

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 251

Short Title: Modify Historic Rehabilitation Credit.

(Public)

Sponsors: Senators Horton; Albertson, Allran, Ballance, Carpenter, Carrington, Cochrane, East, Forrester, Garwood, Gulley, Hartsell, Hoyle, Kerr, Lucas, Moore, Soles, and Weinstein.

Referred to: Finance.

March 8, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE HISTORIC REHABILITATION TAX CREDIT TO BE
3 ALLOCATED BY A PASS-THROUGH ENTITY TO ITS OWNERS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 105 of the General Statutes is amended by adding a new
6 Article to read:

7 **"ARTICLE 3D.**

8 **"HISTORIC REHABILITATION TAX CREDITS."**

9 Section 2. G.S. 105-130.42(a) is recodified as G.S. 105-129.35 in Article 3D
10 of Chapter 105 of the General Statutes.

11 Section 3. G.S. 105-130.42(b) is recodified as G.S. 105-129.36 in Article 3D
12 of Chapter 105 of the General Statutes.

13 Section 4. G.S. 105-130.42(c) is recodified as G.S. 105-129.37 in Article 3D
14 of Chapter 105 of the General Statutes.

15 Section 5. Article 3D of Chapter 105 of the General Statutes, as enacted and
16 amended by this act, reads as rewritten:

17 **"ARTICLE 3D.**

18 **"HISTORIC REHABILITATION TAX CREDITS.**

1 **"§ 105-129.35. Credit for rehabilitating ~~Income-Producing Historic Structure.~~ income-**
2 **producing historic structure.**

3 (a) Credit. – A taxpayer who is allowed a federal income tax credit under section
4 47 of the Code for making ~~qualifying~~ qualified rehabilitation expenditures for a certified
5 historic structure located in this State is allowed a credit ~~against the tax imposed by this~~
6 ~~Part. The amount of the credit is equal to~~ twenty percent (20%) of the expenditures that
7 qualify for the federal credit. Notwithstanding the provisions of G.S. 105-131.8 and G.S.
8 105-269.15, a pass-through entity that qualifies for the credit provided in this section may
9 allocate the credit among any of its owners in its discretion. Owners to whom a credit is
10 allocated are allowed the credit as if they had qualified for the credit directly. A pass-
11 through entity and its owners shall include with their tax returns for every taxable year in
12 which an allocated credit is claimed a copy of the allocation made by the pass-through
13 entity.

14 (b) Definitions. – The following definitions apply in this section:

15 (1) Certified historic structure. – Defined in section 47 of the Code.

16 (2) Pass-through entity. – An entity or business, including a limited
17 partnership, a general partnership, a joint venture, a Subchapter S
18 Corporation, or a limited liability company, all of which is treated as
19 owned by individuals or other entities under the federal tax laws, in
20 which the owners report their share of the income, losses, and credits
21 from the entity or business on their income tax returns filed with this
22 State. For the purpose of this section, an owner of a pass-through entity
23 is an individual or entity who is treated as an owner under the federal
24 tax laws.

25 (3) Qualified rehabilitation expenditures. – Defined in section 47 of the
26 Code.

27 **"§ 105-129.36. Credit for rehabilitating ~~Nonincome-Producing Historic Structure.~~**
28 **nonincome-producing historic structure.**

29 (a) Credit. – A taxpayer who is not allowed a federal income tax credit under
30 section 47 of the Code and who makes rehabilitation expenses for a ~~certified~~ State-
31 certified historic structure located in this State is allowed a credit ~~against the tax imposed~~
32 ~~by this Part. The amount of the credit is equal to~~ thirty percent (30%) of the rehabilitation
33 expenses. To qualify for the credit, the taxpayer's rehabilitation expenses must exceed
34 twenty-five thousand dollars (\$25,000) within a 24-month period. To claim the credit
35 allowed by this subsection, the taxpayer must attach to the return a copy of the
36 certification obtained from the State Historic Preservation Officer verifying that the
37 historic structure has been rehabilitated in accordance with this subsection.

38 (b) Definitions. – The following definitions apply in this ~~subsection.~~ section:

39 (1) Certified historic structure. – A structure that is ~~individually listed in the~~
40 ~~National Register of Historic Places or is certified by the State Historic~~
41 ~~Preservation Officer as contributing to the historic significance of a~~
42 ~~National Register Historic District or a locally designated historic~~
43 ~~district certified by the United States Department of the Interior.~~

1 (2) Certified rehabilitation. – Repairs or alterations consistent with the
2 Secretary of the Interior's Standards for Rehabilitation and certified as
3 such by the State Historic Preservation Officer prior to the
4 commencement of the work. ~~The expenditures must, within a 24-month~~
5 ~~period, exceed twenty-five thousand dollars (\$25,000). The North Carolina~~
6 ~~Historical Commission, in consultation with the State Historic Preservation~~
7 ~~Officer, may adopt rules needed to administer the certification process.~~

8 (3) Rehabilitation expenses. – Expenses incurred in the certified
9 rehabilitation of a certified historic structure and added to the property's
10 basis. The term does not include the cost of acquiring the property, the
11 cost attributable to the enlargement of an existing building, the cost of
12 sitework expenditures, or the cost of personal property.

13 (3a) State-certified historic structure. – A structure that is individually listed
14 in the National Register of Historic Places or is certified by the State
15 Historic Preservation Officer as contributing to the historic significance
16 of a National Register Historic District or a locally designated historic
17 district certified by the United States Department of the Interior.

18 (4) State Historic Preservation Officer. – The Director of the Division of
19 Archives and History or the Director's designee who acts to administer
20 the historic preservation programs within the State.

21 (c) Rules. – The North Carolina Historical Commission, in consultation with the
22 State Historic Preservation Officer, may adopt rules needed to administer the certification
23 process required by this section.

24 "**§ 105-129.37. Tax credited; credit limitations.**

25 (a) Tax Credited. – The credits provided in this Article are allowed against the
26 income taxes levied in Article 4 of this Chapter.

27 (b) Credit Limitations. – The entire credit may not be taken for the taxable year in
28 which the property is placed in service but must be taken in five equal installments
29 beginning with the taxable year in which the property is placed in service. Any unused
30 portion of the credit may be carried forward for the succeeding five years. ~~The A~~ credit
31 allowed under this section ~~Article~~ may not exceed the amount of tax imposed by this Part
32 the tax against which it is claimed for the taxable year reduced by the sum of all credits
33 allowed, except payments of tax made by or on behalf of the taxpayer."

34 Section 6. G.S. 105-151.23(a) is recodified as G.S. 105-129.35, G.S. 105-
35 151.23(b) is recodified as G.S. 105-129.36, and G.S. 105-151.23(c) is recodified as G.S.
36 105-129.37. Article 3D of Chapter 105 of the General Statutes, as amended by this act,
37 incorporates both G.S. 105-130.42 and G.S. 105-151.23.

38 Section 7. This act is effective for taxable years beginning on or after January
39 1, 1999.