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SENATE DRS35065-MC-91 (03/04)

Short Title: Reenact Preservation Rehab Tax Credits. (Public)

Sponsors: Senator Lowe (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REENACT THE REHABILITATION TAX CREDITS.
3 The General Assembly of North Carolina enacts:

4 **PART I. MILL REHABILITATION TAX CREDIT**

5 **SECTION 1.(a)** Article 3H of Subchapter I of Chapter 105 of the General Statutes
6 is reenacted as it existed immediately before its repeal and reads as rewritten:

7 "Article 3H.

8 "Mill Rehabilitation Tax Credit.

9 **"§ 105-129.70. Definitions.**

10 The following definitions apply in this Article:

11 ...

12 **"§ 105-129.71. Credit for income-producing rehabilitated mill property.**

13 (a) Credit. – A taxpayer who is allowed a credit under section 47 of the Code for
14 making qualified rehabilitation expenditures of at least three million dollars (\$3,000,000) with
15 respect to a certified rehabilitation of an eligible site is allowed a credit equal to a percentage of
16 the expenditures that qualify for the federal credit. The credit may be claimed in the year in
17 which the eligible site is placed into service. When the eligible site is placed into service in two
18 or more phases in different years, the amount of credit that may be claimed in a year is the
19 amount based on the qualified rehabilitation expenditures associated with the phase placed into
20 service during that year. In order to be eligible for a credit allowed by this Article, the taxpayer
21 must provide to the Secretary a copy of the eligibility certification and the cost certification.

22 The amount of the credit is as follows:

- 23 (1) For an eligible site located in a development tier one or two area, determined
24 as of the date of the eligibility certification, the amount of the credit is equal
25 to forty percent (40%) of the qualified rehabilitation expenditures.
26 (2) For an eligible site located in a development tier three area, determined as of
27 the date of the eligibility certification, the amount of the credit is equal to
28 thirty percent (30%) of the qualified rehabilitation expenditures.

29 ...

30 **"§ 105-129.72. Credit for nonincome-producing rehabilitated mill property.**

31 (a) Credit. – A taxpayer who is not allowed a federal income tax credit under section 47
32 of the Code and who makes rehabilitation expenses of at least three million dollars
33 (\$3,000,000) with respect to a certified rehabilitation of an eligible site is allowed a credit equal
34 to a percentage of the rehabilitation expenses. The entire credit may not be taken for the taxable
35 year in which the property is placed in service, but must be taken in five equal installments
36 beginning with the taxable year in which the property is placed in service. When the eligible



1 site is placed into service in two or more phases in different years, the amount of credit that
2 may be claimed in a year is the amount based on the rehabilitation expenses associated with the
3 phase placed into service during that year. In order to be eligible for a credit allowed by this
4 Article, the taxpayer must provide to the Secretary a copy of the eligibility certification and the
5 cost certification. For an eligible site located in a development tier one or two area, determined
6 as of the date of the eligibility certification, the amount of the credit is equal to forty percent
7 (40%) of the rehabilitation expenses. No credit is allowed for a site located in a development
8 tier three area.

9 ...
10 **"§ 105-129.73. Tax credited; cap.**

11 (a) Taxes Credited. – The credits allowed by this Article may be claimed against the
12 franchise tax imposed under Article 3 of this Chapter, the income taxes imposed under Article
13 4 of this Chapter, or the gross premiums tax imposed under Article 8B of this Chapter. The
14 taxpayer may take the credits allowed by this Article against only one of the taxes against
15 which it is allowed. The taxpayer must elect the tax against which a credit will be claimed
16 when filing the return on which it is claimed. This election is binding. Any carryforwards of the
17 credit must be claimed against the same tax.

18 (b) Cap. – A credit allowed under this Article may not exceed the amount of the tax
19 against which it is claimed for the taxable year reduced by the sum of all credits allowed,
20 except payment of tax made by or on behalf of the taxpayer. Any unused portion of the credit
21 may be carried forward for the succeeding nine years.

22 **"§ 105-129.74. Coordination with Article 3D of this Chapter.**

23 A taxpayer that claims a credit under this Article may not also claim a credit under Article
24 3D of this Chapter with respect to the same activity. The rules and fee schedule adopted under
25 G.S. 105-129.36A apply to this Article.

26 **"§ 105-129.75. Sunset.**

27 This Article expires January 1, ~~2015~~2021, for rehabilitation projects for which an
28 application for an eligibility certification is submitted on or after that date.

29 **"§ 105-129.75A. Report.**

30 The Department must include in the economic incentives report required by G.S. 105-256
31 the following information itemized by taxpayer:

- 32 (1) The number of taxpayers that took the credits allowed in this Article.
- 33 (2) The amount of rehabilitation expenses and qualified rehabilitation
34 expenditures with respect to which credits were taken.
- 35 (3) The total cost to the General Fund of the credits taken."

36 **SECTION 1.(b)** This Part is effective when it becomes law and applies to
37 rehabilitation projects for which an application for eligibility certification is submitted on or
38 after that date.

39
40 **PART II. HISTORIC REHABILITATION TAX CREDITS**

41 **SECTION 2.(a)** Article 3D of Subchapter I of Chapter 105 of the General Statutes
42 is reenacted as it existed immediately before its repeal and reads as rewritten:

43 "Article 3D.

44 "Historic Rehabilitation Tax Credits.

45 **"§ 105-129.35. Credit for rehabilitating income-producing historic structure.**

46 (a) Credit. – A taxpayer who is allowed a federal income tax credit under section 47 of
47 the Code for making qualified rehabilitation expenditures for a certified historic structure
48 located in this State is allowed a credit equal to twenty percent (20%) of the expenditures that
49 qualify for the federal credit. If the certified historic structure is a facility that at one time
50 served as a State training school for juvenile offenders, the amount of the credit is equal to forty
51 percent (40%) of the expenditures that qualify for the federal credit. To claim the credit allowed

1 by this subsection, the taxpayer must provide a copy of the certification obtained from the State
2 Historic Preservation Officer verifying that the historic structure has been rehabilitated in
3 accordance with this subsection.

4 ...

5 **"§ 105-129.36. Credit for rehabilitating nonincome-producing historic structure.**

6 (a) Credit. – A taxpayer who is not allowed a federal income tax credit under section 47
7 of the Code and who makes rehabilitation expenses for a State-certified historic structure
8 located in this State is allowed a credit equal to thirty percent (30%) of the rehabilitation
9 expenses. If the certified historic structure is a facility that at one time served as a State training
10 school for juvenile offenders, the amount of the credit is equal to forty percent (40%) of the
11 expenditures that qualify for the federal credit. To qualify for the credit, the taxpayer's
12 rehabilitation expenses must exceed twenty-five thousand dollars (\$25,000) within a 24-month
13 period. To claim the credit allowed by this subsection, the taxpayer must provide a copy of the
14 certification obtained from the State Historic Preservation Officer verifying that the historic
15 structure has been rehabilitated in accordance with this subsection.

16 ...

17 **"§ 105-129.37. Tax credited; credit limitations.**

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

20 (b) Credit Limitations. – The entire credit may not be taken for the taxable year in
21 which the property is placed in service but must be taken in five equal installments beginning
22 with the taxable year in which the property is placed in service. Any unused portion of the
23 credit may be carried forward for the succeeding five years. A credit allowed under this Article
24 may not exceed the amount of the tax against which it is claimed for the taxable year reduced
25 by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

26 ...

27 **"§ 105-129.38. Report.**

28 The Department must include in the economic incentives report required by G.S. 105-256
29 the following information itemized by taxpayer:

30 (1) The number of taxpayers that took the credits allowed in this Article.

31 (2) The amount of rehabilitation expenses and qualified rehabilitation
32 expenditures with respect to which credits were taken.

33 (3) The total cost to the General Fund of the credits taken.

34 **"§ 105-129.39. Sunset.**

35 This Article expires for qualified rehabilitation expenditures and rehabilitation expenses
36 incurred on or after January 1, ~~2015~~2021.

37 **SECTION 2.(b)** This Part is effective when it becomes law and applies to qualified
38 rehabilitation expenditures and rehabilitation expenses incurred on or after that date.