GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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SENATE BILL 578

Short Title:	Promote Downtown Revitalization.	(Public)
Sponsors:	Senator Shaw.	
Referred to:	Finance.	

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO PROMOTE DOWNTOWN REVITALIZATION IN MIDSIZE CITIES AND TOWNS BY LEVERAGING THE FEDERAL REHABILITATION TAX CREDIT WITH A CORRESPONDING STATE CREDIT FOR BUILDINGS PLACED IN SERVICE BEFORE 1936.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds the following:

(1) Downtowns are important because they are central to the creation of small, locally owned businesses and also play a role in the recruitment of larger corporations.

(2) Strong downtowns reduce urban sprawl and the accompanying expenditures on transportation and infrastructure.

(3) The downtown represents the heart of a community – its government, churches, history, and cultural identity – and is the historic gathering place, bringing together varied ethnic and cultural segments of the community.

(4) Midsize cities and towns particularly suffer from loss of downtown vitality because they may lack local resources for improvements.

(5) For these reasons, it is necessary for the economic health of our State to create incentives for downtown revitalization in midsize cities and towns.

SECTION 2. Article 3D of Chapter 105 of the General Statutes reads as rewritten:

"Article 3D.

"Historic and Downtown Rehabilitation Tax Credits.

"**§ 105-129.34. Definitions.**

The following definitions apply in this Article:

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

(2) Certified rehabilitation. – Repairs or alterations consistent with the Secretary of the Interior's Standards for Rehabilitation and certified as such by the State Historic Preservation Officer prior to the commencement of the work.

(3) Downtown structure. – A structure that was located within a city or town as of 1936 and is presently within the corporate limits of a midsize city or town.

(4) Midsize city or town. – A municipality with a population of more than 9,000 and not more than 200,000 as of the 2000 decennial census.

(5) Qualified rehabilitation expenditures. – Defined in section 47 of the Code.

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

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

(8) State Historic Preservation Officer. – The Deputy Secretary of Archives and History or the Deputy Secretary's designee who acts to administer the historic preservation programs within the State.

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

(a) Credit. – A taxpayer who is allowed a federal income tax credit under section 47 of the Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed a credit equal to twenty percent (20%) of the expenditures that qualify for the federal credit.

(b) **(Repealed January 1, 2004, for property placed in service on or after January 1, 2004)** Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as the amount of credit allocated to an owner does not exceed the owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in service. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15.

~~(c) Definitions. – The following definitions apply in this section:~~

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

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

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

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

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

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

~~(1) Certified rehabilitation. – Repairs or alterations consistent with the Secretary of the Interior's Standards for Rehabilitation and certified as such by the State Historic Preservation Officer prior to the commencement of the work.~~

~~(2) Rehabilitation expenses. – Expenses incurred in the certified rehabilitation of a certified historic structure and added to the property's basis. The term does not include the cost of acquiring the property, the cost attributable to the enlargement of an existing building, the cost of sitework expenditures, or the cost of personal property.~~

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

~~(4) State Historic Preservation Officer. – The Deputy Secretary of Archives and History or the Deputy Secretary's designee who acts to administer the historic preservation programs within the State.~~

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

"**§ 105-129.36A. Credit for rehabilitating pre-1936, nonhistoric, income-producing structure.**

A taxpayer who is allowed a federal income tax credit under section 47(a)(1) of the Code with respect to a downtown structure in this State is allowed a credit equal to twenty percent (20%) of the expenditures that qualify for the federal credit.

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

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

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

(c) Forfeiture for Disposition. – A taxpayer who is required under section 50 of the Code to recapture all or part of the federal credit for rehabilitating ~~an income-producing historic~~ a structure located in this State forfeits the corresponding part of the State credit allowed under G.S. 105-129.35 or G.S. 105-129.36A with respect to that ~~historic~~ structure. If the credit was allocated among the owners of a pass-through entity, the forfeiture applies to the owners in the same proportion that the credit was allocated.

(d) Forfeiture for Change in Ownership. – If an owner of a pass-through entity that has qualified for the credit allowed under G.S. 105-129.35 disposes of all or a portion of the owner's interest in the pass-through entity within five years from the date the rehabilitated historic structure is placed in service and the owner's interest in the pass-through entity is reduced to less than two-thirds of the owner's interest in the pass-through entity at the time the historic structure was placed in service, the owner forfeits a portion of the credit. The amount forfeited is determined by multiplying the amount of credit by the percentage reduction in ownership and then multiplying that product by the forfeiture percentage. The forfeiture percentage equals the recapture percentage found in the table in section 50(a)(1)(B) of the Code. The remaining allowable credit is allocated equally among the five years in which the credit is claimed.

(e) Exceptions to Forfeiture. – Forfeiture as provided in subsection (d) of this section is not required if the change in ownership is the result of any of the following:

(1) The death of the owner.

(2) A merger, consolidation, or similar transaction requiring approval by the shareholders, partners, or members of the taxpayer under applicable State law, to the extent the taxpayer does not receive cash or tangible property in the merger, consolidation, or other similar transaction.

(f) Liability From Forfeiture. – A taxpayer or an owner of a pass-through entity that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer or owner of a pass-through entity that fails to pay the taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 3. This act becomes effective for taxable years beginning on or after January 1, 2004.