



# HOUSE BILL 852: Historic School Preservation Act.

2019-2020 General Assembly

<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	October 29, 2019
<b>Introduced by:</b>	Reps. Adams, Beasley, Warren, Presnell	<b>Prepared by:</b>	Greg Roney Staff Attorney
<b>Analysis of:</b>	Second Edition		

**OVERVIEW:** *House Bill 852 would increase the historic rehabilitation tax credit if the certified historic structure is used for an educational purpose. The bonus amount is equal to 5% of rehabilitation expenses with a cap of \$1 million.*

**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 Internal Revenue Code section 47 (IRC §47). The maximum tax credit allowed for rehabilitation expenditures for an income-producing certified historic structure is \$4,500,000 under G.S. 105-129.105(d).

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 maximum tax credit allowed for rehabilitation expenditures for a non-income-producing certified historic structure is \$22,500 under G.S. 105-129.106(b).

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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:** House Bill 852 would increase the tax credit for rehabilitating income-producing historic structures that have an educational purpose by creating a new bonus amount equal to 5% of qualified rehabilitation expenditures not exceeding \$20,000,000. The maximum value of the bonus amount is \$1 million.

The certified historic structure must have had an initial use as an educational building, return to service as an educational building following the rehabilitation, and remain an educational building when the tax credit is taken. For a certified historic structure used for multiple purposes, the bonus amount is prorated based on the use for an educational purpose.

An educational purpose is defined as the education or instruction of human beings; the transmission of information; and the training or development of knowledge or skills. The operation of a student housing facility, a student dining facility, a golf course, a tennis court, a sports arena, a similar sport property, or a similar recreational sport property for the use of students or faculty is also an educational purpose, regardless of the extent to which the property is also available to and patronized by the general public.

House Bill 852 does not change the requirement that the rehabilitation expenditures and the historic structure meet federal requirements under IRC §47. Further, the bill 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 bonus amount for the tax credit would be effective for taxable years beginning on or after January 1, 2019. The tax credit is repealed for expenditures on or after January 1, 2020. Section 41.7.(a) of the 2019 Appropriations Act (H966) extends the historic rehabilitation tax credit until January 1, 2024; however, the Governor vetoed the 2019 Appropriations Act. Additionally, House Bill 399 also extends the tax credits and is awaiting action by the Governor.