

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1393

Short Title: Modify Historic Rehabilitation Credit.

(Public)

Sponsors: Senators Horton; Albertson, Ballance, Ballantine, Carpenter, Carrington, Cochrane, Cooper, Dalton, Dannelly, East, Forrester, Foxx, Garwood, Gulley, Hartsell, Hoyle, Jenkins, Kerr, Kinnaird, Ledbetter, Lee, Lucas, Martin of Pitt, Martin of Guilford, Miller, Moore, Odom, Page, Perdue, Plyler, Purcell, Reeves, Shaw of Cumberland, Shaw of Guilford, Warren, Weinstein, and Winner.

Referred to: Finance.

May 27, 1998

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

5 The General Assembly of North Carolina enacts:

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

8 **"ARTICLE 3C.**

9 **"HISTORIC REHABILITATION TAX CREDITS.**

10 **"§ 105-129.25. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Certified historic structure. – A structure that is individually listed in the
13 National Register of Historic Places or is certified by the State Historic
14 Preservation Officer as contributing to the historic significance of a
15 National Register Historic District or a locally designated historic
16 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.
- 5 (3) Pass-through entity. – An entity or business, including a limited
6 partnership, a general partnership, a joint venture, a Subchapter S
7 Corporation, or a limited liability company, all of which is treated as
8 owned by individuals or other entities under the federal tax laws, in
9 which the owners report their share of the income, losses, and credits
10 from the entity or business on their income tax returns filed with this
11 State. For the purpose of this Division, an owner of a pass-through
12 entity is an individual or entity who is treated as an owner under the
13 federal tax laws.
- 14 (4) Rehabilitation expenses. – Expenses incurred in the certified
15 rehabilitation of a certified historic structure and added to the property's
16 basis. The term does not include the cost of acquiring the property, the
17 cost attributable to the enlargement of an existing building, the cost of
18 sitework expenditures, or the cost of personal property.
- 19 (5) State Historic Preservation Officer. – The Director of the Division of
20 Archives and History or the Director's designee who acts to administer
21 the historic preservation programs within the State."

22 Section 2. G.S. 105-130.42 is recodified as G.S. 105-129.26 in Article 3C of
23 Chapter 105 of the General Statutes.

24 Section 3. G.S. 105-129.26 reads as rewritten:

25 **"§ 105-129.26. Credit for rehabilitating an historic structure.**

26 (a) Income-Producing Historic Structure. – A taxpayer who is allowed a federal
27 income tax credit under section 47 of the Code for making qualifying rehabilitation
28 expenditures for a certified historic structure located in this State is allowed a credit
29 against the tax imposed by this Division. The amount of the credit is equal to twenty percent
30 (20%) of the expenditures that qualify for the federal credit. A pass-through entity that
31 qualifies for the credit provided in this subsection may allocate the credit among any of
32 its owners in its discretion. Owners to whom a credit is allocated are allowed the credit
33 as if they had qualified for the credit directly. A pass-through entity and its owners shall
34 include with their tax returns for every taxable year in which an allocated credit is
35 claimed a copy of the allocation made by the pass-through entity.

36 (b) Nonincome-Producing Historic Structure. – A taxpayer who is not allowed a
37 federal income tax credit under section 47 of the Code and who makes rehabilitation
38 expenses for a certified historic structure located in this State is allowed a credit against
39 the tax imposed by this Division. The amount of the credit is equal to thirty percent (30%) of
40 the rehabilitation expenses. To qualify for the credit, the taxpayer's rehabilitation
41 expenses must exceed twenty-five thousand dollars within a 24-month period. To claim
42 the credit allowed by this subsection, the taxpayer must attach to the return a copy of the
43 certification obtained from the State Historic Preservation Officer verifying that the

1 historic structure has been rehabilitated in accordance with this subsection. The following
2 definitions apply in this subsection:

- 3 (1) ~~Certified historic structure.~~— A structure that is individually listed in the
4 National Register of Historic Places or is certified by the State Historic
5 Preservation Officer as contributing to the historic significance of a
6 National Register Historic District or a locally designated historic
7 district certified by the United States Department of the Interior.
- 8 (2) ~~Certified rehabilitation.~~— Repairs or alterations consistent with the
9 Secretary of the Interior's Standards for Rehabilitation and certified as
10 such by the State Historic Preservation Officer prior to the
11 commencement of the work. The expenditures must, within a 24-month
12 period, exceed twenty five thousand dollars (\$25,000). The North
13 Carolina Historical Commission, in consultation with the State Historic
14 Preservation Officer, may adopt rules needed to administer the
15 certification process.
- 16 (3) ~~Rehabilitation expenses.~~— Expenses incurred in the certified
17 rehabilitation of a certified historic structure and added to the property's
18 basis. The term does not include the cost of acquiring the property, the
19 cost attributable to the enlargement of an existing building, the cost of
20 sitework expenditures, or the cost of personal property.
- 21 (4) ~~State Historic Preservation Officer.~~— The Director of the Division of
22 Archives and History or the Director's designee who acts to administer
23 the historic preservation programs within the State.

24 (b1) Tax Election. – The credits provided in this section are allowed against the
25 income taxes levied in Article 4 of this Chapter and the gross premiums tax levied in
26 Article 8B of this Chapter. The taxpayer shall elect the tax against which a credit will be
27 claimed when filing the return on which the first installment of the credit is claimed. This
28 election is binding. Any carryforwards of the credit must be claimed against the same tax.

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

36 (d) Rules. – The North Carolina Historical Commission, in consultation with the
37 State Historic Preservation Officer, may adopt rules needed to administer the certification
38 process required by this section."

39 Section 4. G.S. 105-151.23 is recodified as G.S. 105-129.26. G.S. 105-129.26,
40 as amended by this act, incorporates both G.S. 105-130.42 and G.S. 105-151.23.

41 Section 5. This act is effective for taxable years beginning on or after January
42 1, 1998.