

Title 12 - Taxation

CHAPTER 65.

SOUTH CAROLINA TEXTILES COMMUNITIES REVITALIZATION ACT

SECTION 12-65-10. Title of Act; purpose.

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.

HISTORY: 2008 Act No. 313, Section 3.A, eff June 12, 2008.

SECTION 12-65-20. Definitions.

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 initially 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.

HISTORY: 2008 Act No. 313, Section 3.A, eff June 12, 2008; 2010 Act No. 182, Section 4, eff May 28, 2010.

SECTION 12-65-30. Tax credit entitlement.

(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.

HISTORY: 2008 Act No. 313, Section 3.A, eff June 12, 2008; 2010 Act No. 182, Section 1, eff May 28, 2010.

SECTION 12-65-35. Area of site limitation.

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.

HISTORY: 2008 Act No. 313, Section 3.C, eff June 12, 2008.

SECTION 12-65-40. Applicability of other provisions.

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

HISTORY: 2008 Act No. 313, Section 3.A, eff June 12, 2008.

SECTION 12-65-50. Transition rules.

(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.

HISTORY: 2010 Act No. 182, Section 2, eff May 28, 2010.

SECTION 12-65-60. Certification of site.

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.

HISTORY: 2010 Act No. 182, Section 3, eff May 28, 2010.