DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2009 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at LPITS@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 34.

 RETAIL FACILITIES REVITALIZATION ACT

**SECTION 6‑34‑10.** Citation of chapter.

This chapter is known and may be cited as the “South Carolina Retail Facilities Revitalization Act”.

**SECTION 6‑34‑20.** Purpose.

(A) The primary purpose of this chapter is to create a meaningful incentive for the renovation, improvements, and redevelopment of abandoned retail facility sites located in South Carolina.

(B) The abandonment of retail facility 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 retail facility sites pose safety concerns. A public and corporate purpose of the local governments will be served by restoring the retail facility sites to a productive asset for the communities and result in increased job opportunities.

(C) There exists in many communities of this State abandoned retail 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 6‑34‑30.** Definitions.

For the purposes of this chapter, unless the context requires otherwise:

(1) “Abandoned” means that at least eighty percent of the eligible site’s facilities have been continuously closed to business or have been otherwise nonoperational for a period of at least one year immediately preceding the time at which the determination is to be made. The eligible site’s facilities only include the site’s building or structure.

(2) “Eligible site” means a shopping center, mall, or free standing site whose primary use was as a retail sales facility with at least one tenant or occupant located in a forty thousand square foot or larger building or structure. To qualify as an eligible site, the shopping center, mall, or freestanding site must be abandoned. During the abandonment, the eligible site may serve as a wholesale facility, provided the site serves as a wholesale facility for no more than one year.

(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.

**SECTION 6‑34‑40.** Tax credits for rehabilitation expenses.

(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 state income taxes imposed equal to ten 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, 2006, 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 an eight‑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 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 that is consistent with Subchapter K of the Internal Revenue Code. 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.

(5) The South Carolina Department of Revenue may promulgate regulations to verify the site’s eligibility in accordance with the provisions of this chapter.

(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 Revenue 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).

(E) The owner of the eligible site may transfer, devise, or distribute any unused credit to the tenant of the eligible site. To be effectual, the department must receive written notification and approve of the transfer, devise, or distribution.

(F) For the credit pursuant to subsection (A)(1), the governing body of a county or municipality where the site is located, by resolution, may reduce the forty thousand square foot eligibility requirement in Section 6‑34‑30(2) by not more than fifteen thousand square feet.