REPORT OF THE
SALES AND INCOME TAX SUBCOMMITTEE

(Allison, Simrill, G.M. Smith, Hosey & Stavrinakis - Staff Contact: Katie Owen)

HOUSE BILL 3093

H. 3093 -- Rep. J.E. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 67 TO TITLE 12 SO AS TO ENACT THE "SOUTH CAROLINA ABANDONED BUILDINGS REVITALIZATION ACT", TO PROVIDE THAT A TAXPAYER MAKING INVESTMENTS OF A CERTAIN SIZE IN REHABILITATING AN ABANDONED BUILDING BASED ON THE POPULATION OF THE POLITICAL SUBDIVISION IN WHICH THE BUILDING IS LOCATED MAY AT THE TAXPAYER'S OPTION RECEIVE SPECIFIED INCOME TAX CREDITS OR CREDITS AGAINST THE PROPERTY TAX LIABILITY.

Summary of Bill: This bill enacts the "South Carolina Abandoned Buildings Revitalization Act." This provides for an income tax credit or credit against property tax for rehabilitating abandoned buildings when an investment of a certain amount is made. The credit is determined based on the population of the county or municipality and the investment.

Introduced: 12/11/2012

Received by Ways and Means: 12/11/2012

Estimated Fiscal Impact: This bill is expected to reduce General Fund individual income tax, corporate income tax, bank tax, or corporate license fee revenue by an estimated $937,500 in FY 13-14 and by and estimated $3,750,000 in FY 14-15, and for each fiscal year thereafter until FY 17-18. If all taxpayers elect the property tax option, local property revenue would be reduced by and estimated $3,750,000.

As amended this bill is expected to reduce General Fund individual income tax, corporate income tax, bank tax, or corportate license fee revenue by an estimated $3,750,000 in FY 13-14 and for each fiscal year thereafter until FY 17 - 18. If all taxpayers elect the property tax option, local property tax revenue would be reduced by an estimated $3,750,000 annually.

Subcommittee Recommendation: Favorable with amendment

Full Committee Recommendation: Pending

Other Notes/Comments: CLICK HERE to Edit Notes/Comments

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

DRAFFIN/PAIR
APRIL 12, 2013

CLERK OF THE HOUSE

THE SALES AND INCOME TAX SUBCOMMITTEE PROPOSES THE FOLLOWING AMENDMENT NO. TO H. 3093 (COUNCIL\DKA\3093C001.DKA.SD13):

REFERENCE IS TO THE BILL AS INTRODUCED.

AMEND THE BILL, AS AND IF AMENDED, PAGE 7, BY STRIKING SECTION 2 IN ITS ENTIRETY AND INSERTING:

/ SECTION 2. THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR, AND APPLIES TO THE REHABILITATION, RENOVATION, AND REDEVELOPMENT OF ABANDONED BUILDINGS BEGUN WITHIN OR AFTER THE TAX YEAR OF THE EFFECTIVE DATE OF THIS CHAPTER WHICH ARE

UNDERTAKEN IN CONFORMITY WITH THE PROVISIONS OF THIS ACT. /

RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.

Statement of Estimated State Revenue Impact

Date: April 14, 2013 (As amended April 10, 2013 by the Sales & Income Tax Subcommittee)

Bill Number: H.B. 3093

Author: J.E. Smith

Committee Requesting Impact: House Ways & Means Committee

Bill Summary
A bill to amend the Code of Laws of South Carolina, 1976, by adding Chapter 67 to Title 12 so as to enact the "South Carolina Abandoned Buildings Revitalization Act", to provide that a taxpayer making investments of a certain size in rehabilitating an abandoned building based on the population of the political subdivision in which the building is located may at the taxpayer's option receive specified income tax credits or credits against the property tax liability.

REVENUE IMPACT 1/
This bill is expected to reduce General Fund individual income tax, corporate income tax, bank tax, or corporate license fee revenue by an estimated $3,750,000 in FY2013-14, and for each fiscal year thereafter until FY2017-18. If all taxpayers elect the property tax option, local property tax revenue would be reduced by an estimated $3,750,000 annually.

Explanation of Amendment (April 10, 2013) – House Sales & Income Tax Subcommittee
This amendment would change when the qualified projects would be able to claim the eligible credits for the rehabilitation, renovation, and redevelopment of abandoned buildings from buildings begun "after the effective date of this chapter" to "begun within or after the tax year of the effective date of this chapter". This amendment a taxpayer that begins a rehabilitation project of an abandoned building on or after January 1, 2013 to be eligible for a nonrefundable tax credit of twenty-five percent of the actual rehabilitation expenses incurred at the building site. This amendment would reduce General fund individual income tax, corporate income tax, bank tax, or corporate license fee revenue by an estimated $3,750,000 in FY2013-14, and for each fiscal year thereafter until FY2017-18.

Explanation of Bill filed January 8, 2013
This bill would add Chapter 67 to Title 12 to extend a nonrefundable tax credit to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned buildings located in South Carolina. An "abandoned building" means a building or structure on which at least sixty-six percent of the space has been closed continuously to business for a period of at least five years. This bill would add Section 12-67-140(B)(2) to allow a taxpayer a nonrefundable credit of twenty-five percent of the actual rehabilitation expenses incurred at the building site. To be eligible for the tax credit, the actual rehabilitation expenses must be between eighty percent and one hundred twenty-five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. The entire credit is earned when the building is placed in service, but the tax credit must be taken in equal installments over five years. Any unused credits may be carried forward for the succeeding five years. The tax credit is limited in use to fifty percent of a taxpayer's income tax liability against income tax, bank tax, or corporate license fees. The tax credits are transferrable.

The taxpayer may also choose to elect a credit against real property taxes levied by local taxing entities. The taxpayer must elect the nonrefundable tax credit to be applied against either the income or corporate license taxes, or against property taxes, but not both. The "real property tax credit" is equal to twenty-five percent of the qualified rehabilitation expenses made to the eligible site up to seventy-five percent of the real property taxes due on the site each year. The municipality or the county must determine the eligibility of the site and the proposed project. The ordinance shall allow the property tax credit to be taken against up to seventy-five percent of the real property taxes due on the site each year not to exceed eight years. The credit vests in the taxpayer in the year in which the eligible site is placed in service. The credit may be carried forward up to eight years.

Eligible abandoned buildings, both private and public, may include, but are not limited to, abandoned residences, retail stores, hotels and motels, office space, health care facilities, schools, amusement and recreational facilities, warehouses, manufacturing facilities, fire towers, National Guard armories, military and defense buildings, college and university buildings, and state office buildings. For example, the 165-acre state Department of Mental Health facility located on Bull Street in Columbia recently was sold to a private developer for $15,000,000. The developer has since estimated and revised renovation expenses to $40,000,000. Multiplying $40,000,000 in renovation expenses by a nonrefundable tax credit of twenty-five percent and applying the tax credit in equal installments over five taxable years, yields a reduction in General Fund tax revenue of an estimated $2,000,000 annually for the next five fiscal years.

According to the National Trust for Historic Places, the Palmetto Trust for Historic Preservation, the SC Department of Archives and History, the U.S. Department of General Services, and the South Carolina Budget and Control, there is an estimated 500,000 square feet of abandoned building space throughout the state of South Carolina. Multiplying 500,000 square feet of abandoned income producing space by an average renovation cost of $150 per square foot equals an estimated $75,000,000 of renovation expense that may be undertaken. Applying a twenty-five percent nonrefundable tax credit to $75,000,000 of renovation expense and spreading out the tax credit over five equal installments yields an estimated reduction of General Fund individual and corporate income tax and corporation license tax revenue of $3,750,000 in FY2013-14, and for each successive fiscal year for five years to FY2017-18. It is reasonable; however, to estimate that twenty-five percent of rehabilitative projects would qualify in FY2013-14 since it takes time to file a Notice of Intent to Rehabilitate, undertake the renovation, and subsequently inhabit the structure. This bill is expected, therefore, to reduce General Fund individual and corporate income tax and corporation license tax revenue by an estimated $937,500 in FY2013-14 and by an estimated $3,750,000 in each successive fiscal year through FY2017-18.

The taxpayer has the option of applying to a county council or city council for a reduction in local property taxes against the value of the rehabilitated structure. If all taxpayers elect the property tax option, local property tax revenue would be reduced by an estimated $3,750,000 annually. This act takes effect upon approval of the Governor.

Frank A. Rainwater
Chief Economist

Analyst: Martin

[1/] This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact of Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

South Carolina General Assembly
120th Session, 2013-2014

H. 3093

STATUS INFORMATION

General Bill
Sponsors: Rep. J.E. Smith
Document Path: l:\council\bills\dka\3008sd13.docx
Companion/Similar bill(s): 234

Introduced in the House on January 8, 2013
Currently residing in the House Committee on **Ways and Means**

Summary: Abandoned Buildings Revitalization Act

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/11/2012	House	Prefiled
12/11/2012	House	Referred to Committee on **Ways and Means**
1/8/2013	House	Introduced and read first time (House Journal-page 81)
1/8/2013	House	Referred to Committee on **Ways and Means** (House Journal-page 81)

View the latest legislative information at the LPITS web site

VERSIONS OF THIS BILL

12/11/2012

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 67 TO TITLE 12 SO AS TO ENACT THE "SOUTH CAROLINA ABANDONED BUILDINGS REVITALIZATION ACT", TO PROVIDE THAT A TAXPAYER MAKING INVESTMENTS OF A CERTAIN SIZE IN REHABILITATING AN ABANDONED BUILDING BASED ON THE POPULATION OF THE POLITICAL SUBDIVISION IN WHICH THE BUILDING IS LOCATED MAY AT THE TAXPAYER'S OPTION RECEIVE SPECIFIED INCOME TAX CREDITS OR CREDITS AGAINST THE PROPERTY TAX LIABILITY.

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

SECTION 1. Title 12 of the 1976 Code is amended by adding:

"CHAPTER 67

South Carolina Abandoned Buildings
Revitalization Act

Section 12-67-100. This chapter may be cited as the 'South Carolina Abandoned Buildings Revitalization Act'.

Section 12-67-110. (A) The purpose of this chapter is to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned buildings located in South Carolina.

(B) The abandonment of buildings 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 buildings pose safety concerns. A public and corporate purpose is served by restoring these buildings to productive assets for the communities in which they are located and result in increased job opportunities.

(C) There exists in many communities of this State abandoned buildings. The stable economic and physical development of these communities is endangered by the presence of these abandoned buildings as manifested by their progressive and advanced deterioration. As a result of the existence of these abandoned buildings, 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 which such buildings are located by the redevelopment of abandoned buildings.

Section 12-67-120. For the purposes of this chapter, unless the context requires otherwise:

(1) 'Abandoned building' means a building or structure, which clearly may be delineated from other buildings or structures, at least sixty-six percent of the space in which has been closed continuously to business or otherwise nonoperational for income producing purposes for a period of at least five years immediately preceding the date on which the taxpayer files a 'Notice of Intent to Rehabilitate'. For purposes of this item, a building or structure that otherwise qualifies as an 'abandoned building' may be subdivided into separate units or parcels, which units or parcels may be owned by the same taxpayer or different taxpayers, and each unit or parcel is deemed to be an abandoned building site for purposes of determining whether each subdivided parcel is considered to be abandoned. For purposes of this item, an abandoned building is not a building or structure with an immediate preceding use as a single-family residence.

(2) 'Building site' means the abandoned building together with the parcel of land upon which it is located and other improvements located on the parcel. However, the area of the building site is limited to the land upon which the abandoned building is located and the land immediately surrounding such building used for

parking and other similar purposes directly related to the building's income producing use.

(3) '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 building 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 building site.

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

(6) 'Rehabilitation expenses' means the expenses or capital expenditures incurred in the rehabilitation, renovation, or redevelopment of the building site, including without limitations, the demolition, renovation, or redevelopment of existing buildings, environmental remediation, site improvements, and the construction of new buildings and other improvements on the building site, but excluding the cost of acquiring the building site or the cost of personal property located at the building site. For expenses associated with a building site to qualify for the tax credit, the abandoned buildings on the building site must be either renovated or redeveloped. Rehabilitation expenses associated with a building site that increases the amount of square footage on the building site in excess of one hundred fifty percent of the amount of square footage of the buildings that existed on the building site as of the filing of the notice of intent to rehabilitate shall not be considered a rehabilitation expense for purposes of calculating the amount of the credit.

(7) 'Notice of Intent to Rehabilitate' means 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 building site, the location of the building site, the amount of acreage involved in the building site, the amount of square footage of existing buildings involved in the building site, and the estimated expenses to be incurred in connection with rehabilitation of the building site. The notice also must set forth information as to which buildings the taxpayer intends to renovate and whether new construction is to be involved.

Section 12-67-130. (A) This chapter only applies to abandoned building sites or phases or portions thereof put into operation in which a taxpayer incurs the following rehabilitation expenses:

(1) more than two hundred fifty thousand dollars for buildings located in the unincorporated areas of a county or in a municipality in the county with a population based on the most recent official United States census of more than twenty-five thousand persons;

(2) more than one hundred fifty thousand dollars for buildings located in the unincorporated areas of a county or in a municipality in the county with a population of at least one thousand persons, but not more than twenty-five thousand persons based on the most recent official United States census; and

(3) more than seventy-five thousand dollars for buildings located in a municipality with a population of less than one thousand persons based on the most recent official United States census.

(B) Also, this chapter only applies to abandoned building sites or phases or portions thereof put into operation for income producing purposes and that meet the purpose of this chapter set forth in Section 12-67-110. The construction of a single-family residence is not an income producing purpose and does not meet the purpose of this chapter.

Section 12-67-140. (A) Subject to the terms and conditions of this chapter, a taxpayer who rehabilitates an abandoned building is eligible for either:

(1) 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; or

(2) a credit against real property taxes levied by local taxing entities.

(B) If the taxpayer elects to receive the credit pursuant to subsection (A)(1), 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 building 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 incurred at the building site if the actual rehabilitation expenses incurred in rehabilitating the building 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 building site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed.

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

(b) The entire credit earned pursuant to this item may not exceed four hundred thousand dollars for any taxpayer in a tax year for each abandoned building site. The limitation provided in this subitem applies to each unit or parcel deemed to be an abandoned building site.

(4) If the taxpayer qualifies for both the credit allowed by this section and the credit allowed pursuant to the Textiles Communities Revitalization Act or the Retail Facilities Revitalization Act, the taxpayer only may claim one of the credits. However, the taxpayer is not disqualified from claiming any other tax credit in conjunction with the credit allowed by this section.

(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; or

(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 building site, or part of the building 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. If a taxpayer sells the building site, or any phase or portion of the building 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 building site.

(b) To the extent that the taxpayer transfers the credit, the taxpayer shall 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, without regard to any provision of the Internal Revenue Code or regulations promulgated pursuant thereto, that may be interpreted as contrary to the allocation, including, without limitation, the treatment of the allocation as a disguised sale.

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

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

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

Section 12-67-150. The provisions of Chapter 31, Title 6 also apply to this chapter, except that the requirements of Section 6-31-40 do not apply."

SECTION 2. This act takes effect upon approval by the Governor, and applies to the rehabilitation, renovation, and redevelopment of abandoned buildings begun after the effective date of this chapter which are undertaken in conformity with the provisions of this act.

----XX----