

South Carolina General Assembly
124th Session, 2021-2022

R255, S901

STATUS INFORMATION

General Bill

Sponsors: Senators Verdin, Cromer, McElveen and Peeler

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Introduced in the Senate on December 6, 2021

Introduced in the House on March 8, 2022

Last Amended on June 15, 2022

Passed by the General Assembly on June 15, 2022

Governor's Action: June 22, 2022, Signed

Summary: Taxation; income, max tax on boats, job development credits

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/6/2021	Senate	Introduced and read first time (Senate Journal-page 19)
12/6/2021	Senate	Referred to Committee on Finance (Senate Journal-page 19)
2/24/2022	Senate	Committee report: Favorable Finance (Senate Journal-page 8)
2/28/2022		Scrivener's error corrected
3/2/2022	Senate	Read second time (Senate Journal-page 16)
3/2/2022	Senate	Roll call Ayes-41 Nays-0 (Senate Journal-page 16)
3/3/2022	Senate	Read third time and sent to House (Senate Journal-page 17)
3/8/2022	House	Introduced and read first time
3/8/2022	House	Referred to Committee on Ways and Means (House Journal-page 5)
4/28/2022	House	Committee report: Favorable with amendment Ways and Means (House Journal-page 9)
5/2/2022		Scrivener's error corrected
5/4/2022	House	Requests for debate-Rep(s). Gilliard, Hill, Murray, Brawley, Howard, Hosey, Clyburn, Rivers, Pendarvis, Henegan, Hart, Anderson, May, Dabney, R Williams, Jefferson (House Journal-page 117)
5/11/2022	House	Requests for debate removed-Rep(s). Dabney, Henegan, Hill, Clyburn, Jefferson, Rivers, Brawley, Murray, Hart, R Williams, Howard, Pendarvis, May, Gilliard (House Journal-page 40)
5/11/2022	House	Amended (House Journal-page 40)
5/11/2022	House	Read second time (House Journal-page 40)
5/11/2022	House	Roll call Yeas-91 Nays-0 (House Journal-page 45)
5/12/2022	House	Read third time and returned to Senate with amendments (House Journal-page 7)
5/12/2022	Senate	Non-concurrence in House amendment (Senate Journal-page 59)
5/12/2022	House	House insists upon amendment and conference committee appointed Reps. Crawford, Hewitt, Weeks (House Journal-page 128)
5/12/2022	Senate	Conference committee appointed Verdin, Davis, Williams (Senate Journal-page 60)
6/15/2022	House	Conference report received and adopted (House Journal-page 182)
6/15/2022	House	Roll call Yeas-98 Nays-11 (House Journal-page 189)
6/15/2022	Senate	Conference report received and adopted (Senate Journal-page 106)
6/15/2022	Senate	Roll call Ayes-41 Nays-0 (Senate Journal-page 106)
6/15/2022	Senate	Ordered enrolled for ratification (Senate Journal-page 114)

6/16/2022
6/22/2022

Ratified R 255
Signed By Governor

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NOTE: THIS IS A TEMPORARY VERSION. THIS DOCUMENT WILL REMAIN IN THIS VERSION UNTIL FINAL APPROVAL BY THE LEGISLATIVE COUNCIL.

(R255, S901)

AN ACT TO AMEND SECTION 12-6-3775, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A SOLAR ENERGY INCOME TAX CREDIT, SO AS TO PROVIDE FOR CERTAIN PASS THROUGH PROVISIONS, TO REPEAL SECTION 4 B. OF ACT 77 OF 2019 RELATING TO THE REPEAL OF SECTION 12-6-3775; BY ADDING SECTION 12-36-922 SO AS TO PROVIDE FOR CERTAIN ACCOMMODATIONS TAX RETURN REQUIREMENTS; TO AMEND SECTION 12-36-2110, RELATING TO THE MAXIMUM TAX, SO AS TO ADD WATERCRAFT MOTORS; BY ADDING SECTION 12-6-3710 SO AS TO PROVIDE FOR INCOME TAX CREDITS FOR CERTAIN EMPLOYERS; TO AMEND SECTION 12-10-30, RELATING TO ENTERPRISE ZONE ACT DEFINITIONS, SO AS TO DEFINE “RELATED PERSON”; TO AMEND SECTION 12-10-80, RELATING TO JOB DEVELOPMENT CREDITS, SO AS TO ALLOW A QUALIFYING BUSINESS TO DESIGNATE CERTAIN RELATED PERSONS TO DETERMINE WHETHER CERTAIN QUALIFICATIONS ARE MET.

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

Solar energy tax credit reenactment

SECTION 1. A. Section 12-6-3775 as it existed on December 31, 2021, is reenacted retroactively, subject to the amendments contained in SECTION 2.

B. This SECTION takes effect upon approval by the Governor and applies to income tax years beginning after 2021.

C. Section 4 B. of Act 77 of 2019 is repealed.

Solar energy tax credit

SECTION 2.A. Section 12-6-3775 of the 1976 Code is amended to read:

“Section 12-6-3775. (A) For the purposes of this section, ‘solar energy property’ means any nonresidential solar energy equipment with a nameplate capacity of at least one thousand nine hundred kilowatts (1,900 kw AC) that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, 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.

(B)(1) A taxpayer is allowed an income tax credit equal to twenty five percent of the cost, including the cost of installation, of a solar energy property if he constructs, purchases, or leases a solar energy property that is located in the State of South Carolina and if:

(a) the property is located on:

(i) the Environmental Protection Agency’s National Priority List;

(ii) the Environmental Protection Agency’s National Priority List Equivalent Sites;

(iii) a list of related removal actions, as certified by the Department of Health and Environmental Control;

(iv) land that is subject to a Voluntary Cleanup Contract with the Department of Health and Environmental Control as of December 31, 2017, or to corrective action under the Federal Resource Conservation and Recovery Act of 1976; or

(v) land that is owned by the Pinewood Site Custodial Trust; and

(b) he places it in service in this State during the taxable year.

(2) The credit is earned in the year in which the solar energy property is placed in service but must be taken in five equal annual installments, beginning within three years of the year in which the solar energy property is placed in service. Unused credit may be carried forward for five taxable years from the year that the credit was able to be taken. A lessor shall give a taxpayer who leases solar energy property from him a statement that describes the solar energy property and states the cost of the property upon request. A credit is not allowed pursuant to this section if the cost of the solar energy property is provided by public funds. For the purposes of this section, ‘public funds’ does not include federal grants or tax credits.

(C) If the solar energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of the State in a year in which the installment of a credit accrues, then the credit expires and the taxpayer may not take any remaining installments of the credit.

(D) A credit for each installation of solar energy property placed in service may not exceed five million dollars. The credit is allowed on a first come, first served basis, and the total amount of credits available to be taken, pursuant to the five equal annual installments, for all taxpayers in a taxable year, may not exceed two million five hundred thousand dollars in the aggregate.

(E) A taxpayer who claims any other state credit allowed with respect to solar energy property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for solar energy property that the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit pursuant to this section with respect to the property.

(F) The department may promulgate regulations necessary to implement the provisions of this section.

(G) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit, including any unused credit amount carried forward, may be passed through to the partners or members and may be allocated among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit or unused carryforward to any partner or member who was a member or partner at any time in the year in which the credit or unused carryforward is allocated. The allocation must be allowed 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. This subsection only applies to credits earned for a solar energy property placed in service after 2019.”

B. This SECTION takes effect upon approval by the Governor and first applies to income tax years beginning after 2021.

Accommodations tax return information

SECTION 3. Article 9, Chapter 36, Title 12 of the 1976 Code is amended by adding:

“Section 12-36-922. For each accommodations tax return filed with multiple locations, the filer also must provide electronically the location information by address and the amount of net taxable sales for each location.”

Maximum tax

SECTION 4.A. Section 12-36-2110(A)(1)(d) of the 1976 Code is amended to read:

“(d) boat and watercraft motor;”

B. This SECTION takes effect upon approval by the Governor and first applies on July 1, 2022.

Income tax credit

SECTION 5. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12-6-3710. (A) For tax years beginning after 2021, there is allowed a tax credit for any taxpayer that hires a formerly incarcerated individual, after 2021 but before 2027, as a new employee in a registered apprenticeship program that has been validated by the United States Department of Labor. An employer who has one or more eligible employees is eligible to apply for and receive a credit against the taxes set forth in subsection (B). In the first year in which the credit is earned pursuant to subsection (D), the amount of the credit is three thousand dollars for each eligible employee. If the eligible employee remains employed and otherwise meets the requirements of this section thereafter, the credit is two thousand five hundred dollars in the second year, and one thousand dollars in the third year. The credit may not be claimed beyond the third year.

(B) The credit allowed pursuant to this section may be taken against the income taxes imposed pursuant to this chapter, the bank tax imposed pursuant to Chapter 11 of this title, the savings and loan association tax imposed pursuant to Chapter 13 of this title, the corporate license tax imposed pursuant to Chapter 20 of this title, and insurance premium taxes imposed pursuant to Chapter 7, Title 38.

(C) The total amount of the tax credit for a taxable year may not exceed the taxpayer’s tax liability. Any unused credit may not be carried over to apply to the taxpayer’s succeeding year’s liability.

(D)(1) The tax credit is earned in the year in which the formerly incarcerated individual first completes the twelfth consecutive month of employment with the taxpayer. The credit is earned in the same manner and on the same schedule in the second and third year of employment.

(2) The tax credit allowed by this section only may be claimed for an eligible individual once, regardless of the employer. The department shall consult with the Department of Commerce, Apprenticeship

Carolina of the South Carolina Technical College System, and any other agency or entity necessary to establish a process by which employers are aware of an individual's eligibility for the credit allowed by this section.

(E) Notwithstanding any other provision of this section, the credit allowed by this section only may be claimed if the formerly incarcerated individual is hired by the employer, after 2021 but before 2027, as a new employee in the registered apprenticeship program. If the individual is hired before 2027, then the employer may claim the credit for each year the individual is eligible and on the same schedule as provided in this section.

(F) The department may prescribe forms and promulgate regulations necessary to implement the provisions of this section, including requiring the necessary documentation to prove eligibility.

(G) Nothing in this section may be construed to allow an employer to claim this credit for a formerly incarcerated individual if the individual was hired before 2022.

(H) For purposes of this section:

(1) 'Full-time' has the same meaning as provided in Section 12-6-3360.

(2) 'Incarcerated individual' means an individual that, within three years of being hired in a qualifying apprenticeship program, was held in a state or county prison, jail, or detention center for at least ninety consecutive days, but does not include an individual incarcerated for a violent crime set forth in Section 16-1-60, unless such individual received a pardon for the offense or unless the only disqualifying violent crime resulted in a sentence of ten years or less under Section 44-53-370(E) or Section 44-53-375(C).

Section 12-6-3720. (A) For tax years beginning after 2021, there is allowed a tax credit for any taxpayer that hires a veteran of the Armed Forces of the United States, after 2021 but before 2027, as a new employee in a registered apprenticeship program that has been validated by the United States Department of Labor. An employer who has one or more eligible employees is eligible to apply for and receive a credit against the taxes set forth in subsection (B). In the first year in which the credit is earned pursuant to subsection (D), the amount of the credit is three thousand dollars for each eligible employee. If the eligible employee remains employed and otherwise meets the requirements of this section thereafter, the credit is two thousand five hundred dollars in the second year, and one thousand dollars in the third year. The credit may not be claimed beyond the third year.

(B) The credit allowed pursuant to this section may be taken against the income taxes imposed pursuant to this chapter, the bank tax imposed

pursuant to Chapter 11 of this title, the savings and loan association tax imposed pursuant to Chapter 13 of this title, the corporate license tax imposed pursuant to Chapter 20 of this title, and insurance premium taxes imposed pursuant to Chapter 7, Title 38.

(C) The total amount of the tax credit for a taxable year may not exceed the taxpayer's tax liability. Any unused credit may not be carried over to apply to the taxpayer's succeeding year's liability.

(D)(1) The tax credit is earned in the year in which the veteran first completes the twelfth consecutive month of employment with the taxpayer. The credit is earned in the same manner and on the same schedule in the second and third year of employment.

(2) The tax credit allowed by this section only may be claimed for an eligible individual once, regardless of the employer. The department shall consult with the Department of Commerce, Apprenticeship Carolina of the South Carolina Technical College System, and any other agency or department necessary to establish a process by which employers are aware of an individual's eligibility for the credit allowed by this section.

(E) Notwithstanding any other provision of this section, the credit allowed by this section only may be claimed if the veteran is hired, after 2021 but before 2027, by the employer as a new employee in the registered apprenticeship program. If the individual is employed before 2027, then the employer may claim the credit for each year the individual is eligible and on the same schedule as provided in this section.

(F) The department may prescribe forms and promulgate regulations necessary to implement the provisions of this section, including requiring the necessary documentation to prove eligibility.

(G) Nothing in this section may be construed to allow an employer to claim this credit for a veteran if the veteran was hired before the effective date of this section.

(H) For purposes of this section:

(1) 'Full-time' has the same meaning as provided in Section 12-6-3360.

(2) 'Veteran' means a person who served on active duty in the armed forces of the United States and who, within three years of being hired in a qualifying apprenticeship program, was honorably discharged or released from such service due to a service-connected disability."

Definition

SECTION 6. A. Section 12-10-30 of the 1976 Code is amended by adding an appropriately numbered item to read:

“() ‘Related person’ includes any entity or person that bears a relationship to a business as provided in Internal Revenue Code Section 267 or 707(b). The related person must be a ‘qualifying business’ as defined in item 1, except that the related person does not have to meet the requirements of Section 12-10-50(A)(1) or, in case the qualifying business qualifies for the credit against withholding for retraining pursuant to Section 12-10-95 of this Chapter, the related person does not have to meet the requirements of Section 12-10-50(B)(1).”

B. Section 12-10-80 of the 1976 Code is amended by adding an appropriately numbered item to read:

“() (a) For purposes of this chapter, a qualifying business may designate up to two related persons whose jobs and investments located at the project may be included to determine whether the qualifying business has met and maintained the minimum job requirement and minimum capital investment requirement. Qualified expenditures described in subsection (C) incurred by a related person may be treated as though such qualifying expenditures were incurred by the qualifying business for purposes of claiming the job development credit and each related person may claim the job development credit for the jobs created by such related person and include any qualifying expenditures of the qualifying business or another related person for purposes of claiming the job development credit as if created and made by the related person.

(b) A single-member limited-liability company that is not regarded as an entity separate from its owner and a qualified subchapter ‘S’ subsidiary as defined in Section 1361(b)(3)(B) of the Internal Revenue Code that is not regarded as a separate entity from the ‘S’ corporation that owns its stock, is treated as the qualifying business for all purposes under this chapter, including for purposes of claiming the job development credit against withholding but it counts as a related person for purposes of the limit described in subitem (a).”

Time effective

SECTION 7. (A) Except as otherwise provided, this act takes effect upon approval by the Governor.

(B)(1) If a solar energy tax credit is earned and any portion taken pursuant to Section 12-6-3775 before 2022, then the provisions of Section 12-6-3775 as they existed on December 31, 2021, continue to apply to such credits until the credits have been fully claimed.

(2) If a solar energy tax credit is earned pursuant to Section 12-6-3775 after 2021, but before the effective date of this act, then the

reenacted provisions of Section 12-6-3775, as amended pursuant to SECTION 2, apply.

(C) The provisions of Section 12-6-3775 are repealed on December 31, 2024, except that if the credit allowed by Section 12-6-3775 is earned before the repeal, then the provisions of Section 12-6-3775, as amended, continue to apply until the credits have been fully claimed.

Ratified the 16th day of June, 2022.

President of the Senate

Speaker of the House of Representatives

Approved the _____ day of _____ 2022.

Governor

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