GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H **1**

HOUSE BILL 1586

Short Title:	Textile Mills Redevelopment.	(Public)
Sponsors:	Representatives Harrell; L. Allen, Faison, and Lewis.	
Referred to:	Finance.	

May 5, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX INCENTIVES FOR THE REVITALIZATION OF MILL FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3H.

"Mill Rehabilitation Tax Credit.

"**§ 105-129.70. Definitions.**

The following definitions apply in this Article:

(1) Certified rehabilitation. – Defined in G.S. 105-129.36.

(2) Cost certification. – The certification obtained by the State Historic Preservation Officer from the taxpayer of the amount of the qualified rehabilitation expenditures or the rehabilitation expenses incurred with respect to an eligible site.

(3) Eligibility certification. – The certification obtained from the State Historic Preservation Officer that the applicable facility comprises an eligible site and that the rehabilitation is a certified rehabilitation.

(4) Eligible site. – A site located in this State that satisfies all of the following conditions:

a. It was designed for use or was used as a textile manufacturing facility or for purposes ancillary to textile manufacturing.

b. It has been at least eighty percent (80%) vacant for a period of at least one year immediately preceding the time at which the eligibility certification is made.

(5) Qualified rehabilitation expenditures. – Defined in section 47 of the Code.

(6) Rehabilitation expenses. – Defined in G.S. 105-129.36.

(7) State Historic Preservation Officer. – Defined in G.S. 105-129.36.

"**§ 105-129.71. Credit.**

(a) Credit. – A taxpayer who rehabilitates an eligible site is allowed a credit equal to a percentage of the qualified rehabilitation expenditures or the rehabilitation expenses with respect to the eligible site. The entire credit may not be claimed in the taxable year in which the eligible site is placed into service but must be claimed in five equal installments beginning in the taxable year in which the property is placed in service. When the eligible 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 qualified rehabilitation expenditures or the rehabilitation 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 a copy of the eligibility certification and the cost certification. The amount of the credit is as follows:

(1) For eligible sites for which the taxpayer is allowed a credit under section 47 of the Code, the amount of the credit is equal to thirty-five percent (35%) of the qualified rehabilitation expenditures.

(2) For eligible sites for which the taxpayer is not allowed a credit under section 47 of the Code, the amount of the credit is equal to forty-five percent (45%) of the rehabilitation expenses.

(b) Taxes Credited. – The credit allowed by this Article may be claimed against the franchise tax imposed under Article 3 of this Chapter, the income taxes imposed under Article 4 of this Chapter, or the gross premiums tax imposed under Article 8B of this Chapter. The taxpayer may take the credit allowed by this Article against only one of the taxes against which it is allowed. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which it is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(c) Cap. – A credit allowed under this Article may not exceed fifty percent (50%) of the amount of the tax against which it is claimed for the taxable year reduced by the sum of all credits allowed, except payment of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding nine years.

(d) 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 Article 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 eligible 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.

(e) 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 eligible 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 eligible 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.

(f) Exceptions to Forfeiture. – Forfeiture as provided in subsection (e) 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.

(g) 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. 105-241.1(i), 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.

"**§ 105-129.72. Coordination with Article 3D of this Chapter.**

A taxpayer that claims a credit under this Article may not also claim a credit under Article 3D of this Chapter with respect to the same activity. The rules and fee schedule adopted under G.S. 105-129.36A apply to this Article."

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

"**§ 105-277.14. Taxation of improvements of revitalized textile mills.**

(a) Qualifying improvements to revitalized textile mill properties are designated a special class of property under Article V, Section 2(2), of the North Carolina Constitution and shall be appraised, assessed, and taxed in accordance with this section. An owner of property is entitled to the partial exclusion provided by this section for the first five taxable years beginning after completion of the qualifying improvements. After property has qualified for the exclusion provided by this section, the assessor for the county in which the property is located shall annually appraise the improvements made to the property during the period of time that the owner is entitled to the exclusion.

(b) For the purposes of this section, the terms 'qualifying improvements to revitalized textile mill properties' and 'qualifying improvements' mean improvements made to abandoned textile mills the expenditures for which would entitle the owner of the property to a credit under Article 3H of this Chapter.

(c) The following table establishes the percentage of the appraised value of the qualified improvements that is excluded based on the taxable year:

Year	**Percent of Appraised Value Excluded**

Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%."

SECTION 3. Section 1 of this act is effective for taxable years beginning on or after January 1, 2006, and applies to eligible sites placed into service on or after that date. Section 2 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2006. The remainder of this act is effective when it becomes law.