HOUSE BILL 399:
Historic Preservation Act of 2019.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	**Date:**	June 4, 2019
Introduced by:	Reps. Ross, Bell, Warren, Adams	**Prepared by:**	Greg Roney Staff Attorney
Analysis of:	PCS to Third Edition H399-CSTMf-15		

OVERVIEW: The Proposed Committee Substitute (PCS) for House Bill 399 would delay the sunset of the tax credits for historic rehabilitation for 4 years and increase the tax credit for rehabilitating income-producing historic structures as follows:

- ***Increase the rehabilitation expenditures eligible for the credit at the 15% rate from a maximum of $10 million to $15 million***
- ***Increase the rehabilitation expenditures eligible for the credit at the 10% rate from expenditures between $10 million to $20 million to expenditures between $15 million and $25 million***
- ***Increase the rehabilitation expenditures eligible for the development tier bonus from a maximum of $20 million to a maximum of $25 million***
- ***Increase the rehabilitation expenditures eligible for the targeted investment bonus from a maximum of $20 million to a maximum of $25 million***
- ***Create a new disaster relief bonus equal to 5% of rehabilitation expenses to a maximum of $25 million***

Compared to the third edition of House Bill 399, the PCS makes a technical correction and replaces the phrase "onset of the natural disaster" with the phrase "gubernatorial disaster declaration" to consistently define the timing of the start of the natural disaster.

CURRENT LAW: Section 32.3 of S.L. 2015-241 establishes a historic rehabilitation tax credit as Article 3L, titled Historic Rehabilitation Tax Credits Investment Program. The credit percentages are:

- Credit for rehabilitating income-producing historic structure is the sum of the following but the tax credit cannot exceed $4,500,000:
  - 15% of expenses from $0 to $10 million
  - 10% of expenses from $10 million to $20 million
  - 5% of expenses from $0 to $20 million if the certified historic structure is located in a development tier 1 or 2 area
  - 5% of expenses from $0 to $20 million if the certified historic structure is located on an eligible targeted investment site (i.e., site that 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; is a certified historic structure; and has been at least 65% vacant for a period of at least 2 years)

- Credit for rehabilitating non-income-producing historic structures is 15% of the expense if the expense exceeds $10,000 but the tax credit cannot exceed $22,500.

The tax credit for income-producing property (G.S. 105-129.100) requires the project qualify for the federal historic rehabilitation tax credit under IRC §47.

The tax credit for non-income-producing property (G.S. 105-129.101) applies where the federal credit is not allowed. The tax credit for non-income-producing property can apply to personal residences assuming the property meets the other requirements.

The tax credit is nonrefundable. The credit may be elected to apply against franchise tax, individual and corporate income taxes, or gross premiums tax. The credit for rehabilitating income-producing historic structures may be allocated by pass-through entities (e.g., partnerships and S corporations) among any of its owners in its discretion as long as an owner's adjusted basis in the pass-through entity is at least 40% of the credit allocated to that owner. Normally, federal and State rules require allocation of tax items by pass-through entities to meet certain tests to prevent owners from taking a disproportionate share of tax benefits.

Article 3L sunsets for rehabilitation expenditures incurred on or after January 1, 2020.

BILL ANALYSIS: The PCS for House Bill 399 would enact the Historic Preservation Act of 2019. The act delays the sunset of the tax credit for rehabilitating income-producing historic structures and the tax credit for non-income-producing historic structures for 4 years (i.e., sunset moved from 1/1/2020 to 1/1/2024).

The act also increases the tax credit for rehabilitating income-producing historic structures by increasing the amount of rehabilitation expenditures eligible for the credit at the 15% rate from a maximum of $10 million (current law) to a maximum of $15 million. For expenditures greater than $15 million, the act increases the rehabilitation expenditures eligible for the credit at the 10% rate to expenditures between $15 million and $25 million (current law allows the credit for expenditures between $10 million and $20 million).

The act makes corresponding increases to the rehabilitation expenditures eligible for the development tier bonus and the targeted investment bonus. The bonus are available for rehabilitation expenditures to a maximum of $25 million.

Finally, the act creates a new disaster relief bonus equal to 5% of rehabilitation expenses to a maximum of $25 million.

The act does not change the maximum tax credit allowed for rehabilitation expenditures for an income-producing certified historic structure of $4,500,000 under G.S. 105-129.105(d).

EFFECTIVE DATE: The increases in the tax credit amounts in the PCS for House Bill 399 would be effective for taxable years beginning on or after January 1, 2020. The remainder of the PCS would be effective when law.