

S. 1075

(A227, R300, S1075)

AN ACT TO AMEND TITLE 6, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LOCAL GOVERNMENTS, BY ADDING CHAPTER 32 SO AS TO ENACT THE "SOUTH CAROLINA **TEXTILES COMMUNITIES REVITALIZATION** ACT" INCLUDING PROVISIONS TO PROVIDE PROPERTY TAX CREDITS OR INCOME AND OTHER TAX CREDITS FOR REHABILITATION EXPENSES MADE TO ELIGIBLE SITES WHICH HAVE BEEN USED AS A TEXTILE MANUFACTURING FACILITY OR FOR ANCILLARY PURPOSES; TO AMEND SECTIONS 55-11-500, AS AMENDED, 55-11-510, AND 55-11-520 AS AMENDED, ALL RELATING TO STATE FUNDING OF AIR CARRIER HUB TERMINAL FACILITIES, SO AS TO PROVIDE FOR A DOLLAR-FOR-DOLLAR MATCH FOR LOCAL FUNDS EXPENDED BY A SPECIAL PURPOSE DISTRICT OR OTHER POLITICAL SUBDIVISION OF THE STATE IN THE DEVELOPMENT OF SUCH A FACILITY; TO AMEND SECTION 11-41-30, AS AMENDED, RELATING TO AUTHORIZED ECONOMIC DEVELOPMENT PROJECTS, SO AS TO INCLUDE AIR CARRIER HUB TERMINAL FACILITIES; TO AMEND SECTION 12-10-82, RELATING TO ASSIGNMENT OF FUTURE PAYMENTS ATTRIBUTABLE TO THE JOB DEVELOPMENT CREDIT, SO AS TO PROVIDE FOR ASSIGNMENT TO ANOTHER DESIGNEE AND TO DEFINE "OTHER DESIGNEE".

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

Textile Communities Revitalization Act

SECTION 1. Title 6 of the 1976 Code is amended by adding:

"CHAPTER 32

Textiles Communities Revitalization Act

Section 6-32-10. This chapter is known and may be cited as the 'South Carolina **Textiles Communities Revitalization** Act'.

Section 6-32-20. (A) The primary purpose of this chapter is to create a meaningful incentive for the renovation, improvements, and redevelopment of abandoned textile mill sites located in South Carolina.

(B) The abandonment of textile mill sites 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 mill sites pose safety concerns. A public and corporate purpose of the local governments will be served by restoring the 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 manufacturing related or owned facilities. The stable economic and physical development of these areas is endangered by the presence of these abandoned facilities as manifested by progressive and advanced deterioration of structures. As a result of the existence of these abandoned facilities, 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 and threatens the sound growth and the tax base of taxing districts in the 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 facilities.

Section 6-32-30. For the purposes of this chapter, unless the context requires otherwise:

(1) 'Abandoned' means that at least eighty percent of the facilities of the eligible site has been continuously closed to business or otherwise nonoperational for a period of at least one year immediately preceding the time at which the determination is to be made.

(2) 'Eligible site' means a site that is designed for use or has in fact been used as a textile manufacturing facility or uses ancillary to it and is located in South Carolina.

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

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

(5) 'Placed in service' means the date upon which the eligible site is suitable for occupancy for the purposes intended.

(6) 'Rehabilitation expenses' means the expenses incurred in the rehabilitation of the eligible site, excluding the cost of acquiring the eligible site or the cost of personal property maintained at the eligible site.

(7) 'State historic credit' means the South Carolina historic rehabilitation tax credit under Section 12-6-3535.

Section 6-32-40. (A) Subject to the terms and conditions of this chapter, a taxpayer who improves, renovates, or redevelops an eligible site is eligible for one of the following two tax credits:

(1) a credit against real property taxes levied by local taxing entities equal to twenty-five percent of the rehabilitation expenses made to the eligible site times the local taxing entity ratio of each local taxing entity that has consented to the tax credit pursuant to subsection (B) below; or

(2) a credit against any taxes to which the state historic credit may apply equal to twenty-five percent of the rehabilitation expenses.

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

(1) The municipality or, if the eligible site is located in an unincorporated area, the county first by resolution shall determine the eligibility of the eligible site and the eligibility of the proposed project seeking the credit. Any proposed project beginning after July 1, 2004, must be approved by a majority vote of the local governing body. The foregoing determinations and the municipality's or county's approval of the eligible site and proposed project must be by ordinance and public hearing. The ordinance shall provide for the credit to be taken as a credit against up to seventy-five percent of the real property taxes due on the site each year not to exceed eight years. Before determining the eligibility of the proposed eligible site, the municipality or county shall make a finding that the credit will not violate any covenant, representation, or warranty in any of its tax increment financing transactions.

(2) Not less than forty-five days before holding the public hearing contemplated in subsection (B)(1), the governing body of the municipality or county shall give notice to all affected local taxing entities where the eligible site is located of its intention to grant a tax credit for an eligible site and the amount of the tax credit proposed to be granted. 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, provided that the actual tax credit granted is equal to or less than the tax credit stated in the notice of public hearing.

(3) The tax credit shall vest in the taxpayer in the tax year when the eligible site is placed in service and may be carried forward, in whole or in part, for up to eight years following that date.

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

(1) The entire credit may not be taken for the taxable year in which the eligible site is placed in service but must be taken in equal installments over a five-year period beginning with the year in which the property is placed in service. Any unused portion of a credit installment may be carried forward for the succeeding five years.

(2) The credit earned pursuant to this subsection by a 'S' corporation owing corporate level income tax must be used first at the entity level. Any remaining credit passes through to each shareholder in a percentage equal to each shareholder's percentage of stock ownership.

(3) The credit earned pursuant to this subsection by a general partnership, limited partnership, limited liability company, or any other entity taxed as a partnership pursuant to Subchapter K of the Internal Revenue Code must be passed through to its partners and may be allocated among any of its partners, including without limitation, an allocation of the entire credit to one partner, in a manner agreed by the partners. As used in this subsection, the term 'partner' means a partner, member, or owner of an interest in the pass through entity, as applicable.

(4) The credit earned pursuant to this subsection is in addition to and does not offset the state historic credit in the event the eligible site also is eligible for the state historic credit.

(D) The taxpayer shall elect the mode of credit pursuant to subsection (A)(1) or subsection (A)(2) by providing written notification of its intent to the South Carolina Department of Commerce prior to the date the eligible site is placed in service; provided, that, if the taxpayer did not obtain the approvals contained in subsection (B) or fails to affirmatively make the election prescribed in this chapter before the date the eligible site is placed in service, the taxpayer is considered to have elected to receive the credit provided in subsection (A)(2) without the need for a written election.

Section 6-32-50. The provisions of Chapter 31 of this title also shall apply to this chapter, except the requirements of Section 6-31-40 which may not apply."

Repeal

SECTION 2. Chapter 32 of Title 6 of the 1976 Code, as added by the provisions of Section 1 of this act, is repealed on July 1, 2014.

Funding of air carrier hub terminal facilities

SECTION 3. A. Section 55-11-500 of the 1976 Code, as last amended by Act 155 of 1997, is further amended to read:

"Section 55-11-500. As used in this article:

(a) An 'air carrier hub terminal facility' is an airport terminal facility from which an air carrier certified or licensed by the Federal Aviation Administration shall or will, within five years from the date of issuance of the obligations described herein, operate either:

(1) at least twenty common carrier departing flights a day on which the general public may fly seven days a week, fifty-two weeks a year. No less than seventy percent of all seats on these aircraft arriving at or departing from an air carrier terminal facility must be on jet aircraft capable of carrying at least one hundred passengers on each flight; or

(2) at least twenty common carrier departing flights a week on an annual basis for the purposes of transporting cargo and air freight.

(b) An 'air carrier' is a corporation licensed by the Federal Aviation Administration with a certificate of public convenience and necessity or an operating certificate under other applicable federal law or pertinent regulations which operates aircraft in common carrier service and serves an air carrier hub terminal facility as defined in this section.

(c) 'Board' means the State Budget and Control Board.

(d) 'Bonds' mean general obligation bonds of this State."

B. Section 55-11-510 of the 1976 Code is amended to read:

"Section 55-11-510. (A) A special purpose district or political subdivision of the State may petition the State for assistance hereunder. Upon receipt of such a petition, the State, from the proceeds of sale of bonds authorized by Section 55-11-520, is authorized to pay a portion or all of the costs of any insurance required to guarantee the payment of, or any credit enhancement facility utilized in connection with, obligations issued or to be issued by a special purpose district or other political subdivision of this State, for the purposes of acquiring land for and constructing and equipping air carrier hub terminal facilities; except that the amount of fees paid by the State to purchase this insurance or other credit enhancement facility must not exceed one and one-half percent of the principal plus all interest payable on obligations issued by a special purpose district or other political subdivision of this State. The cost of this insurance or other credit enhancement facility may be paid by the State directly to the provider of it, or by way of reimbursement to the special purpose district or political subdivision.

(B) In addition, after review by the Joint Bond Review Committee, the board may allocate bond proceeds for the purposes authorized in this Section 55-11-520 to match on a dollar-for-dollar basis, local funds expended for the purposes authorized in Section 55-11-520 by any special purpose district or other political subdivision of this State. Local funds may include user fees and other monies made available by the special purpose district or political

subdivision, but may not include federal grants made available to the special purpose district or other political subdivision for runway construction."

C. Section 55-11-520 of the 1976 Code, as last amended by Act 361 of 1994, is further amended to read:

"Section 55-11-520. Pursuant to the provisions of subsection 6(c), Section 13, Article 10 of the Constitution of this State, in order to provide funds to pay a portion of the costs of (1) acquiring land, (2) constructing, enlarging, improving, extending, renovating, and equipping suitable air carrier hub terminal facilities to be located in this State, (3) purchasing equipment, ground support equipment, machinery, special tools, maintenance, boarding facilities, and any and all additional necessary real or personal property for the operation of air carrier hub terminal facilities, and (4) if petitioned by a special purpose district or other political subdivision of the State, to pay a portion or all of the costs, not exceeding fifty million dollars of general obligation bonds of this State, to be outstanding at any time may be issued in the manner provided in this article and by law.

Any request that bonds be issued pursuant to this article must be accompanied by a binding contract with an air carrier committing the air carrier to use the air carrier hub terminal facility for a period of five years or the period of time needed to retire any indebtedness incurred to construct the air carrier hub terminal facility, whichever is less. Upon receipt of a certified copy of the executed contract, the Secretary of Commerce shall consider an air carrier's financial ability, willingness, and commitment to serve this State and other factors considered relevant by the Secretary of Commerce. If the Secretary of Commerce determines that it is in the best interest of this State for the State to provide or to assist in the providing of suitable air carrier hub terminal facilities, the Secretary of Commerce shall recommend that the board consider approving the issuance of bonds of this State for the purposes authorized in this article and shall forward his written approval and request to the board.

Upon the approval of the issuance of any bonds pursuant to this article, the board shall adopt a resolution setting the terms and conditions for the execution, sale, delivery, interest payments, maturities, and redemption of such bonds."

D. Section 11-41-30(3) of the 1976 Code, as amended by Act 187 of 2004, is amended by adding an appropriately designated item at the end to read:

"(j) buildings associated with an economic development project as defined in Section 11-41-30(2)(a) that includes air carrier hub terminal facilities as defined in Section 55-11-500(a)(2) of the 1976 Code."

E. Section 12-10-82 of the 1976 Code, as added by Act 399 of 2000, is amended to read:

"Section 12-10-82. (A) At the time the qualifying business enters into a revitalization agreement, it may make, with the approval of council, an irrevocable assignment of future payments attributable to the job development credit made pursuant to this chapter to the designated trustee or designee.

(B) For purposes of this section:

(1) 'designated trustee' means the single 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 business; and

(2) 'other designee' means a taxpayer that receives a minimum of seventy percent of the goods or services produced by the qualifying business at the project.

(C) 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 or other designee."

F. This section takes effect upon approval by the Governor.

Time effective

SECTION 4. (A) Chapter 32 of Title 6 of the 1976 Code takes effect July 1, 2004, and applies for rehabilitation expenses incurred, without regard to the date such expenses were incurred, for eligible sites placed in service on or after July 1, 2004.

(B) Except as otherwise provided, the remainder of this act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2004.

Approved the 11th day of May, 2004.