forth above. The company anticipates placing the facility into service at the end of 2018.

**BILL ANALYSIS:** Section 10 of S.L. 2016-113 extends from January 1, 2017, to January 1, 2020, the sunset for the credit for constructing certain renewable fuel facilities for a taxpayer that has signed a letter of commitment with the Department of Commerce on or before September 1, 2013, with regard to construction of a facility for processing renewable fuel and that began construction of the facility on or before December 31, 2013.

**EFFECTIVE DATE:** This section became effective July 26, 2016.

<sup>1</sup> S.L. 2006-66, S.L. 2010-167, and S.L. 2012-36.

<sup>2</sup> Sec. 11.3 of S.L. 2013-363.

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