

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 352*

Short Title: Mill Rehabilitation Tax Credit. (Public)

Sponsors: Senators Hoyle, Hartsell; and Atwater.

Referred to: Finance.

March 3, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A TAX CREDIT FOR REVITALIZATION OF HISTORIC
3 MILL FACILITIES AND TO ALLOW TAX CREDITS FOR CERTAIN
4 HISTORIC REHABILITATIONS TO BE TRANSFERRED TO LONG-TERM
5 LESSEES.

6 Whereas, the State of North Carolina has lost more than 164,000 jobs in the
7 textile industry during the past decade; and

8 Whereas, the State of North Carolina has also lost a large number of
9 manufacturing jobs in other industries such as tobacco and furniture; and

10 Whereas, the losses of these manufacturing jobs have resulted in the vacancy
11 of numerous mill buildings, many of which are historic; and

12 Whereas, a large vacant mill can be a cancer in a community, if it remains
13 vacant and unused, resulting in the deterioration of surrounding neighborhoods and
14 commercial districts, crime, vandalism, vagrancy, arson, and a loss of community spirit;
15 and

16 Whereas, renovated for new adaptive uses or for new industrial or business
17 uses, a large old factory or mill can have significant environmental, economic
18 development, cultural, tourism, tax base, and affordable housing benefits for a
19 community; and

20 Whereas, the Historic Rehabilitation Tax Credits created by the North
21 Carolina General Assembly in 1997 have proved to be successful in the revitalization of
22 numerous major historic buildings; and

23 Whereas, additional incentives would help encourage the rehabilitation of the
24 numerous industrial buildings that have been vacated in recent years, especially those in
25 smaller towns and counties that have been hardest hit by the loss of manufacturing jobs;
26 and

27 Whereas, the rehabilitation of historic buildings has been proven to be a
28 successful economic development strategy for creating jobs and stimulating new
29 investment; and

1 Whereas, Virginia and South Carolina have each adopted generous incentives
2 for the rehabilitation of similar buildings that are resulting in new investment in their
3 communities; Now, therefore,

4 The General Assembly of North Carolina enacts:

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

7 "Article 3H.

8 "Mill Rehabilitation Tax Credit.

9 "§ 105-129.70. Definitions.

10 The following definitions apply in this Article:

- 11 (1) Certified historic structure. – Defined in G.S. 105-129.35.
12 (2) Certified rehabilitation. – Defined in G.S. 105-129.36.
13 (3) Cost certification. – The certification obtained by the State Historic
14 Preservation Officer from the taxpayer of the amount of the qualified
15 rehabilitation expenditures or the rehabilitation expenses incurred with
16 respect to an eligible site.
17 (4) Eligibility certification. – The certification obtained from the State
18 Historic Preservation Officer that the applicable facility comprises an
19 eligible site and that the rehabilitation is a certified rehabilitation.
20 (5) Eligible site. – A site located in this State that satisfies all of the
21 following conditions:
22 a. It was designed for use or was used as a manufacturing facility
23 or for purposes ancillary to manufacturing or as a facility for
24 providing utility services.
25 b. It is a certified historic structure or a State-certified historic
26 structure.
27 c. It has been at least eighty percent (80%) vacant for a period of
28 at least two years immediately preceding the time at which the
29 eligibility certification is made.
30 d. The cost certification documents that the qualified rehabilitation
31 expenditures for a site for which a taxpayer is allowed a credit
32 under section 47 of the Code or the rehabilitation expenses for a
33 site for which the taxpayer is not allowed a credit under section
34 47 of the Code exceed two million dollars (\$2,000,000) for the
35 site as a whole.
36 (6) Enterprise tier area. – Defined in G.S. 105-129.3.
37 (7) Pass-through entity. – Defined in G.S. 105-228.90.
38 (8) Qualified rehabilitation expenditures. – Defined in section 47 of the
39 Code.
40 (9) Rehabilitation expenses. – Defined in G.S. 105-129.36.
41 (10) State-certified historic structure. – Defined in G.S. 105-129.36.
42 (11) State Historic Preservation Officer. – Defined in G.S. 105-129.36.

43 "§ 105-129.71. Credit.

1 (a) Credit. – A taxpayer who rehabilitates an eligible site is allowed a credit
2 equal to a percentage of the qualified rehabilitation expenditures or the rehabilitation
3 expenses with respect to the eligible site. The credit may be claimed in the year in
4 which the eligible site is placed into service. When the eligible site is placed into service
5 in two or more phases in different years, the amount of credit that may be claimed in a
6 year is the amount based on the qualified rehabilitation expenditures or the
7 rehabilitation expenses associated with the phase placed into service during that year. In
8 order to be eligible for a credit allowed by this Article, the taxpayer must provide to the
9 Secretary a copy of the eligibility certification and the cost certification. The amount of
10 the credit is as follows:

11 (1) For eligible sites located in an enterprise tier one, two, or three area,
12 determined as of the time the eligibility certification is obtained, for
13 which the taxpayer is allowed a credit under section 47 of the Code,
14 the amount of the credit is equal to forty percent (40%) of the qualified
15 rehabilitation expenditures.

16 (2) For eligible sites located in an enterprise tier one, two, or three area,
17 determined as of the time the eligibility certification is obtained, for
18 which the taxpayer is not allowed a credit under section 47 of the
19 Code, the amount of the credit is equal to fifty percent (50%) of the
20 rehabilitation expenses.

21 (3) For eligible sites located in an enterprise tier four or five area,
22 determined as of the time the eligibility certification is obtained, for
23 which the taxpayer is allowed a credit under section 47 of the Code,
24 the amount of the credit is equal to thirty percent (30%) of the
25 qualified rehabilitation expenditures.

26 (4) For eligible sites located in an enterprise tier four or five area,
27 determined as of the time the eligibility certification is obtained, for
28 which the taxpayer is not allowed a credit under section 47 of the
29 Code, the amount of the credit is equal to forty percent (40%) of the
30 rehabilitation expenses.

31 (b) Taxes Credited. – The credit allowed by this Article may be claimed against
32 the franchise tax imposed under Article 3 of this Chapter, the income taxes imposed
33 under Article 4 of this Chapter, or the gross premiums tax imposed under Article 8B of
34 this Chapter. The taxpayer may take the credit allowed by this Article against only one
35 of the taxes against which it is allowed. The taxpayer shall elect the tax against which a
36 credit will be claimed when filing the return on which it is claimed. This election is
37 binding. Any carryforwards of the credit must be claimed against the same tax.

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

42 (d) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and
43 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
44 Article may allocate the credit among any of its owners without limitation. Owners to

1 whom a credit is allocated are allowed the credit as if they had qualified for the credit
2 directly. A pass-through entity and its owners must include with their tax returns for
3 every taxable year in which an allocated credit is claimed a statement of the allocation
4 made by the pass-through entity and the allocation that would have been required under
5 G.S. 105-131.8 or G.S. 105-269.15.

6 (e) Long-Term Leases. – If a taxpayer is eligible for a credit under section 47 of
7 the Code with respect to property for which the taxpayer is eligible for a credit under
8 this section and the taxpayer elects, pursuant to section 50(d)(5) of the Code, to transfer
9 the federal credit to a lessee of the property, the taxpayer may elect to transfer the credit
10 allowed by this section to the lessee. If a credit is transferred to a lessee under this
11 subsection, the lessee may take the credit subject to the provisions of this Article.

12 **§ 105-129.72. Coordination with Article 3D of this Chapter.**

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

16 **SECTION 2.** G.S. 105-129.35 is amended by adding a new subsection to
17 read:

18 "(d) Long-Term Leases. – If a taxpayer elects, pursuant to section 50(d)(5) of the
19 Code, to transfer the credit allowed under section 47 of the Code to a lessee of the
20 property, the taxpayer may elect to transfer the credit allowed by this section to the
21 lessee. If a credit is transferred to a lessee under this subsection, the lessee may take the
22 credit subject to the provisions of this Article."

23 **SECTION 3.** This act is effective for taxable years beginning on or after
24 January 1, 2006, and applies to eligible sites placed into service on or after that date.