**S. 1171**

(A313, R359, S1171)

**AN ACT TO AMEND SECTION 12-37-900, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX RETURNS, SO AS TO PROVIDE THAT A MANUFACTURER TAXPAYER NOT OPERATING UNDER A FEE IN LIEU OF PROPERTY TAX AGREEMENT IS NOT REQUIRED TO RETURN PERSONAL PROPERTY IN A FACILITY NOT IN USE UNTIL THE EARLIER OF THE PERSONAL PROPERTY BECOMING OPERATIONAL OR FOUR YEARS AND TO REQUIRE THIS PROPERTY TO BE LISTED WHILE NOT TAXED; TO AMEND SECTION 12-6-3310, AS AMENDED, RELATING TO THE APPLICATION OF TAX CREDITS, SO AS TO PROVIDE FOR THE APPLICATION OF TAX CREDITS WHEN EARNED BY CERTAIN LIMITED LIABILITY COMPANIES; TO AMEND SECTION 12-6-3410, AS AMENDED, RELATING TO THE CORPORATE HEADQUARTERS INCOME TAX CREDIT, SO AS TO REVISE REQUIREMENTS WITH RESPECT TO THIS CREDIT; TO AMEND SECTION 12-6-3520, AS AMENDED, RELATING TO THE INCOME CREDIT FOR HABITAT MANAGEMENT, SO AS TO PROVIDE FOR THE APPLICATION OF THIS CREDIT FOR PASS THROUGH ENTITIES; TO AMEND SECTION 12-10-30, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE ENTERPRISE ZONE ACT OF 1995, SO AS TO ADD A DEFINITION FOR A "SIGNIFICANT BUSINESS"; TO AMEND SECTION 12-10-80, AS AMENDED, RELATING TO JOB DEVELOPMENT CREDITS, SO AS TO REVISE ELIGIBILITY FOR WAIVER LIMITS OF A SIGNIFICANT BUSINESS AND REVISE OTHER ELIGIBILITY REQUIREMENTS FOR THIS CREDIT; TO AMEND SECTION 12-44-30, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO PROVIDE FOR THAT INVESTMENT ATTRIBUTED TO A SPONSOR AND INCLUDE AN AIRCRAFT WITHIN THE DEFINITION OF A "PROJECT"; TO AMEND SECTION 4-29-67, AS AMENDED, RELATING TO THE FEE IN LIEU OF PROPERTY TAX, SO AS TO PROVIDE FOR THAT INVESTMENT ATTRIBUTED TO A SPONSOR, INCLUDE AN AIRCRAFT WITH THE DEFINITION OF A "PROJECT", AND PROVIDE EVIDENCE OF A COUNTY'S APPROVAL OR RATIFICATION OF A TRANSFER OF INTEREST; TO AMEND SECTION 12-20-105, AS AMENDED, RELATING TO THE CORPORATE LICENSE TAX INFRASTRUCTURE CREDIT, SO AS TO REVISE REQUIREMENTS FOR THIS CREDIT; TO AMEND SECTION 4-12-10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE FEE IN LIEU OF PROPERTY TAX, SO AS TO INCLUDE AN AIRCRAFT WITHIN THE DEFINITION OF A "PROJECT"; TO AMEND SECTION 12-44-120, AS AMENDED, RELATING TO TRANSFERS OF INTERESTS FOR PURPOSES OF THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO PROVIDE EVIDENCE OF A COUNTY'S APPROVAL OR RATIFICATION OF A TRANSFER; TO AMEND SECTION 4-12-30, AS AMENDED, RELATING TO FEES IN LIEU OF TAXES, SO AS TO PROVIDE EVIDENCE OF A COUNTY'S APPROVAL OR RATIFICATION OF A TRANSFER OF INTEREST; TO AMEND SECTION 12-43-220, AS AMENDED, RELATING TO THE CLASSIFICATION OF PROPERTY FOR PURPOSES OF THE PROPERTY TAX, SO AS TO REVISE AN EXCLUSION FOR WAREHOUSING AND DISTRIBUTION FACILITIES FROM THE MANUFACTURING PROPERTY CLASSIFICATION; TO AMEND SECTION 12-14-80, AS AMENDED, RELATING TO THE ECONOMIC IMPACT ZONE TAX CREDIT, SO AS TO RECONSTITUTE THIS CREDIT AS AN INVESTMENT TAX CREDIT, PROVIDE FOR ELIGIBILITY, AND THE METHOD OF CLAIMING THE CREDIT; BY ADDING CHAPTER 65 TO TITLE 12 SO AS TO ENACT A NEW "SOUTH CAROLINA** TEXTILES COMMUNITIES REVITALIZATION **ACT" AND PROVIDE THE DEFINITIONS AND ELIGIBILITY REQUIREMENTS FOR TAX CREDITS ALLOWED BY THIS CHAPTER; TO REPEAL CHAPTER 32 OF TITLE 6 RELATING TO THE FORMER "SOUTH CAROLINA** TEXTILES COMMUNITIES REVITALIZATION **ACT"; TO AMEND SECTION 12-10-88, AS AMENDED, RELATING TO REDEVELOPMENT FEES, SO AS TO EXTEND THE TIME FOR REMITTING REDEVELOPMENT FEES TO A REDEVELOPMENT AUTHORITY; TO PROVIDE AN ADMISSIONS LICENSE TAX EXEMPTION FOR TEN YEARS BEGINNING JULY 1, 2008, FOR ONE-HALF OF THE PAID ADMISSIONS TO A MOTORSPORTS ENTERTAINMENT COMPLEX; TO AMEND SECTION 1-30-25, AS AMENDED, RELATING TO THE DEPARTMENT OF COMMERCE AND SECTION 1-30-80, RELATING TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM, BOTH SO AS TO MOVE THE SOUTH CAROLINA FILM COMMISSION FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM AND PROVIDE TRANSITION PROVISIONS; TO AMEND CHAPTER 62 OF TITLE 12, AS AMENDED, RELATING TO THE SOUTH CAROLINA MOTION PICTURE INCENTIVE ACT, SO AS TO MAKE CONFORMING AMENDMENTS REFLECTING THE TRANSFER OF THE SOUTH CAROLINA FILM COMMISSION; TO AMEND SECTION 12-43-350, RELATING TO REQUIREMENTS FOR THE STANDARDIZED PROPERTY TAX BILL, SO AS TO REVISE THESE REQUIREMENTS TO REFLECT THE EXEMPTION FROM MILLAGE IMPOSED FOR SCHOOL OPERATIONS FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY AND THE AMOUNT REIMBURSED THE SCHOOL DISTRICT FROM THE HOMESTEAD EXEMPTION FUND FOR THAT EXEMPTION AND TO REFLECT ANY CREDIT AGAINST THE PROPERTY TAX LIABILITY FOR COUNTY OPERATIONS ON OWNER-OCCUPIED RESIDENTIAL PROPERTY ATTRIBUTABLE TO EXCESS BALANCES IN THE HOMESTEAD EXEMPTION FUND; AND TO AMEND SECTION 12-37-714, AS AMENDED, RELATING TO THE SITUS OF BOATS FOR**

**PURPOSES OF THE PROPERTY TAX, SO AS TO ALLOW A COUNTY BY ORDINANCE TO EXTEND THE TIME LIMITS SUBJECTING A BOAT TO PROPERTY TAX.**

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

**Personal property tax returns**

SECTION 1. Section 12-37-900 of the 1976 Code is amended to read:

"Section 12-37-900. Every person required by law to list property shall, annually, between the first day of January and the first day of March, make out and deliver to the auditor of the county in which the property is by law to be returned for taxation a statement, verified by his oath, of all the real estate which has been sold or transferred since the last listing of property for which he was responsible and to whom, and of all real and personal property possessed by him, or under his control, on the thirty-first day of December next preceding, either as owner, agent, parent, spouse, guardian, executor, administrator, trustee, receiver, officer, partner, factor, or holder with the value thereof, on such thirty-first day of December, at the place of return, estimating according to the rules prescribed by law, except that the returns of corn, cotton, wheat, oats, rice, peas, and long forage, made on the day specified by law, shall be the amounts actually on hand in the hands of the producer thereof on the first day of August, immediately preceding the date of such return. But any county upon the written approval of a majority of the county legislative delegation, including the senator, may waive penalties for failing to make such statement or may provide that such statement shall be made every fourth year. This section shall not repeal or alter any prior law or laws applying to particular counties which allow or provide for returns of real property more frequently than every four years.

A manufacturer not under a fee agreement is not required to return personal property for ad valorem tax purposes if the property remains in this State at a manufacturing facility that has not been operational for one fiscal year and the personal property has not been used in operations for one fiscal year. The personal property is not required to be returned until the personal property becomes operational in a manufacturing process or until the property has not been returned for ad valorem tax purposes for four years, whichever is earlier. A manufacturer must continue to list the personal property annually and designate on the listing that the personal property is not subject to tax pursuant to this section."

**Miscellaneous tax provisions**

SECTION 2. A. Section 12-6-3310 of the 1976 Code, as last amended by Act 69 of 2003, is further amended by adding a new subsection at the end to read:

"(C) A limited liability company not organized as a legal entity which is a taxpayer, a corporation, or other form of business entity expressly specified as qualifying for the credits allowed pursuant to this article nevertheless qualifies for such credits in a manner consistent with Section 12-2-25 as follows:

(1) Limited liability companies taxed for South Carolina income tax purposes as partnerships shall apply the credits as provided in subsection (B). If a member is an individual, the limited liability company may earn and pass through any credits allowed by this article to be applied against income tax imposed pursuant to Section 12-6-510. If a member is a corporation, the limited liability company may earn and pass through any credits allowed by this article to be applied against income tax imposed pursuant to Section 12-6-530.

(2) Limited liability companies taxed for South Carolina income tax purposes as corporations are entitled to all credits otherwise applicable to corporations.

(3) With respect to single members of limited liability companies which are not regarded as a separate entity from its owner, members who are individuals may claim any credits allowed by this article to be applied against income tax imposed pursuant to Section 12-6-510 and members which are corporations may claim any credits allowed by this article to be applied against income tax imposed pursuant to Section 12-6-530.

(4) For limited liability companies owned by limited liability companies or other pass through entities described in subsection (B), items (1) through (3) are applied at each successive stage of ownership until the credit is applied against the tax imposed pursuant to either Section 12-6-510 or Section 12-6-530, as applicable."

B. 1. Section 12-6-3410(D)(2) of the 1976 Code is amended to read:

"(2) The establishment, expansion, or addition of a corporate headquarters or research and development facility must result in the creation of at least seventy-five new full-time jobs performing either:

(a) headquarters related functions and services; or

(b) research and development related functions and services.

The seventy-five required jobs must have an average cash compensation level of more than twice the per capita income of this State based on the most recent per capita income data available as of the end of the taxpayer's taxable year in which the jobs are filled."

2. Section 12-6-3410(J) of the 1976 Code, as amended by Act 384 of 2006, is further amended by deleting item (9) which reads:

"(9) 'corporation', 'corporate', 'company', and 'taxpayer' for purposes of this section also include a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act regardless of whether the limited liability company is treated as a partnership or as a corporation for South Carolina income tax purposes. If treated as a partnership, a limited liability company that qualifies for a credit under this section passes the credit through to its members in proportion to their interests in the limited liability company. Each member's share of the credit is nonrefundable but is allowed as a credit against any tax under Section 12-6-530 or Section 12-20-50 and bank taxes imposed pursuant to Chapter 11 of this title. Each member may carry any unused credit forward as provided in subsection (F). The limited liability company may not carry forward a credit that passes through to its members."

C. Section 12-6-3520 of the 1976 Code, as last amended by Act 89 of 2001, is further amended by deleting subsection (E) which reads:

"(E)(1) An 'S' corporation, limited liability company, or partnership that qualifies for the credit pursuant to this section may pass through the credit earned to each shareholder of the 'S' corporation, member of the limited liability company, or partner of the partnership.

(2) The amount of the credit allowed a shareholder, member, or partner pursuant to this section is equal to the shareholder's percentage of stock ownership, the member's interest in the limited liability company, or the partner's interest in the partnership for the taxable year, multiplied by the amount of the credit earned by the entity. Credit earned by an 'S' corporation owing corporate level income tax must be used first at the entity level. Only the remaining credit passes through to the shareholders of the 'S' corporation.

(3) For purposes of this subsection, 'limited liability company' means a limited liability company taxed like a partnership."

D. Section 12-10-30 of the 1976 Code, as last amended by Act 89 of 2001, is further amended by adding a new item at the end to read:

"(18) 'Significant business' means a qualifying business making a significant capital investment as defined in Section 12-44-30(7)."

E. Section 12-10-80(D)(2) of the 1976 Code, as last amended by Act 386 of 2006, is further amended to read:

"(2) The amount that may be claimed as a job development credit by a qualifying business is limited by this subsection and by the revitalization agreement. The council may approve a waiver of ninety-five percent of the limits provided in item (1) for:

(a) a significant business; and

(b) a related person to a significant business if the related person is located at the project site of the significant business and qualifies for job development credits pursuant to this chapter.

For purposes of this item, a related person includes any entity or person that bears a relationship to a significant business as provided in Internal Revenue Code Section 267 and includes, without limitation, a limited liability

company of which more than fifty percent of the capital interest or profits is owned directly or indirectly by a significant business or by a person or entity, or group of persons or entities which owns, more than fifty percent of the capital interest or profits in the significant business."

F. Section 12-44-30(7) of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding a new paragraph at the end to read:

"For purposes of this item, if a single sponsor enters into a financing arrangement of the type described in Section 12-44-120(B), the investment in or financing of the property by a developer, lessor, financing entity, or other third party in accordance with this arrangement is considered investment by the sponsor. Investment by a related person to the sponsor, as described in Section 12-10-80(D)(2), is considered investment by the sponsor."

G. Section 4-29-67(D)(4)(a) of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding a new paragraph at the end to read:

"For purposes of this item, if a single sponsor enters into a financing arrangement of the type described in Section 4-29-67(O)(2), the investment in or financing of the property by a developer, lessor, financing entity, or other third party in accordance with this arrangement is considered investment by the sponsor. Investment by a related person to the sponsor, as described in Section 12-10-80(D)(2), is considered investment by the sponsor."

H. Section 4-12-30(D)(4)(a) of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding a new paragraph at the end to read:

"For purposes of this item, if a single sponsor enters into a financing arrangement of the type described in Section 4-12-30(M)(2), the investment in or financing of the property by a developer, lessor, financing entity, or other third party in accordance with this arrangement is considered investment by the sponsor. Investment by a related person to the sponsor, as described in Section 12-10-80(D)(2), is considered investment by the sponsor."

I. 1. a. Section 12-10-80(C)(3)(f) of the 1976 Code, as last amended by Act 384 of 2006, is further amended to read:

"(f) employee relocation expenses associated with new or expanded qualifying service-related facilities as defined in Section 12-6-3360(M)(13) or new or expanded technology intensive facilities as defined in Section 12-6-3360(M)(14) or relocation expenses associated with new national, regional, or global headquarters as defined in Section 12-6-3410(J)(1)(a) or relocation expenses associated with an expanded research and development facility to include personnel and laboratory research and development equipment;"

b. Section 12-10-80 of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding an appropriately lettered subsection at the end to read:

"( ) Where the qualifying business that creates new jobs under this section is a qualifying service-related facility as defined in Section 12-6-3360(M)(13), the determination of the number of jobs created must be based on the total number of new jobs created within five years of the effective date of the revitalization agreement, without regard to monthly or other averaging."

2. Subsections (B) and (C) of Section 12-20-105 of the 1976 Code, as last amended by Act 116 of 2007, are further amended to read:

"(B)(1) To be considered an eligible project for purposes of this section, the project must qualify for income tax credits under Chapter 6, Title 12, withholding tax credit under Chapter 10, Title 12, income tax credits under Chapter 14, Title 12, or fees in lieu of property taxes under either Chapter 12, Title 4, Chapter 29, Title 4, or Chapter 44, Title 12.

(2) If a project consists of an office, business, commercial, or industrial park, or combination of these, used exclusively for economic development which is owned or constructed by a county or political subdivision of this State when the qualifying improvements are paid for, the project does not have to meet the qualifications of item (1) to be considered an eligible project. As provided in subsection (C)(4), the county or political subdivision may sell all or a portion of the business or industrial park.

(C) For the purpose of this section, 'infrastructure' means improvements for water, wastewater, hydrogen fuel, sewer, gas, steam, electric energy, and communication services made to a building or land that are considered necessary, suitable, or useful to an eligible project. These improvements include, but are not limited to:

(1) improvements to both public or private water and sewer systems;

(2) improvements to both public or private electric, natural gas, and telecommunications systems including, but not limited to, ones owned or leased by an electric cooperative, electric utility, or electric supplier, as defined in Chapter 27, Title 58;

(3) fixed transportation facilities including highway, road, rail, water, and air;

(4) for a qualifying project under subsection (B)(2), infrastructure improvements include shell buildings and the purchase of land for an office, business, commercial, or industrial park, or combination of these, used exclusively for economic development which is owned or constructed by a county or political subdivision of this State. The county or political subdivision may sell the shell building or all or a portion of the park at any time after the company has paid in cash to provide the infrastructure for an eligible project; and

(5) for a qualifying project pursuant to subsection (B)(2), infrastructure improvements also include due diligence expenditures relating to environmental conditions made by a county or political subdivision after it has acquired contractual rights to an industrial park. Due diligence expenditures include such items as Phase I and II studies and environmental or archeological studies required by state or federal statutes or guidelines or similar lender requirements. Contractual rights include options to purchase real property or other similar contractual rights acquired before the county or political subdivision files a deed to the property with the Register of Mesne Conveyances."

3. Section 12-44-30(16) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

"(16) 'Project' means land, buildings, and other improvements on the land, including water, sewage treatment and disposal facilities, air pollution control facilities, and all other machinery, apparatus, equipment, office facilities, and furnishings which are considered necessary, suitable, or useful by a sponsor. 'Project' also may consist of or include aircraft hangered or utilizing an airport in a county so long as the county expressly consents to its inclusion. Aircraft previously subject to taxation in South Carolina qualify pursuant to this provision."

4. Section 12-44-120(D) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

"(D) A sponsor may transfer a fee agreement, or substantially all the economic development property to which the fee agreement relates, if it obtains the prior approval, or subsequent ratification, of the county with which it entered into the fee agreement. The county's prior approval or subsequent ratification may be evidenced by any one of the following, in the absolute and sole discretion of the county providing the approval or ratification: (i) a letter or other writing executed by an authorized county representative as designated in the respective fee agreement; (ii) a resolution passed by the county council; or (iii) an ordinance passed by the county council following three readings and a public hearing. That approval is not required in connection with transfers to sponsor affiliates or other financing-related transfers."

5. Section 4-12-10(2) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

"(2) 'Project' means land, buildings, and other improvements on the land including water, sewage treatment and disposal facilities, air pollution control facilities, and all other machinery, apparatus, equipment, office facilities, and furnishings which are considered necessary, suitable, or useful by a sponsor. 'Project' also may consist of or include aircraft hangered or utilizing an airport in a county so long as the county expressly consents to its inclusion. Aircraft previously subject to taxation in South Carolina qualify pursuant to this provision."

6. Section 4-12-30(M)(4) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

"(4) A sponsor may transfer an inducement agreement, millage rate agreement, lease agreement, or the assets subject to the lease agreement, if it obtains the prior approval, or subsequent ratification, of the county with whom it entered into the original inducement agreement, millage rate agreement, or lease agreement. The county's prior approval or subsequent ratification may be evidenced by any one of the following, in the absolute and sole discretion of the county providing the approval or ratification: (i) a letter or other writing executed by an authorized county representative as designated in the respective inducement, millage rate, or lease agreement; (ii) a resolution passed

by the county council; or (iii) an ordinance passed by the county council following three readings and a public hearing. That approval is not required in connection with transfers to sponsor affiliates or other financing-related transfers."

7. Section 4-29-67(A)(1)(c) and (O)(4) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

"(c) 'Project' means land, buildings, and other improvements on the land including water, sewage treatment and disposal facilities, air pollution control facilities, and all other machinery apparatus, equipment, office facilities, and furnishings which are considered necessary, suitable, or useful by a sponsor. 'Project' also may consist of or include aircraft hangered or utilizing an airport in a county so long as the county expressly consents to its inclusion. Aircraft previously subject to taxation in South Carolina qualify pursuant to this provision."

"(4) A sponsor may transfer an inducement agreement, millage rate agreement, lease agreement, or the assets subject to the lease agreement, if it obtains the prior approval, or subsequent ratification, of the county with which it entered into the original agreement. The county's prior approval or subsequent ratification may be evidenced by any one of the following, in the absolute and sole discretion of the county providing the approval or ratification: (i) a letter or other writing executed by an authorized county representative as designated in the respective inducement, millage rate, or lease agreement; (ii) a resolution passed by the county council; or (iii) an ordinance passed by the county council following three readings and a public hearing. That approval is not required in connection with transfers to sponsor affiliates or other financing-related transfers."

8. This subsection takes effect upon approval of this act by the Governor and applies for property tax years beginning after 2007.

J. 1. Section 12-43-220(a) of the 1976 Code is amended to read:

"(a)(1) All real and personal property owned by or leased to manufacturers and utilities and used by the manufacturer or utility in the conduct of the business must be taxed on an assessment equal to ten and one-half percent of the fair market value of the property.

(2) Real property owned by or leased to a manufacturer and used primarily for research and development is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property pursuant to this item (a). The term 'research and development' means basic and applied research in the sciences and engineering and the design and development of prototypes and processes.

(3) Real property owned by or leased to a manufacturer and used primarily as an office building is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property pursuant to this item (a) if the office building is not located on the premises of or contiguous to the plant site of the manufacturer.

(4) Real property owned by or leased to a manufacturer and used exclusively for warehousing and wholesale distribution is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property pursuant to this item (a)."

2. This subsection takes effect upon approval of this act by the Governor and applies in each county in the year after the next countywide reassessment is implemented. The owners of existing warehouses affected by Section 12-43-220(a)(4), as amended by this section, who are paying a 10.5 percent assessment ratio in 2008 shall notify the county in writing by July 1, 2009, for the ratio to be reduced. Warehouses must continue to be assessed at 10.5 percent of fair market value until this written notification is given.

K. 1. Section 12-14-80 of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

"Section 12-14-80. (A) There is allowed an investment tax credit for any taxable year in which the taxpayer places in service qualified manufacturing and productive equipment and which taxpayer:

(1) is engaged in this State in at least one economic impact zone, as defined in Section 12-14-30(1), in an activity or activities listed under the North American Industry Classification System Manual (NAICS) Section 326;

(2) is employing five thousand or more full-time workers in this State and having a total capital investment in this State of not less than two billion dollars; and

(3) commits to invest five hundred million dollars in capital investment in this State between January 1, 2006, and July 1, 2011.

(B) For purposes of this section, 'qualified manufacturing and productive equipment property' means property that satisfies the requirements of Section 12-14-60(B)(1)(a), (b), and (c).

(C) The amount of the credit allowed by this section is equal to the aggregate amount computed based on Section 12-14-60(A)(2).

(D) A taxpayer that qualifies for the tax credit allowed by this section may claim the credit allowed by this section in addition to the credit allowed by Section 12-6-3360 as a credit against withholding taxes imposed by Chapter 8 of this title. The taxpayer must first apply the credit allowed by this section and Section 12-6-3360 against income tax liability. To the extent that the taxpayer has unused credit pursuant to this section for the taxable year after the application of the credits allowed by this section and Section 12-6-3360 against income tax liability, the taxpayer may claim the excess credit as a credit against withholding taxes on its four quarterly withholding tax returns for the taxpayer's taxable year; except that the credit claimed against withholding tax may not exceed fifty percent of the withholding tax shown as due on the return before the application of other credits including other credits pursuant to Section 12-10-80 or 12-10-81. For the period July 1, 2007, to June 30, 2008, a taxpayer using this section may not reduce its state withholding tax to less than the withholding tax remitted for the period June 30, 2006, to July 1, 2007.

(E) Unused credits allowed pursuant to this section may be carried forward for use in a subsequent tax year. During the first ten years of each tax credit carryforward, the credit may not reduce a taxpayer's state income tax liability by more than fifty percent, and for a subsequent year the credit carryforward may not reduce a taxpayer's state income tax liability by more than twenty-five percent. Investment tax credit carryforwards pursuant to this section and credit carryforwards pursuant to Section 12-6-3360 must first be used as a credit against income taxes for that year. Any excess may be used pursuant to subsection (D) as a credit against withholding taxes; except that the limitations of subsection (D) apply each year and the economic impact zone tax credit carryforwards that existed on the effective date of Act 83 of 2007 may not be used to reduce withholding tax liabilities pursuant to this section.

(F) The amount of credit used against withholding taxes must reduce the amount of credit that may be used against income tax liability. The amount of credit used against withholding taxes must reduce the amount of credit that may be used against income taxes.

(G) If the taxpayer disposes of or removes qualified manufacturing and productive equipment property from the State during any taxable year and before the end of applicable recovery period for such property as determined under Section 168(e) of the Internal Revenue Code, then the income tax due pursuant to this chapter for the current taxable year must be increased by an amount of any credit claimed in prior years with respect to that property, determined by assuming the credit is earned ratably over the useful life of the property and recapturing pro rata the unearned portion of the credit. This recapture applies to credit previously claimed as a credit against income taxes pursuant to this chapter or withholding tax pursuant to Chapter 8.

(H) For South Carolina income tax purposes, the basis of the qualified manufacturing and productive equipment property must be reduced by the amount of any credit claimed with respect to the property, whether claimed as a credit against income taxes or withholding. If a taxpayer is required to recapture the credit in accordance with subsection (G), the taxpayer may increase the basis of the property by the amount of basis reduction attributable to claiming the credit in prior years. The basis must be increased in the year in which the credit is recaptured.

(I) A credit must not be taken pursuant to this section for capital investments placed in service outside of an economic impact zone until the taxpayer has invested two hundred million dollars of the five hundred million-dollar investment requirement described in subsection (A)(3), and the taxpayer files a statement with the department stating that it: (i) commits to invest a total of five hundred million dollars in this State between January 1, 2006, and July 1, 2011; and (ii) shall refund any credit received with interest at the rate provided for underpayments of tax if it fails to meet the requirement of subsection (A)(3). This statement and proof of qualification must be filed with the notice required in subsection (J). Credit is not allowed pursuant to this section for property placed in service before June 30, 2007. For credit claimed before the investment of the full five hundred million dollars, the company claiming the credit must execute a waiver of the statute of limitations pursuant to Section 12-54-85, allowing the department to assess the tax for a period commencing with the date that the return on which the credit is claimed is filed and ending three years after the company notifies the department that the full five hundred million dollar investment has been made. A waiver of the statute of limitations must accompany the return on which the credit is claimed.

(J) The taxpayer shall notify the department before taking any credits pursuant to this section. The taxpayer shall state it has met the requirements of subsection (A). Additionally, in a taxable year after the year of qualification for credit pursuant to this section, the taxpayer shall include with its tax return for that year: (i) a statement that the taxpayer has continued to meet the requirements of subsections (A)(1) and (A)(2); (ii) the reconciliation required in subsection (D); and (iii) any statement and support for subsection (I)."

2. This subsection takes effect July 1, 2007, and applies for capital investments placed in service outside of an economic impact zone after June 30, 2007, and for quarterly state withholding returns due on and after that date, provided that for the period July 1, 2007, to June 30, 2008, a taxpayer using this section may not reduce its state withholding tax to less than the withholding tax remitted for the period June 30, 2006, to July 1, 2007.

L. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

M. Except where otherwise stated, this section takes effect upon approval of this act by the Governor.

**South Carolina Textiles Communities Revitalization Act; repeal**

SECTION 3. A. Title 12 of the 1976 Code is amended by adding:

"CHAPTER 65

South Carolina Textiles Communities Revitalization Act

Section 12-65-10. This chapter is known and may be cited as the 'South Carolina Textiles Communities Revitalization Act'.

(A) The primary purpose of this chapter is to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned textile mill sites located in South Carolina.

(B) The abandonment of textile mills 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 textile mills pose safety concerns. A public and corporate purpose is served by restoring these textile mill sites to a productive asset for the communities and result in increased job opportunities.

(C) There exists in many communities of this State abandoned textile mills. The stable economic and physical development of these textile mill sites is endangered by the presence of these abandoned textile mills as manifested by the progressive and advanced deterioration of these structures. As a result of the existence of these abandoned mills, 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 the areas by the redevelopment of these abandoned textile mill sites.

Section 12-65-20. For the purposes of this chapter, unless the context requires otherwise:

(1) 'Abandoned' means that at least eighty percent of the textile mill has been closed continuously to business or otherwise nonoperational as a textile mill for a period of at least one year immediately preceding the date on which the taxpayer files a 'Notice of Intent to Rehabilitate'. For purposes of this item, a textile mill site that otherwise qualifies as abandoned may be subdivided into separate parcels, which parcels may be owned by the same taxpayer or different taxpayers, and each parcel is deemed to be a textile mill site for purposes of determining whether each subdivided parcel is considered to be abandoned.

(2) 'Ancillary uses' means uses related to the textile manufacturing, dying, or finishing operations on a textile mill site consisting of sales, distribution, storage, water runoff, wastewater treatment and detention, pollution control,

landfill, personnel offices, security offices, employee parking, dining and recreation areas, and internal roadways or driveways directly associated with such uses.

(3) 'Textile mill' means a facility or facilities that were last used for textile manufacturing, dying, or finishing operations and for ancillary uses to those operations.

(4) 'Textile mill site' means the textile mill together with the land and other improvements on it which were used directly for textile manufacturing operations or ancillary uses. However, the area of the site is limited to the land located within the boundaries where the textile manufacturing, dying, or finishing facility structure is located and does not include land located outside the boundaries of the structure or devoted to ancillary uses. Notwithstanding the provisions of this item, with respect to any site acquired by a taxpayer before January 1, 2008, or a site located on the Catawba River near Interstate 77, the textile mill site includes the textile mill structure, together with all land and improvements which were used directly for textile manufacturing operations or ancillary uses, or were located on the same parcel within one thousand feet of any textile mill structure or ancillary uses.

(5) '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 textile mill site.

(6) '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 textile mill site.

(7) 'Placed in service' means the date upon which the textile mill site is completed and ready for its intended use. If the textile mill 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.

(8) 'Rehabilitation expenses' means the expenses or capital expenditures incurred in the rehabilitation, renovation, or redevelopment of the textile mill site, including without limitations, the demolition of existing buildings, environmental remediation, site improvements and the construction of new buildings and other improvements on the textile mill site, but excluding the cost of acquiring the textile mill site or the cost of personal property located at the textile mill site. For expenses associated with a textile mill site to qualify for the credit, the textile mill and buildings on the textile mill site must be either renovated or demolished.

(9) 'Notice of Intent to Rehabilitate' means, with respect to a textile mill site acquired by a taxpayer after December 31, 2007, 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 textile mill site, the location of the textile mill site, the amount of acreage involved in the textile mill site, and the estimated expenses to be incurred in connection with rehabilitation of the textile mill site. The notice also must set forth information as to which buildings the taxpayer intends to renovate, which buildings the taxpayer intends to demolish, and whether new construction is to be involved.

Section 12-65-30. (A) Subject to the terms and conditions of this chapter, a taxpayer who rehabilitates a textile mill site is eligible for either:

(1) a credit against real property taxes levied by local taxing entities; or

(2) a credit against income taxes imposed pursuant to Chapter 6 and Chapter 11 of this title or corporate license fees pursuant to Chapter 20 of this title, or both.

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

(1) The taxpayer shall file a Notice of Intent to Rehabilitate with the municipality, or the county if the textile mill site is located in an unincorporated area, in which the textile mill site is located before incurring its first rehabilitation expenses at the textile mill 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 shall first by resolution determine the eligibility of the textile mill site and the proposed rehabilitation expenses for the credit. A proposed rehabilitation of a textile mill 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 textile mill 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 textile mill site for the credit by ordinance. Before approving a textile mill 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 made at the textile mill 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 textile mill 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 textile mill 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 textile mill 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 (B)(2), the governing body of the municipality or county shall give notice to all affected local taxing entities in which the textile mill site is located of its intention to grant a credit against real property taxes for the textile mill 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 textile mill site may be claimed beginning for the property tax year in which the applicable phase or portion of the textile mill site is first placed in service.

(C) If the taxpayer has acquired the textile mill site after December 31, 2007, and elects to receive the credit pursuant to subsection (A)(2), 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 textile mill 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 made at the textile mill site if the actual rehabilitation expenses incurred in rehabilitating the textile mill 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 textile mill site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed.

(3) The entire credit is earned in the taxable year in which the applicable phase or portion of the textile mill 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 textile mill site is placed in service. Unused credit may be carried forward for the succeeding five years.

(4) If the taxpayer qualifies for both the credit allowed by this subsection and the credit allowed pursuant to Section 12-6-3535, the taxpayer may claim both credits.

(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;

(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 textile mill site, or part of the textile mill 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. The provisions of item (5) of this subsection apply to a lessee that is an entity taxed as a partnership. If a taxpayer sells the textile mill site, or any phase or portion of the textile mill 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 textile mill site.

(b) To the extent that the taxpayer transfers the credit, the taxpayer must 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.

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

Section 12-65-40. The provisions of Chapter 31 of this title also apply to this chapter; except that, the requirements of Section 6-31-40 do not apply."

B. Chapter 32, Title 6 of the 1976 Code is repealed.

C. With respect to a site acquired by a taxpayer after December 31, 2007, the area of the site is limited to the land located within the boundaries where the textile manufacturing facility structure is located and does not include land located outside the boundaries of the structure.

D. Notwithstanding the general effective date provided for this act, this section takes effect upon approval of this act by the Governor.

**Redevelopment fees**

SECTION 4. Section 12-10-88(C) of the 1976 Code is amended to read:

"(C) Redevelopment fees may be remitted to the applicable redevelopment authority for a period beginning with the date that the applicable redevelopment authority first submits the information described in subsection (B) to the department and ending fifteen years later or January 1, 2015, whichever occurs last. If the redevelopment authority fails to provide the department with the required statement within the requisite time limits, no redevelopment fees must be remitted for that quarter."

**Admissions license tax exemption**

SECTION 5. A. (A) In addition to the exemptions allowed from the admissions license tax imposed pursuant to Section 12-21-2420 of the 1976 Code, there is also exempt from that tax for ten years beginning July 1, 2008, one-half of the paid admissions to a motorsports entertainment complex.

(B) For purposes of the exemption allowed by this section, a motorsports entertainment complex means a motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(1) has at least sixty thousand fixed seats for race patrons;

(2) has at least three scheduled days of motorsports events, and events ancillary and incidental thereto, each calendar year that are sanctioned by a nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events;

(3) engages in tourism promotion.

B. Notwithstanding the general effective date provided in this act, this section takes effect July 1, 2008.

**South Carolina Film Commission transferred**

SECTION 6. A. Section 1-30-25 of the 1976 Code, as last amended by Act 56 of 2005, is further amended to read:

"Section 1-30-25. The following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are transferred to and incorporated in and must be administered as part of the Department of Commerce to be initially divided into divisions for Aeronautics, Advisory Coordinating Council for Economic Development, State Development, Public Railways, and Savannah Valley Development:

(A) South Carolina Aeronautics Commission, formerly provided for at Section 55-5-10, et seq.;

(B) Coordinating Council for Economic Development, formerly provided for at Section 41-45-30, et seq.;

(C) Savannah Valley Authority, formerly provided for at Section 13-9-10, et seq.;

(D) existing divisions or components of the Department of Commerce formerly a part of the State Development Board excluding the South Carolina Film Commission; and

(E) South Carolina Public Railways Commission, formerly provided for at Section 58-19-10, et seq."

B. Section 1-30-80 of the 1976 Code is amended to read:

"Section 1-30-80. (A) The following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are transferred to and incorporated in and must be administered as part of the Department of Parks, Recreation and Tourism to include a Parks, Recreation and Tourism Division.

Department of Parks, Recreation and Tourism, formerly provided for at Sections 51-1-10, 51-3-10, 51-7-10, 51-9-10, and 51-11-10, et seq.

(B)(1) Effective July 1, 2008, the South Carolina Film Commission of the Department of Commerce is transferred to the Department of Parks, Recreation and Tourism and becomes a separate division of the Department of Parks, Recreation and Tourism.

(2) The South Carolina Film Commission as established in this section as a division of the Department of Parks, Recreation and Tourism and transferred to it shall ensure that funds made available to film projects through the South Carolina Film Commission are budgeted and spent so as to further the following objectives:

(a) stimulation of economic activity to develop the potentialities of the State;

(b) conservation, restoration, and development of the natural and physical, the human and social, and the economic and productive resources of the State;

(c) promotion of a system of transportation for the State, through development and expansion of the highway, railroad, port, waterway, and airport systems;

(d) promotion and correlation of state and local activity in planning public works projects;

(e) promotion of public interest in the development of the State through cooperation with public agencies, private enterprises, and charitable and social institutions;

(f) encouragement of industrial development, private business, commercial enterprise, agricultural production, transportation, and the utilization and investment of capital within the State;

(g) assistance in the development of existing state and interstate trade, commerce, and markets for South Carolina goods and in the removal of barriers to the industrial, commercial, and agricultural development of the State;

(h) assistance in ensuring stability in employment, increasing the opportunities for employment of the citizens of the State, devising ways and means to raise the living standards of the people of the State;

(i) enhancement of the general welfare of the people; and

(j) encouragement and consideration as appropriate so as to consider race, gender, and other demographic factors to ensure nondiscrimination, inclusion, and representation of all segments of the State to the greatest extent possible."

C. (1) Where the provisions of this section transfer the South Carolina Film Commission from the Department of Commerce to the Department of Parks, Recreation and Tourism, the employees, authorized appropriations, and assets and liabilities of the South Carolina Film Commission are also transferred to and become part of the Department of Parks, Recreation and Tourism. All classified or unclassified personnel employed by the South Carolina Film Commission on the effective date of this section, either by contract or by employment at will, shall become employees of the Department of Parks, Recreation and Tourism, with the same compensation, classification, and grade level, as applicable. The State Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations.

(2) Regulations promulgated by the South Carolina Film Commission are continued and are considered to be promulgated by the South Carolina Film Commission as a division of the Department of Parks, Recreation and Tourism.

(3) The Code Commissioner is directed to change or correct all references to the South Carolina Film Commission to reflect its transfer to the Department of Parks, Recreation and Tourism. References to the name of the South Carolina Film Commission in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

**South Carolina Motion Picture Incentive Act, conforming amendments**

SECTION 7. Chapter 62, Title 12 of the 1976 Code is amended to read:

"CHAPTER 62
South Carolina Motion Picture Incentive Act

Section 12-62-10. This chapter may be cited as the 'South Carolina Motion Picture Incentive Act'.

Section 12-62-20. For purposes of this chapter:

(1) 'Company' means a corporation, partnership, limited liability company, or other business entity.

(2) 'Department' means the Department of Parks, Recreation and Tourism.

(3) 'Motion picture' means a feature-length film, video, television series, or commercial made in whole or in part in South Carolina, and intended for national theatrical or television viewing or as a television pilot produced by a motion picture production company. The term 'motion picture' does not include the production of television coverage of news and athletic events or a production produced by a motion picture production company if records, as required by 18 U.S.C. 2257, are to be maintained by that motion picture production company with respect to any performer portrayed in that single media or multimedia program.

(4) 'Motion picture production company' means a company engaged in the business of producing motion pictures intended for a national theatrical release or for television viewing. 'Motion picture production company' does not mean or include a company owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a loan made by the State or a loan guaranteed by the State.

(5) 'Payroll' means salary, wages, or other compensation subject to South Carolina income tax withholdings.

(6) 'Director' means the director of the Department of Parks, Recreation and Tourism, or his designee.

Section 12-62-30. A motion picture production company that intends to expend in the aggregate two hundred fifty thousand dollars or more in connection with the filming or production of one or more motion pictures in the State of South Carolina within a consecutive twelve-month period, upon making application for, meeting the requirements of, and receiving written certification of that designation from the department as provided in this chapter, shall be relieved from the payment of state and local sales and use taxes administered and collected by the Department of Revenue on funds expended in South Carolina in connection with the filming or production of a motion picture or pictures. The production of television coverage of news and athletic events is specifically excluded from the provisions of this chapter.

Section 12-62-40. (A) A motion picture production company that intends to film all or parts of a motion picture in South Carolina and desires to be relieved from the payment of the state and local sales and use taxes, administered and collected by the Department of Revenue, as provided in this chapter shall provide an estimate of total expenditures expected to be made in South Carolina in connection with the filming or production of the motion picture. The estimate of expenditures must be filed with the department before the commencement of filming in South Carolina.

(B) At the time the motion picture production company provides the estimate of expenditures to the department, it also shall designate a member or representative of the motion picture production company to work with the department and the Department of Revenue on reporting of expenditures and other information necessary to take advantage of the tax relief afforded by this chapter.

(C)(1) An application for the tax relief provided by this chapter must be accepted only from those motion picture production companies that report anticipated expenditures in the State in the aggregate equal to or exceeding two hundred fifty thousand dollars in connection with the filming or production of one or more motion pictures in the State within a consecutive twelve-month period.

(2) The application must be approved by the director.

(3) Once the application is approved by the director, the Department of Revenue shall issue a sales and use tax exemption certificate to the motion picture production company as evidence of the exemption. The exemption is effective on the date the application is approved by the director.

(D) A motion picture production company that is approved and receives a sales and use tax exemption certificate but fails to expend two hundred fifty thousand dollars within a consecutive twelve-month period is liable for the sales and use taxes that would have been paid had the approval not been granted; except, that the motion picture production company must be given a sixty-day period in which to pay the sales and use taxes without incurring penalties. The sales and use taxes are considered due as of the date the tangible personal property was purchased in or brought into South Carolina for use, storage, or consumption.

(E) Upon completion of the motion picture, the motion picture production company must return the sales and use tax exemption certificate to the Department of Revenue and submit a report to the department of the actual expenditures made in South Carolina in connection with the filming or production of the motion picture.

Section 12-62-50. (A)(1) The South Carolina Film Commission may rebate to a motion picture production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with production of a motion picture. The rebate may not exceed fifteen percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax withholdings employed in connection with the production when total production costs in South Carolina equal or exceed one million dollars during the taxable year. The rebates in total may not annually exceed ten million dollars and shall come from the state's general fund. For purposes of this section, 'total aggregate payroll' does not include the salary of an employee whose salary is equal to or greater than one million dollars for each motion picture.

(2)(a) For purposes of this section, an employee is an individual directly involved in the filming or post-production of a motion picture in South Carolina and who is an employee of a:

(i) motion picture production company that is directly involved in the filming or post-production of a motion picture in South Carolina; or

(ii) personal service corporation retained by a motion picture production company to provide persons used directly in the filming or post-production of a motion picture in South Carolina; or

(iii) payroll services or loan out company that is retained by a motion picture production company to provide employees who work directly in the filming or post-production of a motion picture in South Carolina.

(b) For his wages to qualify for the rebate, the employee must be certified by the department as a qualifying employee and the employee must have had South Carolina income tax withholding withheld and remitted to the Department of Revenue by a company described in item (2)(a).

(3) The rebate applies with respect to an employee described in subitem (a)(ii) or (iii) only if, before commencement of filming in South Carolina, the personal services corporation, payroll services company, or loan out company is approved and certified by the department, and makes an irrevocable assignment of its rebate to the motion picture production company that produced the motion picture. The assignment must be made on a form provided by the Department of Revenue, which must include a waiver of confidentiality pursuant to Section 12-54-240. Upon assignment, the rebate may be paid only to the motion picture production company.

(B)(1) The rebate provided in subsection (A) is available to the motion picture production company at the end of all filming in South Carolina in connection with the motion picture. The motion picture production company producing the motion picture must apply to the department for a certificate of completion once filming in South Carolina is complete. The motion picture production company must provide the information the department considers necessary to determine if the one million dollar expenditure requirement has been met.

(2) A motion picture production company may claim the rebate by filing a request for rebate with the department once the certificate of completion is obtained. The request for rebate must be filed by the last day of February of the year following the year in which the certificate of completion is obtained. To claim the rebate, the motion picture production company and all companies described in subsection (A)(2)(a)(ii) or (iii) must be current with respect to all taxes due and owing the State at the time of filing the request for rebate. If the motion picture production company or a company described in subsection (A)(2)(a)(ii) or (iii) is not current with respect to all taxes due and owing the State, the motion picture production company is permanently barred from claiming the rebate.

(3) The motion picture production company must attach to its request for rebate a copy of the certificate of completion and a copy of all assignments of the rebate, if applicable.

(C) A motion picture production company claiming a rebate pursuant to this section, and all companies described in subsection (A)(2)(a)(ii) or (iii), must make payroll books and records available for inspection to the commission and the department at the times requested by the commission or the department. Each motion picture production company claiming the rebate, at the time of filing, must provide a report to both the commission and the department that includes the project's name, the name of each employee that worked on the motion picture, the social security number for each employee, the dates employed, the dates the employee worked on the motion picture, a job description for each employee, the total gross wages for each employee, the South Carolina taxable wages subject to withholding for each employee, the amount of rebate attributable to that employee, and other information considered necessary by the commission or the department. The report also must contain the total amount of withholding attributable to all employees that worked on the motion picture in South Carolina.

(D) For purposes of this section, and as an exception to Section 12-54-240, a motion picture production company and a company described in subsection (A)(2)(a)(ii) or (iii) agree that the commission and the department may share or provide information concerning the request for rebate and the certificate of completion among the respective taxpayers and the respective agencies.

Section 12-62-55. At the time the motion picture production company is certified by the department, it may make an irrevocable assignment of future payments attributable to the rebates made pursuant to Section 12-62-40 or 12-62-50 to a designated trustee. For purposes of this chapter, 'designated trustee' means the single financier or financial institution designated by the council to receive all assignments of payments made pursuant to this chapter and to the terms of an agreement entered into by the qualifying motion picture production company. If a qualifying motion picture production company elects to assign payments to the designated trustee, the election must be made on a form provided by the department, including a waiver of confidentiality pursuant to Section 12-54-240, and the payments may be paid only to the designated trustee. The qualifying motion picture production company must file an application for the assignment with the director no later than thirty days after filming begins in South Carolina.

Section 12-62-60. (A)(1) An amount equal to twenty-six percent of the general fund portion of admissions tax collected by the State of South Carolina for the previous fiscal year must be funded annually by September first to the

department for the exclusive use of the South Carolina Film Commission. The department may rebate to a motion picture production company up to fifteen percent of the expenditures made by the motion picture production company in the State if the motion picture production company has a minimum in-state expenditure of one million dollars. The distribution of rebates may not exceed the amount annually funded to the department for the South Carolina Film Commission from the admissions tax collected by the State.

(2) This subsection does not apply to payroll paid for motion picture production employees subject to Section 12-62-50 or money paid to the companies described in Section 12-62-50(A)(2)(a)(ii) or (iii). Unexpended funds from this source may be carried over to the next and succeeding fiscal years.

(B) Up to seven percent of the amount provided to the department in subsection (A) may be used exclusively for marketing and special events.

(C) The allocations to motion picture production companies contemplated by this chapter must be made by the department. The department may adopt rules and promulgate regulations for the application for and award of the rebate.

(D) One percent of the general fund portion of admissions tax collected by the State of South Carolina must be funded to the department for the exclusive use of the South Carolina Film Commission for the promotion of collaborative production and educational efforts between institutions of higher learning in South Carolina and motion picture related entities. The department, in conjunction with the South Carolina Film Commission, shall adopt rules and promulgate regulations necessary to administer this section. Unexpended funds from this source may be carried over to the next and succeeding fiscal years.

(E) The department shall report annually to the chairman of the Senate Finance Committee and the chairman of the House Ways and Means Committee on the use of all funds pursuant to this section. The report is a public record pursuant to the Freedom of Information Act, Chapter 4 of Title 30, and must be posted annually on the commission's web site by January first.

Section 12-62-70. (A)(1) Upon a determination by the director of the Office of General Services Division of the State Budget and Control Board of the underutilization of state property by a state agency, the department may negotiate below-market rates for temporary use, no more than twelve months, of space for the underutilized property. The negotiations and temporary use are exempt from the provisions of the State Consolidated Procurement Code. The motion picture production company shall reimburse costs at normal and customary rates incurred by the state agency to the state agency, including costs required to repair any damage caused by the motion picture production company to real or personal property of the State.

(2) The state agency or local political subdivision that owns the property determined to be underutilized may appeal that determination of underutilization to the State Budget and Control Board.

(B) The State or its political subdivisions may not charge a location or facility fee for properties they own if the properties are used for seven or fewer days as a location or facility in the production of a motion picture. A property may be used for a total of only twenty-one days without location or facility fees in a calendar year. The motion picture production company may be on site no longer than seven days within a thirty-day period without a location or facility fee charge. State-owned or political subdivision-owned properties may recoup all costs they expend on behalf and at the direction of the motion picture production company. State-owned or political subdivision-owned properties also may recoup a location or facility fee, after the first seven days, not to exceed two thousand five hundred dollars a day. State-owned or political subdivision-owned properties also may recoup costs required to repair damage caused by the motion picture production company to real or personal property of the state agency or political subdivision. The motion picture production company shall reimburse all costs, at the property's normal and customary rates, to the state agency or political subdivisions incurring the costs within twenty-one calendar days of completion of production activities on site. The motion picture production company may use the publicly owned property only on the days agreed to and approved by the state agency or political subdivision.

Section 12-62-80. The department may form a South Carolina Film Foundation to solicit donations for the recruitment of motion pictures in furtherance of the purposes of this chapter.

Section 12-62-90. The end credit roll of a motion picture that utilizes a South Carolina tax credit or rebate must recognize the State of South Carolina with the following statement: 'Filmed in South Carolina pursuant to the South Carolina Motion Picture Incentive Act', except that the State of South Carolina reserves the right to refuse the use of South Carolina's name in the credits of a motion picture filmed or produced in the State.

Section 12-62-100. To the extent not already provided, the department may adopt rules and promulgate regulations to carry out the intent and purposes of this chapter."

**Property tax bill**

SECTION 8. A. Section 12-43-350 of the 1976 Code is amended to read:

"Section 12-43-350. Affected political subdivisions must use a tax bill for real property that contains standard information as follows:

(1) tax year;

(2) tax map number;

(3) property location;

(4) appraised value, taxable;

(5) tax amount;

(6) state homestead tax exemption pursuant to Section 12-37-250, if applicable;

(7) state homestead tax exemption pursuant to Section 12-37-220(B)(47) and the estimated value of the exemption and the amount of any credit against the property tax liability for county operations on owner-occupied residential property attributable to an excess balance in the Homestead Exemption Fund;

(8) local option sales tax credit, if applicable;

(9) any applicable fees;

(10) total tax due;

(11) tax due with penalties and applicable dates;

(12) prior year amount paid--only required to be shown if assessment is unchanged from prior year, except during reassessment years, in which case all properties must show the prior year tax amount.

The information required pursuant to this section must be contained in a 'boxed' area measuring at least three inches square placed on the right side of the tax bill."

B. This section takes effect upon approval by the Governor and applies for property tax years beginning after 2007.

**Situs of boats**

SECTION 9. Section 12-37-714(2) of the 1976 Code, as added by Act 386 of 2006, is amended to read:

"(2) A boat, including its motor if the motor is separately taxed, which is not currently taxed in this State and is not used exclusively in interstate commerce, is subject to property tax in this State if it is present within this State for sixty consecutive days or for ninety days in the aggregate in a property tax year, or upon an ordinance passed by the local governing body, one hundred eighty days in the aggregate in a property tax year. Upon written request by a tax official, the owner must provide documentation or logs relating to the whereabouts of the boat in question. Failure to produce requested documents creates a rebuttable presumption that the boat in question is taxable within this State."

**Time effective**

SECTION 10. This act takes effect upon approval by the Governor and applies to tax years beginning on or after January 1, 2008.

Ratified the 5th day of June, 2008.

Became law without the signature of the Governor -- 6/12/08.

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