~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 15, 2014

**S. 234**

Introduced by Senators Coleman, Johnson and McElveen

S. Printed 5/15/14--H.

Read the first time June 5, 2013.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (S. 234) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 67 to Title 12 so as to enact the “South Carolina Abandoned Buildings Revitalization Act” which, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 12‑67‑120 of the 1976 Code, as added by Act 57 of 2013, is amended by adding an item at the end to read:

“(8) ‘State‑owned abandoned building’ means an abandoned building and its ancillary service buildings, the combined square footage of which is greater than one hundred fifty thousand square feet, that has been abandoned for more than ten years, and was most recently owned by the State, or an agency, instrumentality, or political subdivision of the State.”

SECTION 2. A. Section 12‑67‑140(B)(3) of 1976 Code, as added by Act 57 of 2013, is amended to read:

“(3)(a) ~~The~~ Except for a credit claimed in connection with the rehabilitation of a state owned abandoned building, the entire credit is earned in the taxable year in which the applicable phase or portion of the building site is placed in service but must be taken in equal installments over a five‑year period beginning with the tax year in which the applicable phase or portion of the building site is placed in service. If the credit is earned in connection with the rehabilitation of a state owned abandoned building, the entire credit is earned in the taxable year in which the applicable phase or portion of the building site is placed in service but must be claimed in equal installments over a two‑year period beginning with the tax year in which the applicable phase or portion of the building site is placed in service. Unused credit may be carried forward for the succeeding five years.

(b) The entire credit earned pursuant to this subsection may not exceed five hundred thousand dollars for any taxpayer in a tax year for each abandoned building site. The limitation provided in this subitem applies to each unit or parcel deemed to be an abandoned building site. The limitation provided for in this subitem does not apply to any state owned abandoned building.”

B. Section 12-67-140(C) of the 1976 Code, as added by Act 57 of 2013, is amended by adding an item at the end to read:

“(6) If a taxpayer sells the building site, or any phase or portion of the building site, the taxpayer may transfer all or part of the remaining credit, associated with the rehabilitation expenses incurred with respect to that phase or portion of the site, to the purchaser of the applicable portion of the building site. To the extent that the taxpayer transfers the credit, the taxpayer shall notify the county auditor of the transfer in the manner the department prescribes.”

SECTION 3. Section 12‑6‑3535(A) and (C)(1) of the 1976 Code is amended to read:

“(A) A taxpayer who is allowed a federal income tax credit pursuant to Section 47 of the Internal Revenue Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed to claim a credit against income taxes and license fees imposed by this title. For the purposes of this section, ‘qualified rehabilitation expenditures’ and ‘certified historic structure are defined as provided in the Internal Revenue Code Section 47 and the applicable treasury regulations. Except as provided in subsection (A)(1), the amount of the credit is ten percent of the expenditures that qualify for the federal credit. To claim the credit allowed by this subsection, a taxpayer filing a paper return must attach a copy of the section of the federal income tax return showing the credit claimed, along with other information that the Department of Revenue determines is necessary for the calculation of the credit provided by this subsection.

(1) A taxpayer may elect a twenty‑five percent tax credit in lieu of the ten percent tax credit.

(2) A taxpayer electing a twenty‑five percent tax credit may not claim a credit that exceeds five hundred thousand dollars for each certified historic structure. The limitation provided for in this item shall not apply to credits claimed for qualified rehabilitation expenditures related to any state owned abandoned building.

(C)(1) Except for a credit claimed in connection with the rehabilitation of a state owned abandoned building, the entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in equal installments over a five‑year period beginning with the year in which the property is placed in service. If the credit is claimed in connection with the rehabilitation of a state owned abandoned building, the entire credit may not be taken for the taxable year in which the property is placed in service, but, rather must be taken in equal installments over a two-year period beginning with the year in which the property is placed in service. For purposes of this section, ‘state owned abandoned building’ has the same meaning as provided in section 12-67-120. ‘Placed in service’ means the rehabilitation is completed and allows for the intended use. Any unused portion of any credit installment may be carried forward for the succeeding five years.”

SECTION 4. A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3586. (A) As used in this section:

(1) ‘Solar energy system’ is a nonresidential system that, as determined by the State Energy Office, uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity not greater than one megawatt alternating current, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

(2) ‘Tax liability’ includes income taxes imposed pursuant to this chapter, license taxes imposed pursuant to Chapter 20 of this title, bank and building and loan taxes imposed pursuant to Chapters 11 and 13 of this title, and premium taxes imposed pursuant to Title 38.

(3) ‘Department’ means the South Carolina Department of Revenue.

(B)(1) For tax years beginning after 2013 and before 2017, if a taxpayer that has constructed, purchased, or leased a nonresidential solar energy system, the taxpayer, subject to the limitations set forth in subsection (E), is allowed a credit against his tax liability equal to twenty‑five percent of the cost of the system in the taxable year in which the system is placed in service.

(2) The entire credit may not be taken for the taxable year in which the system is placed in service but must be taken in three equal annual installments beginning with the taxable year in which the system is placed in service, and subject to this annual limit, unused credit may be carried forward for taxable years four through ten succeeding the year the system was placed in service.

(3) If a taxpayer is not allowed all or part of the credit, the taxpayer would be authorized to receive, because of the limitations set forth in subsection (E), the carry forward years provided in item (1) beginning in the year in which all or part of the credit is first allowed. However, if the credit is not allowed before tax year 2017, the taxpayer is not eligible to claim the credit.

(C) If, in one of the years in which the installment of a credit accrues, the solar energy system, with respect to which the credit was claimed, is disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. A disposition does not include the sale or assignment of the partnership interests or limited liability company interests of a partnership or limited liability company that owns or leases a solar energy system. The taxpayer, however, may take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted pursuant to subsection (B) of this section. For purposes of calculating the credit, if the solar energy system was provided, in whole or in part, by public funds, the amount of public funds expended on the solar energy system shall not be considered a cost of the system. The amount of any credit allowed pursuant to this section must be reduced by any credit claimed pursuant to Section 12‑6‑3587 or any other credit allowed pursuant to this title for the solar energy system. Public funds does not include proceeds of the investment credit pursuant to Section 48 of the Internal Revenue Code, or the grant in lieu thereof under Section 1603 program administered by the United States Department of Treasury. In no case may a credit allowed pursuant to this section exceed one‑half of the taxpayer’s tax liability for a taxable year.

(D) The credit allowed by this section may not exceed three hundred thirty‑three thousand dollars for each solar energy system installation and the credit may not exceed one million dollars for any taxpayer.

(E)(1) The total amount of credits allocated for all taxpayers in a taxable year may not exceed five million dollars in the aggregate. For purposes of this subsection, notwithstanding subsection (B), the entire credit is considered taken in the tax year in which the system is placed in service.

(2) If an allocation set forth in this item is not completely exhausted, the remaining amount may be carried forward by the department to the next year and used for the same purpose, and is in addition to the aggregate amount set forth in item (1). No amount may be carried forward by the department beyond tax year 2016.

(F) If the taxpayer leases the solar energy system, or part of the solar energy system, the taxpayer may transfer any applicable remaining credit associated with the solar energy system expenses incurred with respect to that part of the solar energy system to the lessee of the solar energy system. The provisions of this subsection apply to a lessee that is an entity taxed as a partnership.

(G) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit may be passed through to the partners or members and may be allocated by the taxpayer among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit to any partner or member who was a member or partner at any time during the year in which the credit is allocated.

(H) This credit is in no way to imply or allow the third party sale of electricity between parties nor does this section modify the provisions of Title 58 in any way and lessee simply refers to the financial structuring of the payment for the ‘solar energy system’.

(I)(1) After the system is placed in service, a taxpayer seeking to claim the credit provided in this section must submit an application to the State Energy Office for tentative approval of the credit. Within forty‑five days of receipt of the application, the State Energy Office must review the application and tentatively shall approve the application upon determining that the taxpayer qualifies for the credit, and only if the aggregate credit, pursuant to subsection (E), has not yet been reached for the taxable year. The State Energy Office shall notify the applicant whether all or part of the credit may be claimed and the amount that may be claimed in the current year. Also, the State Energy Office shall forward the notice to the department.

(2) The credit is allowed on a first‑come, first‑serve basis. In no event shall the aggregate amount of tax credits approved by the State Energy Office for all taxpayers in a taxable year exceed the limitations specified in subsection (E). For tax years 2014 and 2015, in the event the taxpayer timely files an application for the credit but is not allowed all or part of the credit the taxpayer would be authorized to receive because of the limitations set forth in subsection (E), the taxpayer must be added to a priority waiting list of applications, prioritized by the date of the taxpayer’s first filed application. With respect to the credit allocation in subsequent years, a taxpayer on the priority waiting list shall have priority over other taxpayers who apply for the credit for an installation in the subsequent year. For purposes of subsection (E), if a taxpayer on the priority waiting list is allowed the credit in a taxable year after the system is placed in service, then the entire credit is considered taken in the year in which the credit is first allowed.

(J)(1) The department, in consultation with the State Energy Office, shall develop an application form. Also, the department and the State Energy Office shall adopt rules to provide for the administration of this credit. The State Energy Office, with assistance from the department, shall create a mechanism to track and report the status and availability of credits for the public to review on a regular basis, as determined by the State Energy Office.

(2) There is a nonrefundable application fee equal to one percent of the credit applied for, but no more than two thousand five hundred dollars. The fee must accompany the application. The fee shall be credited to the State Energy Office and shall be used to meet the requirements of this section.

(K) In addition to the carry forward of unused credit allowed pursuant to this section, unused credit may be transferred, devised, or distributed, with or without consideration, by an individual, partnership, limited liability company, corporation, trust, or estate. To be effective, such a transfer, devise, or distribution requires written notification to and approval by the department with the unused credit maintaining all its original attributes in the hands of the original recipient including, but not limited to, the limit on the amount by which the taxpayer’s tax liability may be reduced. With regard to the sale or exchange of a credit allowed pursuant to this section, general income tax principles apply for purposes of the state income tax.

(L) Not later than June 1, 2015, and by June first each year thereafter, the State Energy Office shall prepare a report detailing:

(1) the number of taxpayers applying for the credit, the amount applied for, and the system sizes, including the total cost of the system installed against which the credit is being claimed, and the county in which the system was installed;

(2) the number of taxpayers allocated the credit, the amount allocated, and the system sizes, including the total cost of the system installed against which the credit is being claimed, and the county in which the system was installed;

(3) the number of taxpayers denied the credit based on an ineligibility determination by the department; and

(4) the number of taxpayers eligible for the credit, but placed on the waiting list due to the limitations set forth in subsection (E).

The report shall be delivered to the Governor, the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, the Public Utilities Review Committee, the Public Service Commission, and the Office of Regulatory Staff. The report also must be made available in a conspicuous place on the website maintained by the State Energy Office.”

B. This SECTION applies to solar energy systems placed in service in taxable years beginning after 2013 and before 2017.

SECTION 5. A. Section 12‑6‑3587(A) of the 1976 Code is amended to read:

“(A) There is allowed as a tax credit against the income tax liability of a taxpayer imposed by this chapter an amount equal to twenty‑five percent of the costs incurred by the taxpayer in the purchase and installation of a solar energy system or small hydropower system for heating water, space heating, air cooling, energy‑efficient daylighting, heat reclamation, energy‑efficient demand response, or the generation of electricity in or on a facility in South Carolina and owned by the taxpayer. The tax credit allowed by this section must not be claimed before the completion of the installation. The credit is allowed without regard to whether or not the owner‑taxpayer occupies the installation site. The amount of the credit in any year may not exceed three thousand five hundred dollars for each facility or fifty percent of the taxpayer’s tax liability for that taxable year, whichever is less. If the amount of the credit exceeds three thousand five hundred dollars for each facility, the taxpayer may carry forward the excess for up to ten years.”

B. Section 12‑6‑3587 of the 1976 Code is amended by adding a subsection at the end to read:

“(D) With respect to solar energy systems, this section only applies to a system placed in service after tax year 2005 and before tax year 2017.”

SECTION 6. Unless specified otherwise, this act takes effect upon approval by the Governor and applies for tax years beginning after 2013. The provisions of Section 1B of Act 57 of 2013 apply to the provisions of Sections 12‑67‑120 and 12‑67‑140 of the 1976 Code as amended by this act. /

Renumber sections to conform.

Amend title to conform.

W. BRIAN WHITE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill, as amended, is expected to reduce general fund individual income tax, corporate income tax, bank tax, savings and loan tax, or corporate license fee revenue by an estimated $13,300,000 in FY2014-15 and by an estimated $13,300,000 in FY2015-16.

**Explanation of Amendment (May 8, 2014) – House Sales & Income Tax Subcommittee**

The South Carolina Abandoned Buildings Revitalization Act was enacted in Act 57 of 2013 and effective beginning June 11, 2013. This amendment would strike all after the enacting words in S.B.234 and amend language to insert the following changes to Act 57 of 2013:

 The amendment would add subitem (8) to Section 12-67-120 to define a “state-owned abandoned building” to include an abandoned building and its ancillary service buildings, the combined square footage of which is greater than 150,000 square feet, that has been abandoned for more than ten years, and was most recently owned by the state, or an agency, instrumentality, or political subdivision of the state.

 This amendment would amend Section 12-67-140(B)(3) to allow a credit earned in connection with a state-owned abandoned building to be claimed over a two year period instead of over a five year period for other qualified abandoned buildings. This provision would accelerate the use of the tax credit.

 This amendment would remove the $500,000 maximum credit allowed for any taxpayer in a single tax year for each abandoned building site. The $500,000 maximum credit limitation would not apply to any state-owned abandoned buildings.

 This amendment would amend Section 12-6-3535 to allow a taxpayer who is allowed a federal income tax credit pursuant to IRS Code Section 47 to elect a twenty-five percent tax credit instead of the current ten percent tax credit. Also, if a taxpayer elects the twenty-five percent tax credit, the $500,000 maximum tax credit limitation for each certified historic structure would not apply to any state-owned abandoned buildings.

 This amendment would amend Section 12-6-3535(C)(1) to allow a credit earned in connection with a state-owned certified historic building to be claimed over a two year period instead of over a five year period for other qualified certified historic buildings. This provision would accelerate the use of the tax credit.

**Table 1. Analysis of Abandoned Building and Certified Historic Structure Tax Credits**

**Proposed $60,000,000 Rehabilitation Project**

**Abandoned Buildings Revitalization Tax Credit**

**Year 1 Year 2 Year 3 Year 4 Year 5**

**Current**

**State (25%) 1/** $3,000,000 $3,000,000 $3,000,000 $3,000,000 $3,000,000

**Limitation 2/ $500,000 $500,000 $500,000 $500,000 $500,000**

**Amendment** $7,500,000 $7,500,000 $0 $0 $0

**Difference** $7,000,000 $7,000,000 -$500,000 -$500,000 -$500,000

**Tax Credit for a Certified Historic Structure**

**Year 1 Year 2 Year 3 Year 4 Year 5**

**Current**

**Federal (20%) 3/** $2,400,000 $2,400,000 $2,400,000 $2,400,000 $2,400,000

**State (10%) 4/** $1,200,000 $1,200,000 $1,200,000 $1,200,000 $1,200,000

**Total Tax Credits** $3,600,000 $3,600,000 $3,600,000 $3,600,000 $3,600,000

**Amendment**

**Federal (20%) 3/** $2,400,000 $2,400,000 $2,400,000 $2,400,000 $2,400,000

**State (25%) 4/** $7,500,000 $7,500,000 $0 $0 $0

**Total Tax Credits** $9,900,000 $9,900,000 $2,400,000 $2,400,000 $2,400,000

**Difference** $6,300,000 $6,300,000 -$1,200,000 -$1,200,000 -$1,200,000

**TOTAL**

**DIFFERENCE $13,300,000 $13,300,000 -$1,700,000 -$1,700,000 -$1,700,000**

Notes:

1/ Section 12-67-140(B)(2), (3)(a)

2/ Section 12-67-140(B)(3)(b)

3/ 26 USC Sec. 47(a)(2)

4/ Section 12-6-3535(A), (C)(1)

The most well-known example of a state-owned abandoned building is the Babcock Building located off Bull Street in Columbia, South Carolina. Built between 1858 and 1885, it was the home of the South Carolina State Hospital. On October 30, 1981, the Babcock Building was added to the National Register of Historic Places. The property was sold for $15,000,000 in July 2013, and the total renovation costs of the Babcock Building and the ancillary out-buildings are estimated at $60,000,000.

As a result, the Bull Street property would be eligible for two tax credits – the abandoned buildings revitalization tax credit and the certified historic building tax credit. This amendment amends language in each statute. Table 1 summarizes the net changes affecting the tax credits regarding this property under current law and the tax credits under the amended language to current law.

This amendment removes the $500,000 tax credit limitation that each taxpayer may claim each year, and accelerates the time period the tax credits may be claimed from five years down to two years. Based on the analysis in Table 1, this would result in additional tax credits of $7,000,000 claimed in Year 1 and Year 2 of a proposed $60,000,000 rehabilitation project. This amendment would also affect the amount of tax credits for renovating a certified historic structure. Pursuant to IRS Code 47, a taxpayer may claim a twenty percent federal tax credit against qualified rehabilitation expenditures. Current state law allows the same taxpayer that is eligible for the federal tax credit to also claim a ten percent state tax credit for rehabilitating a certified historic structure. This is a combined federal-state subsidy of thirty percent of the total cost of rehabilitation expenses. This amendment would allow a state taxpayer to claim a state tax credit of twenty-five percent in lieu of the current ten percent state tax credit. This amendment would increase the combined federal-state subsidy to forty-five percent of the total cost of rehabilitation expenses, and accelerates the time period the tax credits may be claimed from five years down to two years.

After combining the net effects of the state-owned abandoned building tax credit and the tax credit for rehabilitation expenses of a certified historic structure, this amendment would reduce general fund individual income tax, corporate income tax, bank tax, savings and loan tax, or corporate license fee revenue by an estimated $13,300,000 in FY2014-15 and by an estimated $13,300,000 in FY2015-16.

**Explanation of Amendment (February 26, 2013) – Senate Finance Committee**

This amendment strikes all after the enacting words and inserts the following changes to the bill:

 The amendment clarifies that, “an abandoned building is not a building or structure with an immediate preceding use as a single-family residence”. This would remove foreclosed and bank-owned buildings from the mix of eligible properties for the credit.

 The amendment disallows any rehabilitation expenses that increase the amount of square footage in excess of 200% of the square footage that existed before rehabilitation project started. Also, demolition expenses are not qualified expenses if the building is on the National Register of Historical Places. These provisions would limit the size of the rehabilitated abandoned building that would qualify for the tax credit.

 Section 12-67-130 lowers the threshold of qualified rehabilitation expenses to qualify for the tax credit from more than $500,000 to a graduated scale based on the dollar volume of rehabilitation expenses and the population of the location of the building in a county or municipality. This provision would promote greater use of the tax credit by allowing additional abandoned properties in smaller towns and locations to qualify for the tax credit.

 The amendment also limits the amount of the credit that may be claimed by any taxpayer in a tax year to no more than $500,000 for each abandoned building site.

 The amendment also allows the rehabilitation tax credit to be applied against taxes pursuant to Chapter 13 of Title 12, the tax on the net income of savings and loans. This provision would widen the tax base of which the tax credit may be applied, thereby increasing the use of the tax greater.

Overall, the effect of the amendment is to allow greater use of the rehabilitation of abandoned buildings tax credit by lowering the threshold to qualify for the tax credit and expanding the base of which the tax credit may be applied. Since the revenue impact was calculated by using an estimate of the total amount of square footage of abandoned buildings in the state, the provisions in the amendment would change the mix of the structures being rehabilitated, but the tax credit limitations have remained unchanged. This amendment, therefore, would not change the original revenue impact and is expected to reduce general fund individual income tax, corporate income tax, bank tax, saving and loan tax, or corporate license fee revenue by an estimated $937,500 in FY2013-14 and by an estimated $3,750,000 in FY2014-15, and for each fiscal year thereafter until FY2017-18.

## Explanation of Bill Filed January 15, 2013

This bill would add Chapter 67 to Title 12 to extend a nonrefundable tax credit to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned buildings located in South Carolina. An “abandoned building” means a building or structure on which at least sixty-six percent of the space has been closed continuously to business for a period of at least five years. This bill would add Section 12-67-140(B)(2) to allow a taxpayer a nonrefundable credit of twenty-five percent of the actual rehabilitation expenses incurred at the building site. To be eligible for the tax credit, the actual rehabilitation expenses must be between eighty percent and one hundred twenty-five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. The entire credit is earned when the building is placed in service, but the tax credit must be taken in equal installments over five years. Any unused credits may be carried forward for the succeeding five years. The tax credit is limited in use to fifty percent of a taxpayer’s income tax liability against income tax, bank tax, or corporate license fees. The tax credits are transferrable.

The taxpayer may also choose to elect a credit against real property taxes levied by local taxing entities. The taxpayer must elect the nonrefundable tax credit to be applied against either the income or corporate license taxes, or against property taxes, but not both. The “real property tax credit” is equal to twenty-five percent of the qualified rehabilitation expenses made to the eligible site up to seventy-five percent of the real property taxes due on the site each year. The municipality or the county must determine the eligibility of the site and the proposed project. The ordinance shall allow the property tax credit to be taken against up to seventy-five percent of the real property taxes due on the site each year not to exceed eight years. The credit vests in the taxpayer in the year in which the eligible site is placed in service. The credit may be carried forward up to eight years.

Eligible abandoned buildings, both private and public, may include, but are not limited to, abandoned residences, retail stores, hotels and motels, office space, health care facilities, schools, amusement and recreational facilities, warehouses, manufacturing facilities, fire towers, National Guard armories, military and defense buildings, college and university buildings, and state office buildings. For example, the 165-acre state Department of Mental Health facility located on Bull Street in Columbia recently was sold to a private developer for $15,000,000. The developer has since estimated and revised renovation expenses to $40,000,000. Multiplying $40,000,000 in renovation expenses by a nonrefundable tax credit of twenty-five percent and applying the tax credit in equal installments over five taxable years, yields a reduction in general fund tax revenue of an estimated $2,000,000 annually for the next five fiscal years.

According to the National Trust for Historic Places, the Palmetto Trust for Historic Preservation, the SC Department of Archives and History, the U.S. Department of General Services, and the South Carolina Budget and Control, there is an estimated 500,000 square feet of abandoned building space throughout the state of South Carolina. Multiplying 500,000 square feet of abandoned income producing space by an average renovation cost of $150 per square foot equals an estimated $75,000,000 of renovation expense that may be undertaken. Applying a twenty-five percent nonrefundable tax credit to $75,000,000 of renovation expense and spreading out the tax credit over five equal installments yields an estimated reduction of general fund individual and corporate income tax and corporation license tax revenue of $3,750,000 in FY2013-14, and for each successive fiscal year for five years to FY2017-18. It is reasonable; however, to estimate that twenty-five percent of rehabilitative projects would qualify in FY2013-14 since it takes time to file a Notice of Intent to Rehabilitate, undertake the renovation, and subsequently inhabit the structure. This bill is expected, therefore, to reduce general fund individual and corporate income tax and corporation license tax revenue by an estimated $937,500 in FY2013-14 and by an estimated $3,750,000 in each successive fiscal year through FY2017-18.

The taxpayer has the option of applying to a county council or city council for a reduction in local property taxes against the value of the rehabilitated structure. If all taxpayers elect the property tax option, local property tax revenue would be reduced by an estimated $3,750,000 annually. This act takes effect upon approval of the Governor.

*Approved By:*

Frank A. Rainwater

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 67 TO TITLE 12 SO AS TO ENACT THE “SOUTH CAROLINA ABANDONED BUILDINGS REVITALIZATION ACT” WHICH PROVIDES THAT A TAXPAYER MAKING INVESTMENTS OF A CERTAIN SIZE IN REHABILITATING AN ABANDONED BUILDING MAY AT HIS OPTION RECEIVE SPECIFIED INCOME TAX CREDITS OR CREDITS AGAINST THE PROPERTY TAX LIABILITY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1.A. Title 12 of the 1976 Code is amended by adding:

“CHAPTER 67

South Carolina Abandoned Buildings

Revitalization Act

Section 12‑67‑100. This chapter may be cited as the ‘South Carolina Abandoned Buildings Revitalization Act’.

Section 12‑67‑110. (A) The purpose of this chapter is to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned buildings located in South Carolina.

(B) The abandonment of buildings has resulted in the disruption of communities and increased the cost to local governments by requiring additional police and fire services due to excessive vacancies. Many abandoned buildings pose safety concerns. A public and corporate purpose is served by restoring these buildings to productive assets for the communities in which they are located and result in increased job opportunities.

(C) There exists in many communities of this State abandoned buildings. The stable economic and physical development of these communities is endangered by the presence of these abandoned buildings as manifested by their progressive and advanced deterioration. As a result of the existence of these abandoned buildings, there is an excessive and disproportionate expenditure of public funds, inadequate public and private investment, unmarketability of property, growth in delinquencies and crime in the areas, together with an abnormal exodus of families and businesses, so that the decline of these areas impairs the value of private investments, threatens the sound growth and the tax base of taxing districts in these areas, and threatens the health, safety, morals, and welfare of the public. To remove and alleviate these adverse conditions, it is necessary to encourage private investment and restore and enhance the tax base of the taxing districts in which such buildings are located by the redevelopment of abandoned buildings.

Section 12‑67‑120. For the purposes of this chapter, unless the context requires otherwise:

(1) ‘Abandoned building’ means a building or structure, which clearly may be delineated from other buildings or structures, at least sixty‑six percent of the space in which has been closed continuously to business or otherwise nonoperational for income producing purposes for a period of at least five years immediately preceding the date on which the taxpayer files a ‘Notice of Intent to Rehabilitate’. For purposes of this item, a building or structure that otherwise qualifies as an ‘abandoned building’ may be subdivided into separate units or parcels, which units or parcels may be owned by the same taxpayer or different taxpayers, and each unit or parcel is deemed to be an abandoned building site for purposes of determining whether each subdivided parcel is considered to be abandoned. For purposes of this item, an abandoned building is not a building or structure with an immediate preceding use as a single‑family residence. For purposes of this item, use of any portion of a building or structure listed on the National Register for Historic Places when used solely for storage or warehouse purposes is considered nonoperational for income producing purposes; provided, however, that the credit provided under Section 12‑67‑140(B) is further limited by disqualifying for credit purposes the portion of the building or structure that was operational and used as a storage or warehouse for income producing purposes. This limitation is calculated based on the actual percentage of the space which has been closed continuously to business or otherwise nonoperational for income producing purposes for a period of at least five years immediately preceding the date on which the taxpayer files a ‘Notice of Intent to Rehabilitate’ divided by one hundred percent.

(2) ‘Building site’ means the abandoned building together with the parcel of land upon which it is located and other improvements located on the parcel. However, the area of the building site is limited to the land upon which the abandoned building is located and the land immediately surrounding such building used for parking and other similar purposes directly related to the building’s income producing use.

(3) ‘Local taxing entities’ means a county, municipality, school district, special purpose district, and other entity or district with the power to levy ad valorem property taxes against the building site.

(4) ‘Local taxing entity ratio’ means that percentage computed by dividing the millage rate of each local taxing entity by the total millage rate for the building site.

(5) ‘Placed in service’ means the date upon which the building site is completed and ready for its intended use. If the building site is completed and ready for use in phases or portions, each phase or portion is considered to be placed in service when it is completed and ready for its intended use.

(6) ‘Rehabilitation expenses’ means the expenses or capital expenditures incurred in the rehabilitation, demolition, renovation, or redevelopment of the building site, including without limitations, the renovation or redevelopment of existing buildings, environmental remediation, site improvements, and the construction of new buildings and other improvements on the building site, but excluding the cost of acquiring the building site or the cost of personal property located at the building site. For expenses associated with a building site to qualify for the tax credit, the abandoned buildings on the building site must be either renovated or redeveloped. Rehabilitation expenses associated with a building site that increases the amount of square footage on the building site in excess of two hundred percent of the amount of square footage of the buildings that existed on the building site as of the filing of the notice of intent to rehabilitate shall not be considered a rehabilitation expense for purposes of calculating the amount of the credit. Notwithstanding any other provision of this section, demolition expenses shall not be considered a rehabilitation expense for purposes of calculating the amount of the credit if the building being demolished is on the National Register for Historic Places.

(7) ‘Notice of Intent to Rehabilitate’ means a letter submitted by the taxpayer to the department or the municipality or county as specified in this chapter, indicating the taxpayer’s intent to rehabilitate the building site, the location of the building site, the amount of acreage involved in the building site, the amount of square footage of existing buildings involved in the building site, and the estimated expenses to be incurred in connection with rehabilitation of the building site. The notice also must set forth information as to which buildings the taxpayer intends to renovate and whether new construction is to be involved.

Section 12‑67‑130. (A) This chapter only applies to abandoned building sites or phases or portions thereof put into operation in which a taxpayer incurs the following rehabilitation expenses:

(1) more than two hundred fifty thousand dollars for buildings located in the unincorporated areas of a county or in a municipality in the county with a population based on the most recent official United States census of more than twenty‑five thousand persons;

(2) more than one hundred fifty thousand dollars for buildings located in the unincorporated areas of a county or in a municipality in the county with a population of at least one thousand persons, but not more than twenty‑five thousand persons based on the most recent official United States census; and

(3) more than seventy‑five thousand dollars for buildings located in a municipality with a population of less than one thousand persons based on the most recent official United States census.

(B) This chapter only applies to abandoned building sites or phases or portions thereof put into operation for income producing purposes and that meet the purpose of this chapter set forth in Section 12‑67‑110. The construction or operation of a charter school, private or parochial school, or other similar educational institution does meet the purpose of this chapter. The construction of a single‑family residence is not an income producing purpose and does not meet the purpose of this chapter.

Section 12‑67‑140. (A) Subject to the terms and conditions of this chapter, a taxpayer who rehabilitates an abandoned building is eligible for either:

(1) a credit against income taxes imposed pursuant to Chapter 6 and Chapter 11 of this title, corporate license fees pursuant to Chapter 20 of this title, or taxes on associations pursuant to Chapter 13 of this title, or a combination thereof; or

(2) a credit against real property taxes levied by local taxing entities.

(B) If the taxpayer elects to receive the credit pursuant to subsection (A)(1), the following provisions apply:

(1) The taxpayer shall file with the department a Notice of Intent to Rehabilitate before incurring its first rehabilitation expenses at the building site. Failure to provide the Notice of Intent to Rehabilitate results in qualification of only those rehabilitation expenses incurred after the notice is provided.

(2) The amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses incurred at the building site if the actual rehabilitation expenses incurred in rehabilitating the building site are between eighty percent and one hundred twenty‑five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the building site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed.

(3)(a) The entire credit is earned in the taxable year in which the applicable phase or portion of the building site is placed in service but must be taken in equal installments over a five‑year period beginning with the tax year in which the applicable phase or portion of the building site is placed in service. Unused credit may be carried forward for the succeeding five years.

(b) The entire credit earned pursuant to this item may not exceed five hundred thousand dollars for any taxpayer in a tax year for each abandoned building site. The limitation provided in this subitem applies to each unit or parcel deemed to be an abandoned building site.

(4) If the taxpayer qualifies for both the credit allowed by this section and the credit allowed pursuant to the Textiles Communities Revitalization Act or the Retail Facilities Revitalization Act, the taxpayer only may claim one of the three credits. However, the taxpayer is not disqualified from claiming any other tax credit in conjunction with the credit allowed by this section.

(5) The credit allowed by this subsection is limited in use to fifty percent of either:

(a) the taxpayer’s income tax liability for the taxable year if taxpayer claims the credit allowed by this section as a credit against income tax imposed pursuant to Chapter 6 or Chapter 11 of this title, or taxes on associations pursuant to Chapter 13 of this title, or both; or

(b) the taxpayer’s corporate license fees for the taxable year if the taxpayer claims the credit allowed by this section as a credit against license fees imposed pursuant to Chapter 20.

(6)(a) If the taxpayer leases the building site, or part of the building site, the taxpayer may transfer any applicable remaining credit associated with the rehabilitation expenses incurred with respect to that part of the site to the lessee of the site. If a taxpayer sells the building site, or any phase or portion of the building site, the taxpayer may transfer all or part of the remaining credit, associated with the rehabilitation expenses incurred with respect to that phase or portion of the site, to the purchaser of the applicable portion of the building site.

(b) To the extent that the taxpayer transfers the credit, the taxpayer shall notify the department of the transfer in the manner the department prescribes.

(7) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit may be passed through to the partners or members and may be allocated among any of its partners or members including, without limitation, an allocation of the entire credit to one partner or member, without regard to any provision of the Internal Revenue Code or regulations promulgated pursuant thereto, that may be interpreted as contrary to the allocation, including, without limitation, the treatment of the allocation as a disguised sale.

(C) If the taxpayer elects to receive the credit pursuant to subsection (A)(2), the following provisions apply:

(1) The taxpayer shall file a Notice of Intent to Rehabilitate with the municipality, or the county if the building site is located in an unincorporated area, in which the building site is located before incurring its first rehabilitation expenses at the building site. Failure to provide the Notice of Intent to Rehabilitate results in qualification of only those rehabilitation expenses incurred after notice is provided.

(2) Once the Notice of Intent to Rehabilitate has been provided to the county or municipality, the municipality or the county first shall determine, by resolution, the eligibility of the building site and the proposed rehabilitation expenses for the credit. A proposed rehabilitation of a building site must be approved by a positive majority vote of the local governing body. For purposes of this subsection, ‘positive majority vote’ is as defined in Section 6‑1‑300(5). If the county or municipality determines that the building site and the proposed rehabilitation expenses are eligible for the credit, there must be a public hearing and the municipality or county shall approve the building site for the credit by ordinance. Before approving a building site for the credit, the municipality or county shall make a finding that the credit does not violate a covenant, representation, or warranty in any of its tax increment financing transactions or an outstanding general obligation bond issued by the county or municipality.

(3)(a) The amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses incurred at the building site times the local taxing entity ratio of each local taxing entity that has consented to the credit pursuant to item (4), if the actual rehabilitation expenses incurred in rehabilitating the building site are between eighty percent and one hundred twenty‑five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the building site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed. The ordinance must provide for the credit to be taken as a credit against up to seventy‑five percent of the real property taxes due on the building site each year for up to eight years.

(b) The local taxing entity ratio is set as of the time the Notice of Intent to Rehabilitate is filed and remains set for the entire period that the credit may be claimed by the taxpayer.

(4) Not fewer than forty‑five days before holding the public hearing required by subsection (C)(2), the governing body of the municipality or county shall give notice to all affected local taxing entities in which the building site is located of its intention to grant a credit against real property taxes for the building site and the amount of estimated credit proposed to be granted based on the estimated rehabilitation expenses. If a local taxing entity does not file an objection to the tax credit with the municipality or county on or before the date of the public hearing, the local taxing entity is considered to have consented to the tax credit.

(5) The credit against real property taxes for each applicable phase or portion of the building site may be claimed beginning for the property tax year in which the applicable phase or portion of the building site is first placed in service.

(D) A taxpayer is not eligible for the credit if the taxpayer owned the otherwise eligible building site when the site was operational and immediately prior to its abandonment.

Section 12‑67‑150. The provisions of Chapter 31, Title 6 also apply to this chapter, except that the requirements of Section 6‑31‑40 do not apply.”

B. The provisions of Chapter 67, Title 12 contained in this act are repealed on December 31, 2019. Any carry forward credits shall continue to be allowed until the five year time period in Section 12‑67‑140 is completed.

SECTION 2. This act takes effect upon approval by the Governor, and applies to the rehabilitation, renovation, and redevelopment of abandoned buildings begun after the effective date of this chapter which are undertaken in conformity with the provisions of this act.

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