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118th Session, 2009-2010

A182, R221, S728

STATUS INFORMATION

General Bill

Sponsors: Senators Hayes, Fair and Ford

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Introduced in the Senate on April 21, 2009

Introduced in the House on February 4, 2010

Last Amended on May 4, 2010

Passed by the General Assembly on May 12, 2010

Governor's Action: May 28, 2010, Signed

Summary: Textile mill sites

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
4/21/2009	Senate	Introduced and read first time SJ-8
4/21/2009	Senate	Referred to Committee on Finance SJ-8
1/20/2010	Senate	Committee report: Favorable Finance SJ-7
1/21/2010		Scrivener's error corrected
1/26/2010	Senate	Read second time SJ-12
2/3/2010	Senate	Read third time and sent to House SJ-38
2/4/2010	House	Introduced and read first time HJ-24
2/4/2010	House	Referred to Committee on Ways and Means HJ-24
4/15/2010	House	Committee report: Favorable with amendment Ways and Means HJ-15
4/20/2010		Scrivener's error corrected
4/22/2010	House	Debate adjourned until Tuesday, April 27, 2010 HJ-33
4/27/2010	House	Debate adjourned until Tuesday, May 4, 2010 HJ-49
5/4/2010	House	Amended HJ-64
5/4/2010	House	Debate adjourned until Wednesday, May 5, 2010 HJ-64
5/5/2010	House	Debate adjourned until Tuesday, May 11, 2010 HJ-26
5/6/2010	House	Read second time HJ-20
5/6/2010	House	Unanimous consent for third reading on next legislative day HJ-21
5/7/2010	House	Read third time and returned to Senate with amendments HJ-2
5/12/2010	Senate	Concurred in House amendment and enrolled SJ-90
5/25/2010		Ratified R 221
5/28/2010		Signed By Governor
6/3/2010		Effective date 05/28/10
6/9/2010		Act No. 182

VERSIONS OF THIS BILL

[4/21/2009](#)

[1/20/2010](#)

[1/21/2010](#)

[4/15/2010](#)

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(A182, R221, S728)

AN ACT TO AMEND SECTION 12-65-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENTITLEMENT TO TAX CREDITS UNDER THE TEXTILES COMMUNITIES REVITALIZATION ACT, SO AS TO FURTHER PROVIDE FOR THE APPLICABILITY OF SPECIFIC REQUIREMENTS FOR TEXTILE MILL SITES ACQUIRED BEFORE AND AFTER 2007, TO REVISE THE ALLOWABLE AMOUNT OF THE CREDITS IN CERTAIN INSTANCES, TO PROVIDE THAT THE TAX CREDITS ALLOWED INCLUDE CREDITS AGAINST INSURANCE PREMIUM TAXES, TO MAKE A TECHNICAL CORRECTION, TO FURTHER PROVIDE FOR THE MANNER IN WHICH THESE CREDITS ARE VESTED IN A TAXPAYER AND MAY BE ALLOCATED TO PARTNERS OR MEMBERS, AND PROVIDE WHEN A TAXPAYER IS NOT ELIGIBLE FOR THE CREDITS; BY ADDING SECTION 12-65-50 SO AS TO PROVIDE TRANSITION RULES APPLICABLE TO SPECIFIC MILL SITES; BY ADDING SECTION 12-65-60 SO AS TO FURTHER PROVIDE FOR THE ELIGIBILITY CERTIFICATION PROCESS; TO AMEND SECTION 12-65-20, RELATING TO DEFINITIONS UNDER THE TEXTILE COMMUNITIES REVITALIZATION ACT, SO AS TO REVISE THE DEFINITION OF A “TEXTILE MILL”; AND TO AMEND SECTION 4-9-195, AS AMENDED, RELATING TO THE GRANT OF SPECIAL PROPERTY TAX ASSESSMENTS TO “REHABILITATED HISTORIC PROPERTY” OR “LOW AND MODERATE INCOME RENTAL PROPERTY”, SO AS TO FURTHER PROVIDE FOR THE CIRCUMSTANCES WHEN THE PROPERTY BECOMES DISQUALIFIED FOR THE SPECIAL ASSESSMENT.

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

Requirements and applicability of credits

SECTION 1. Section 12-65-30 of the 1976 Code, as added by Act 313 of 2008, is amended to read:

“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 insurance premium taxes imposed by Chapter 7, Title 38, or any of them.

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

(1) The amount of the credit is equal to twenty-five percent of the actual rehabilitation expenses made at the textile mill site.

(2) If the taxpayer has acquired the textile mill site after December 31, 2007, the provisions of this item (2) apply to the textile mill site; provided, however, that transfers between affiliated taxpayers of phases of any textile mill site may not be deemed an acquisition for this purpose. The taxpayer shall file with the department a Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof. Failure to provide the Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof results in qualification of only those rehabilitation expenses incurred after the notice is provided. 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 incurred in rehabilitating the textile mill site.

(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 each of the following:

(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; or

(c) the taxpayer's insurance premium taxes imposed by Chapter 7, Title 38.

(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 (7) 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 by the taxpayer among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit to any partner or member who was a member or partner at any time during the year in which the credit is allocated.

(D) A taxpayer is not eligible for the credit if the facility has previously received textile mill credits, or if the taxpayer owned the otherwise eligible textile mill site when the site was operational and immediately prior to its abandonment.”

Transition rules

SECTION 2. Chapter 65, Title 12 of the 1976 Code is amended by adding:

“Section 12-65-50. (A) Entire textile mill sites placed in service on or before December 31, 2007, must be governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007.

(B) The provisions of this chapter shall apply to all textile mill sites or portions thereof placed in service on or after January 1, 2008.

(C) For any textile mill sites in which a portion but not all of the textile mill site was placed in service on or before December 31, 2007, the taxpayer may elect to either:

(1) have the portion of the textile mill site that was placed in service on or before December 31, 2007, governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007, as if the portion were an entire textile mill site; or

(2) have the portion be governed by this chapter such that the portion must be deemed to be a phase of the textile mill site placed in service on a date subsequent to December 31, 2007, identified by the taxpayer.”

Certification of site

SECTION 3. Chapter 65, Title 12 of the 1976 Code is amended by adding:

“Section 12-65-60. The taxpayer may apply to the municipality or county in which the textile mill site is located for a certification of the textile mill site made by ordinance or binding resolution of the governing body of the municipality or county. The certification shall include findings that the:

(1) textile mill site was a textile mill as defined in Section 12-65-20(3);

(2) textile mill site has been abandoned as defined in Section 12-65-20(1); and

(3) geographic area of the textile mill site consistent with Section 12-65-20(4).

The taxpayer may conclusively rely upon the certification in determining the credit allowed; provided, however, that if the taxpayer is relying upon the certification, the taxpayer shall include a copy of the certification on the first return for which the credit is claimed.”

Definition revised

SECTION 4. Section 12-65-20(3) of the 1976 Code is amended to read:

“(3) ‘Textile mill’ means a facility or facilities that were initially used for textile manufacturing, dying, or finishing operations and for ancillary uses to those operations.”

Disqualification provisions revised

SECTION 5. Section 4-9-195(E) of the 1976 Code, as last amended by Act 292 of 2004, is further amended to read:

“(E) When property has received final certification and is assessed as rehabilitated historic property, or low or moderate income rental property, it remains so certified and must be granted the special assessment until the property becomes disqualified by any one of the following:

- (1) written notice by the owner to the county to remove the preferential assessment;
- (2) removal of the historic designation by the county governing body;
- (3) decertification of the property by the local governing body as low or moderate income rental property for persons and families of moderate to low income as defined by Section 31-13-170(p);
- (4) rescission of the approval of rehabilitation work by the reviewing authority because of alterations or renovations by the owner or his estate which cause the property to no longer possess the qualities and features which made it eligible for final certification.

Under no circumstances shall the sale or transfer of ownership of real property certified and assessed in accordance with this section and any ordinance in effect at the time disqualify the property from receiving the special property tax assessment under this section. This provision shall be applicable and given full force and effect to any special property tax assessment granted prior to the effective date of this paragraph notwithstanding any ordinance in effect from time to time to the contrary.

Notification of any change affecting eligibility must be given immediately to the appropriate county taxing and assessing authorities.”

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.
