

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 119
Finance Committee Substitute Adopted 6/4/03

Short Title: Expand Historic Preservation Credit.

(Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

1 AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION
2 BY REMOVING THE SUNSET ON A PROVISION ALLOWING A
3 PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX
4 CREDIT FOR INCOME-PRODUCING STRUCTURES, INCREASING THE
5 AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS
6 PROVISION, AND ALLOWING BOTH HISTORIC REHABILITATION TAX
7 CREDITS TO BE TAKEN AGAINST FRANCHISE TAX AND GROSS
8 PREMIUMS TAXES.
9

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Section 9 of S.L. 1999-389, as amended by Section 19(a) of
12 S.L. 2001-476, reads as rewritten:

13 "**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning
14 on or after January 1, 1999. ~~G.S. 105-129.35(b), as amended by this act, is repealed~~
15 ~~effective January 1, 2004, for property placed in service on or after that date.~~ Sections 7
16 and 8 of this act become effective for taxable years beginning on or after January 1,
17 2000. The remainder of this act is effective when it becomes law."

18 **SECTION 2.** G.S. 105-129.35(b) reads as rewritten:

19 "(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and
20 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
21 section may allocate the credit among any of its owners in its discretion as long as ~~the~~
22 ~~amount of credit allocated to an owner does not exceed the~~ an owner's adjusted basis in
23 the pass-through entity, as determined under the Code, at the end of the taxable year in
24 which the certified historic structure is placed in ~~service~~ service, is at least forty percent
25 (40%) of the amount of credit allocated to that owner. Owners to whom a credit is
26 allocated are allowed the credit as if they had qualified for the credit directly. A
27 pass-through entity and its owners must include with their tax returns for every taxable
28 year in which an allocated credit is claimed a statement of the allocation made by the

1 pass-through entity and the allocation that would have been required under
2 G.S. 105-131.8 or G.S. 105-269.15."

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

4 "(a) Tax Credited. – The credits provided in this Article are allowed against the
5 franchise tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of
6 this Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The
7 taxpayer must take a credit allowed in this Article against only one of the taxes against
8 which it is allowed. The taxpayer must elect the tax against which a credit will be
9 claimed when filing the return on which the first installment of the credit is claimed.
10 This election is binding. Any carryforwards of the credit must be claimed against the
11 same tax."

12 **SECTION 4.** Section 1 of this act is effective when it becomes law. Section
13 2 of this act is effective for taxable years beginning on or after January 1, 2003. The
14 remainder of this act becomes effective for taxable years beginning on or after January
15 1, 2004.