

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**SENATE BILL 1139**

Short Title: Historic District Infill Tax Credit.

(Public)

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Sponsors: Senator Clodfelter.

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Referred to: Finance.

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March 22, 2007

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR A TAX CREDIT FOR DEVELOPERS OF INFILL  
3 PROJECTS IN HISTORIC DISTRICTS.

4 The General Assembly of North Carolina enacts:

5           **SECTION 1.** The title of Article 3D of Chapter 105 of the General Statutes  
6 reads as rewritten:

"Article 3D.

Historic Rehabilitation and Downtown Infill Construction Tax Credits."

9           **SECTION 2.** Article 3D of Chapter 105 of the General Statutes is amended  
10 by adding a new section to read:

11 "**§ 105-129.36B. Credit for new construction in historic downtowns.**

12       (a) Credit. – A taxpayer is allowed a credit equal to twenty percent (20%) of  
13 construction expenditures to build new income-producing structures on vacant  
14 individual lots in a local or national historic downtown district. To claim the credit  
15 allowed by this subsection, the taxpayer must provide a copy of a certificate of  
16 appropriateness issued by the local historic preservation commission.

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

18           (1) Construction expenditures. – Expenses incurred in the construction of  
19 a structure and added to the property's basis, including architectural  
20 and engineering fees and site work. The term excludes the cost of  
21 acquiring the property, the cost of development fees, and the cost of  
22 personal property.

23           (2) Local or national historic downtown district. – The primary  
24 commercial or business area, if any, in any of the following:

25           a. A National Register Historic District.

26           b. A local historic district certified by the United States  
27 Department of the Interior.

1           c.     A locally designated historic district created under the authority  
2                 of Part 3C of Article 19 of Chapter 160A of the General  
3                 Statutes.

4           (3)   Historic preservation commission. – A design review committee,  
5                 formed under the authority of Part 3C of Article 19 of Chapter 160A of  
6                 the General Statutes, including a majority of members with a  
7                 demonstrated special interest in architecture, history, or related fields.

8           (4)   Certificate of appropriateness. – Certification, based on criteria  
9                 established by the historic preservation commission, that ensures that  
10                new construction in a historic district is appropriate to the special  
11                character of the district and sensitive to neighboring buildings, in the  
12                same manner as required by Part 3C of Article 19 of Chapter 160A of  
13                the General Statutes for rehabilitation.

14           (c)   Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and  
15                 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this  
16                 section may allocate the credit among any of its owners in its discretion as long as an  
17                 owner's adjusted basis in the pass-through entity, as determined under the Code, at the  
18                 end of the taxable year in which the certified historic structure is placed in service, is at  
19                 least forty percent (40%) of the amount of credit allocated to that owner. Owners to  
20                 whom a credit is allocated are allowed the credit as if they had qualified for the credit  
21                 directly. A pass-through entity and its owners must include with their tax returns for  
22                 every taxable year in which an allocated credit is claimed a statement of the allocation  
23                 made by the pass-through entity and the allocation that would have been required under  
24                 G.S. 105-131.8 or G.S. 105-269.15."

25           **SECTION 3.** G.S. 105-129.37(d) reads as rewritten:

26           "(d)   Forfeiture for Change in Ownership. – If an owner of a pass-through entity  
27           that has qualified for the credit allowed under G.S. 105-129.35 or G.S. 105-129.37  
28           disposes of all or a portion of the owner's interest in the pass-through entity within five  
29           years from the date the rehabilitated historic structure or downtown infill structure is  
30           placed in service and the owner's interest in the pass-through entity is reduced to less  
31           than two-thirds of the owner's interest in the pass-through entity at the time the historic  
32           structure or downtown infill structure was placed in service, the owner forfeits a portion  
33           of the credit. The amount forfeited is determined by multiplying the amount of credit by  
34           the percentage reduction in ownership and then multiplying that product by the  
35           forfeiture percentage. The forfeiture percentage equals the recapture percentage found  
36           in the table in section 50(a)(1)(B) of the Code. The remaining allowable credit is  
37           allocated equally among the five years in which the credit is claimed."

38           **SECTION 4.** This act is effective for taxable years beginning on or after  
39           January 1, 2007.