GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH80133-MC-147A (3/10)

Short Title:	Expand Mill Rehabilitation Tax Credit.	(Public)
Sponsors:	Representatives E. Warren, McLawhorn, and Williams (Primary Sponsors).	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE MILL REHABILITATION TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.70 is amended by adding new subdivisions to read:

"**§ 105-129.70. Definitions.**

The following definitions apply in this Article:

…

(8a) Redevelopment certification. – A certification by the Secretary of Commerce that the taxpayer is renovating or rehabilitating a redevelopment site as part of an improvement project. The certification must include the location of the redevelopment site, the amount of acreage involved in the project description of the improvement project, the actual or projected redevelopment expenses for the project, and when the redevelopment site was or will be placed in service.

(8b) Redevelopment expenses. – Expenses or capital expenditures incurred in the rehabilitation or renovation of a redevelopment site, including demolition of existing buildings in compliance with an order of the building inspector pursuant to G.S. 160A-429, an order of the public officer pursuant to G.S. 160A-439, or an ordinance of the governing body pursuant to G.S. 160A-439; environmental remediation; site improvements; and construction costs for new buildings and other improvements on the redevelopment site. The term does not include the cost of acquiring the redevelopment site or the cost of personal property located at the redevelopment site.

(8c) Redevelopment site. – A site located in this State that satisfies each of the following conditions:

a. It was used as a manufacturing facility or for purposes ancillary to manufacturing, as a warehouse for selling agricultural products, or as a public or private utility.

b. It has or previously had buildings collectively in excess of 50,000 square feet prior to ceasing primary operations.

c. It has been at least eighty percent (80%) vacant for a period of at least two years immediately preceding the date the redevelopment certification is made.

…."

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

"**§ 105-129.72A. Credit for redeveloped mill property.**

(a) Credit. – A taxpayer who incurs at least three million dollars ($3,000,000) in redevelopment expenses with respect to a redevelopment site is allowed a credit equal to a percentage of the redevelopment expenses. 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. When the redevelopment site is placed into service in two or more phases in different years, the amount of credit that may be claimed in a year is the amount based on the redevelopment expenses associated with the phase placed into service during that year. In order to be eligible for a credit allowed by this Article, the taxpayer must provide to the Secretary of Revenue a copy of the redevelopment certification. For a redevelopment site located in a development tier one or two area, determined as of the date of the redevelopment certification, the amount of the credit is equal to twenty percent (20%) of the redevelopment expenses. No credit is allowed for a site located in a development tier three area.

(b) 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 an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the redevelopment site is placed in service, is at least forty percent (40%) of the amount of credit allocated to that owner. 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) Forfeiture for Change in Ownership. – If an owner of a pass-through entity that has qualified for the credit allowed under this section disposes of all or a portion of the owner's interest in the pass-through entity within five years from the date the redevelopment site 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 redevelopment site 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 allocable credit is allocated equally among the five years in which the credit is claimed.

(d) Exceptions to Forfeiture. – Forfeiture as provided in subsection (c) 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.

(e) 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. 105-241.21, 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.

(f) No Double Credit. – A taxpayer that claims any other credit allowed under this Article with respect to a redevelopment site may not take the credit allowed in this section with respect to the same site."

SECTION 3. This act is effective for taxable years beginning on or after January 1, 2009.