

REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

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

HOUSE BILL 3725

H. 3725 -- Reps. J.E. Smith and Quinn: A BILL TO AMEND SECTION 12-67-120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN REGARD TO THE SOUTH CAROLINA ABANDONED BUILDINGS REVITALIZATION ACT, SO AS TO ADD THE DEFINITION OF "STATE-OWNED ABANDONED BUILDINGS"; TO AMEND SECTION 12-67-140, RELATING TO THE ELIGIBILITY OF A TAXPAYER TO RECEIVE A TAX CREDIT FOR REHABILITATING AN ABANDONED BUILDING, SO AS TO PROVIDE IF A TAX CREDIT IS EARNED BY A TAXPAYER WHO REHABILITATES A STATE-OWNED ABANDONED BUILDING THE CREDIT MUST BE CLAIMED OVER A TWO-YEAR PERIOD AND TO PROVIDE REQUIREMENTS FOR A TAXPAYER WHO SELLS A BUILDING SITE; TO AMEND SECTION 12-6-3535, RELATING TO INCOME TAX CREDITS FOR MAKING QUALIFIED REHABILITATION EXPENDITURES FOR A CERTIFIED HISTORIC STRUCTURE, SO AS TO PROVIDE AN ADDITIONAL INCOME TAX CREDIT OPTION FOR TAXPAYERS, TO PROVIDE ADDITIONAL REQUIREMENTS FOR WHEN A TAX CREDIT MAY BE TAKEN WHEN A TAXPAYER REHABILITATES A STATE-OWNED ABANDONED BUILDING, AND TO PROVIDE REQUIREMENTS FOR TAX CREDITS EARNED BY A PASS-THROUGH ENTITY; BY ADDING SECTION 12-67-160 SO AS TO PROVIDE REQUIREMENTS FOR A CERTIFICATION OF THE ABANDONED BUILDING SITE; BY ADDING SECTION 12-6-3586 SO AS TO ALLOW A TAX CREDIT TO A TAXPAYER WHO CONSTRUCTS, PURCHASES, OR LEASES A NONRESIDENTIAL SOLAR ENERGY SYSTEM; AND TO AMEND SECTION 12-6-3587, RELATING TO THE PURCHASE AND INSTALLATION OF SOLAR ENERGY SYSTEMS FOR HEATING WATER, SPACE HEATING, AIR COOLING, OR GENERATING ELECTRICITY, SO AS TO PROVIDE THAT THE CREDIT IS ALLOWED WITHOUT REGARD TO WHETHER THE TAXPAYER OCCUPIES THE INSTALLATION SITE.

Summary of Bill:

This bill provides the definition for 'state owned abandoned building,' and provides for tax credits associated with rehabilitation of such buildings. The bill also provides for a solar energy tax credit when in association with non-residential properties.

Estimated Revenue Impact:

The bill as introduced would reduce General Fund individual income tax, corporate income tax, bank tax, savings and loan tax, and corporate license fees by an estimated \$13,300,000 in FY 16-17 and by \$13.3M in FY 17-18. Additionally, this bill would reduce General Fund individual income tax revenue by \$833,333 and increase Other Funds of the State Energy Office by \$12,500 in FY 16-17. When the tax credits expire in 2019 we expect an

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

increase in GF income tax revenue of \$312,814 in FY 19-20.

The fiscal impact for the amendment is pending.

Subcommittee Recommendation: Favorable with Amendment

Full Committee Recommendation: Pending

Notes: The subcommittee amended the bill to the Senate version as introduced and also changed the cap from \$1M to \$500K. Amending to the Senate Version removes the solar energy credit.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

ALLEN/PAIR
APRIL 15, 2015

CLERK OF THE HOUSE

THE SALES AND INCOME TAX SUBCOMMITTEE PROPOSES THE FOLLOWING AMENDMENT No. TO H. 3725 (H-WM\STAFF\KATIE\LEGISLATION\FY 15 - 16\H. 3725 - STATE OWNED ABANDONED BUILDINGS\AMENDMENT FOR SUB)):

REFERENCE IS TO THE BILL AS INTRODUCED.

AMEND THE BILL, AS AND IF AMENDED, BY STRIKING ALL AFTER THE ENACTING WORDS AND INSERTING:

/ SECTION 1. SECTION 12-6-3535 OF THE 1976 CODE IS AMENDED TO READ:

“SECTION 12-6-3535. (A) A TAXPAYER WHO IS ALLOWED A FEDERAL INCOME TAX CREDIT

PURSUANT TO SECTION 47 OF THE INTERNAL REVENUE CODE FOR MAKING QUALIFIED REHABILITATION EXPENDITURES FOR A CERTIFIED HISTORIC STRUCTURE LOCATED IN THIS STATE IS ALLOWED TO CLAIM A CREDIT AGAINST INCOME TAXES AND LICENSE FEES IMPOSED BY THIS TITLE, INCLUDING INCOME TAXES IMPOSED PURSUANT TO CHAPTER 6 AND CHAPTER 11, CORPORATE LICENSE FEES IMPOSED PURSUANT TO CHAPTER 20, AND INSURANCE PREMIUM TAXES, INCLUDING RETALIATORY TAX, IMPOSED BY CHAPTER 7, TITLE 38, OR A COMBINATION OF THEM. A CLAIMANT OF A TAX CREDIT IS NOT REQUIRED TO PAY ANY RETALIATORY TAX LEVIED PURSUANT TO CHAPTER 7, TITLE 38 AS A RESULT OF CLAIMING THE TAX CREDIT. FOR THE PURPOSES OF THIS SECTION, QUALIFIED REHABILITATION EXPENDITURES AND CERTIFIED HISTORIC STRUCTURE ARE DEFINED AS PROVIDED IN THE INTERNAL REVENUE CODE SECTION 47 AND THE APPLICABLE TREASURY REGULATIONS. EXCEPT

AS PROVIDED IN SUBSECTION (A)(1), THE THE
AMOUNT OF THE CREDIT IS TEN PERCENT OF THE
EXPENDITURES THAT QUALIFY FOR THE FEDERAL
CREDIT. TO CLAIM THE CREDIT ALLOWED BY THIS
SUBSECTION, A TAXPAYER FILING A PAPER
RETURN MUST ATTACH A COPY OF THE SECTION
OF THE FEDERAL INCOME TAX RETURN SHOWING
THE CREDIT CLAIMED, ALONG WITH OTHER
INFORMATION THAT THE DEPARTMENT OF
REVENUE DETERMINES IS NECESSARY FOR THE
CALCULATION OF THE CREDIT PROVIDED BY THIS
SUBSECTION.

(1) A TAXPAYER MAY ELECT A TWENTY-FIVE
PERCENT TAX CREDIT IN LIEU OF THE TEN
PERCENT TAX CREDIT.

(2) A TAXPAYER ELECTING A TWENTY-FIVE
PERCENT TAX CREDIT MAY NOT CLAIM A CREDIT
THAT EXCEEDS FIVE HUNDRED THOUSAND
DOLLARS FOR EACH CERTIFIED HISTORIC
STRUCTURE. THE LIMITATION PROVIDED FOR IN
THIS ITEM DOES NOT APPLY TO CREDITS CLAIMED
FOR QUALIFIED REHABILITATION EXPENDITURES

RELATED TO ANY STATE-OWNED ABANDONED BUILDING.

(B) A TAXPAYER WHO IS NOT ELIGIBLE FOR A FEDERAL INCOME TAX CREDIT UNDER SECTION 47 OF THE INTERNAL REVENUE CODE AND WHO MAKES REHABILITATION EXPENSES FOR A CERTIFIED HISTORIC RESIDENTIAL STRUCTURE LOCATED IN THIS STATE IS ALLOWED TO CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS CHAPTER. THE AMOUNT OF THE CREDIT IS TWENTY-FIVE PERCENT OF THE REHABILITATION EXPENSES. TO CLAIM THE CREDIT ALLOWED BY THIS SUBSECTION, A TAXPAYER FILING A PAPER RETURN MUST ATTACH A COPY OF THE CERTIFICATION OBTAINED FROM THE STATE HISTORIC PRESERVATION OFFICER VERIFYING THAT THE HISTORIC STRUCTURE HAS BEEN REHABILITATED IN ACCORDANCE WITH THIS SUBSECTION, ALONG WITH ALL INFORMATION THAT THE DEPARTMENT OF REVENUE DETERMINES IS NECESSARY FOR THE CALCULATION OF THE CREDIT PROVIDED BY THIS SUBSECTION. A TAXPAYER FILING AN ELECTRONIC RETURN SHALL KEEP A COPY OF THE CERTIFICATION WITH HIS TAX RECORDS.

FOR THE PURPOSES OF SUBSECTIONS (B) THROUGH (F):

(1) 'CERTIFIED HISTORIC RESIDENTIAL STRUCTURE' MEANS AN OWNER-OCCUPIED RESIDENCE THAT IS:

(A) LISTED INDIVIDUALLY IN THE NATIONAL REGISTER OF HISTORIC PLACES;

(B) CONSIDERED BY THE STATE HISTORIC PRESERVATION OFFICER TO CONTRIBUTE TO THE HISTORIC SIGNIFICANCE OF A NATIONAL REGISTER HISTORIC DISTRICT;

(C) CONSIDERED BY THE STATE HISTORIC PRESERVATION OFFICER TO MEET THE CRITERIA FOR INDIVIDUAL LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES; OR

(D) AN OUTBUILDING OF AN OTHERWISE ELIGIBLE PROPERTY CONSIDERED BY THE STATE HISTORIC PRESERVATION

OFFICER TO CONTRIBUTE TO THE HISTORIC SIGNIFICANCE OF THE PROPERTY.

(2) 'CERTIFIED REHABILITATION' MEANS REPAIRS OR ALTERATIONS CONSISTENT WITH THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION AND CERTIFIED AS SUCH BY THE STATE HISTORIC PRESERVATION OFFICER BEFORE COMMENCEMENT OF THE WORK. THE REVIEW BY THE STATE HISTORIC PRESERVATION OFFICER SHALL INCLUDE ALL REPAIRS, ALTERATIONS, REHABILITATION, AND NEW CONSTRUCTION ON THE CERTIFIED HISTORIC RESIDENTIAL STRUCTURE AND THE PROPERTY ON WHICH IT IS LOCATED. TO QUALIFY FOR THE CREDIT, THE TAXPAYER SHALL RECEIVE DOCUMENTATION FROM THE STATE HISTORIC PRESERVATION OFFICER VERIFYING THAT THE COMPLETED PROJECT WAS REHABILITATED IN ACCORDANCE WITH THE STANDARDS FOR REHABILITATION. THE REHABILITATION EXPENSES MUST, WITHIN A THIRTY-SIX-MONTH PERIOD, EXCEED FIFTEEN THOUSAND DOLLARS. A TAXPAYER SHALL NOT TAKE MORE THAN ONE CREDIT ON THE SAME CERTIFIED HISTORIC RESIDENTIAL STRUCTURE WITHIN TEN YEARS.

(3) 'REHABILITATION EXPENSES' MEANS EXPENSES INCURRED BY THE TAXPAYER IN THE CERTIFIED REHABILITATION OF A CERTIFIED HISTORIC RESIDENTIAL STRUCTURE THAT ARE PAID BEFORE THE CREDIT IS CLAIMED INCLUDING PRESERVATION AND REHABILITATION WORK DONE TO THE EXTERIOR OF A CERTIFIED HISTORIC RESIDENTIAL STRUCTURE, REPAIR AND STABILIZATION OF HISTORIC STRUCTURAL SYSTEMS, RESTORATION OF HISTORIC PLASTER, ENERGY EFFICIENCY MEASURES EXCEPT INSULATION IN FRAME WALLS, REPAIRS OR REHABILITATION OF HEATING, AIR-CONDITIONING, OR VENTILATING SYSTEMS, REPAIRS OR REHABILITATION OF ELECTRICAL OR PLUMBING SYSTEMS EXCLUSIVE OF NEW ELECTRICAL APPLIANCES AND ELECTRICAL OR PLUMBING FIXTURES, AND ARCHITECTURAL AND ENGINEERING FEES.

‘REHABILITATION EXPENSES’ DO NOT INCLUDE THE COST OF ACQUIRING OR MARKETING THE PROPERTY, THE COST OF NEW CONSTRUCTION BEYOND THE VOLUME OF THE EXISTING CERTIFIED HISTORIC RESIDENTIAL STRUCTURE, THE VALUE OF AN OWNER’S PERSONAL LABOR, OR THE COST OF PERSONAL PROPERTY.

(4) ‘STATE HISTORIC PRESERVATION OFFICER’ MEANS THE DIRECTOR OF THE DEPARTMENT OF ARCHIVES AND HISTORY OR THE DIRECTOR’S DESIGNEE WHO ADMINISTERS THE HISTORIC PRESERVATION PROGRAMS WITHIN THE STATE.

(5) ‘OWNER-OCCUPIED RESIDENCE’ MEANS A BUILDING OR PORTION OF A BUILDING IN WHICH THE TAXPAYER HAS AN OWNERSHIP INTEREST, IN WHOLE OR IN PART, IN FEE, BY LIFE ESTATE, OR AS THE INCOME BENEFICIARY OF A PROPERTY TRUST, THAT IS, AFTER BEING PLACED IN SERVICE, THE RESIDENCE OF THE TAXPAYER AND IS NOT:

(A) ACTIVELY USED IN A TRADE OR BUSINESS;

(B) HELD FOR THE PRODUCTION OF INCOME; OR

(C) HELD FOR SALES OR DISPOSITION IN THE ORDINARY COURSE OF THE TAXPAYER’S TRADE OR BUSINESS.

(6) ‘STATE-OWNED ABANDONED BUILDING’ HAS THE SAME MEANING AS PROVIDED IN SECTION 12-67-120(8).

(C)(1) THE EXCEPT FOR A CREDIT CLAIMED IN CONNECTION WITH THE REHABILITATION OF A STATE-OWNED ABANDONED BUILDING, THE ENTIRE CREDIT MAY NOT BE TAKEN FOR THE TAXABLE YEAR IN WHICH THE PROPERTY 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. IF THE CREDIT IS CLAIMED IN CONNECTION WITH THE REHABILITATION OF A STATE-OWNED ABANDONED BUILDING, THE ENTIRE CREDIT MAY NOT BE TAKEN FOR THE TAXABLE YEAR IN WHICH THE PROPERTY IS PLACED IN SERVICE, BUT, RATHER MUST BE TAKEN IN EQUAL INSTALLMENTS OVER A TWO-YEAR PERIOD BEGINNING WITH THE YEAR IN WHICH THE PROPERTY IS PLACED IN SERVICE. ‘PLACED IN SERVICE’ MEANS THE

REHABILITATION IS COMPLETED AND ALLOWS FOR THE INTENDED USE. ANY UNUSED PORTION OF ANY CREDIT INSTALLMENT MAY BE CARRIED FORWARD FOR THE SUCCEEDING FIVE YEARS.

(2) THE CREDIT EARNED PURSUANT TO THIS SECTION BY AN 'S' CORPORATION OWING CORPORATE LEVEL INCOME TAX MUST BE USED FIRST AT THE ENTITY LEVEL. REMAINING CREDIT PASSES THROUGH TO EACH SHAREHOLDER IN A PERCENTAGE EQUAL TO EACH SHAREHOLDER'S PERCENTAGE OF STOCK OWNERSHIP. THE CREDIT EARNED PURSUANT TO THIS SECTION BY A GENERAL PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER PASS-THROUGH ENTITY ~~TAXED AS A PARTNERSHIP~~ MUST BE PASSED THROUGH TO ITS PARTNERS AND MAY BE ALLOCATED AMONG 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 ITEM THE TERM 'PARTNER' MEANS A PARTNER, MEMBER, OR OWNER OF AN INTEREST IN THE PASS-THROUGH ENTITY, AS APPLICABLE. IF THE TAXPAYER MAKES A PASS-THROUGH ELECTION UNDER SECTION 50(D) OF THE INTERNAL REVENUE CODE, THE TAXPAYER MAY ELECT TO PASS THE CREDIT CLAIMED PURSUANT TO THIS SECTION TO THE TENANT OF THE ELIGIBLE STRUCTURE OR TO RETAIN THE CREDIT.

(D) ADDITIONAL WORK DONE BY THE TAXPAYER WHILE THE CREDIT IS BEING CLAIMED, FOR A PERIOD OF UP TO FIVE YEARS, MUST BE CONSISTENT WITH THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION. DURING THIS PERIOD THE STATE HISTORIC PRESERVATION OFFICER MAY REVIEW ADDITIONAL WORK TO THE CERTIFIED HISTORIC STRUCTURE OR CERTIFIED HISTORIC RESIDENTIAL STRUCTURE AND HAS THE RIGHT TO INSPECT CERTIFIED HISTORIC STRUCTURES AND CERTIFIED HISTORIC RESIDENTIAL STRUCTURES. IF ADDITIONAL WORK IS NOT CONSISTENT WITH THE STANDARDS FOR REHABILITATION, THE TAXPAYER AND DEPARTMENT OF REVENUE MUST

BE NOTIFIED IN WRITING AND ANY UNUSED PORTION OF THE CREDIT, INCLUDING CARRY FORWARD, IS FORFEITED.

(E) THE SOUTH CAROLINA DEPARTMENT OF ARCHIVES AND HISTORY SHALL DEVELOP AN APPLICATION AND MAY PROMULGATE REGULATIONS, INCLUDING THE ESTABLISHMENT OF FEES, NEEDED TO ADMINISTER THE CERTIFICATION PROCESS. THE DEPARTMENT OF REVENUE MAY PROMULGATE REGULATIONS, INCLUDING THE ESTABLISHMENT OF FEES, TO ADMINISTER THE TAX CREDIT.

(F) A TAXPAYER MAY APPEAL A DECISION OF THE STATE HISTORIC PRESERVATION OFFICER TO A COMMITTEE OF THE STATE REVIEW BOARD APPOINTED BY THE CHAIRPERSON.”

SECTION 2. SECTION 12-67-120 OF THE 1976 CODE, AS ADDED BY ACT 57 OF 2013, IS AMENDED BY ADDING AN ITEM AT THE END TO READ:

“(8) ‘STATE-OWNED ABANDONED BUILDING’ MEANS AN ABANDONED BUILDING AND ITS ANCILLARY SERVICE BUILDINGS OR A PROJECT CONSISTING OF ONE OR MORE ABANDONED BUILDINGS, THE AGGREGATE SIZE OF WHICH IS GREATER THAN FIFTY THOUSAND SQUARE FEET, THAT HAS BEEN ABANDONED FOR MORE THAN FIVE YEARS, AND, PRIOR TO THE TAXPAYER’S ACQUISITION OF SUCH BUILDING, WAS MOST RECENTLY OWNED BY THE STATE, OR AN AGENCY, INSTRUMENTALITY, OR POLITICAL SUBDIVISION OF THE STATE. FOR PURPOSES OF THIS DEFINITION, THE TAXPAYER SHALL INCLUDE ANY ENTITY AFFILIATED WITH THE UNDER COMMON CONTROL, COMMON OWNERSHIP, OR BOTH.”

SECTION 3. SECTION 12-67-140(A) AND (B) OF THE 1976 CODE, AS ADDED BY ACT 57 OF 2013, IS AMENDED TO READ:

“(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, CORPORATE LICENSE FEES PURSUANT TO CHAPTER 20 OF THIS TITLE, OR TAXES ON ASSOCIATIONS PURSUANT TO CHAPTER 13 OF THIS TITLE, OR INSURANCE PREMIUM TAXES, INCLUDING RETALIATORY TAXES, IMPOSED BY CHAPTER 7, TITLE 38, OR A COMBINATION THEREOF OF THEM; OR

(2) A CREDIT AGAINST REAL PROPERTY TAXES LEVIED BY LOCAL TAXING ENTITIES.

(B) A CLAIMANT OF A TAX CREDIT IS NOT REQUIRED TO PAY ANY RETALIATORY TAX LEVIED PURSUANT TO CHAPTER 7, TITLE 38 AS A RESULT OF CLAIMING THE CREDIT.

(C) 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 EXCEPT FOR A CREDIT CLAIMED IN CONNECTION WITH THE REHABILITATION OF A STATE-OWNED ABANDONED BUILDING, 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. IF THE CREDIT IS EARNED IN CONNECTION WITH THE REHABILITATION OF A STATE-OWNED ABANDONED BUILDING, 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 CLAIMED IN EQUAL INSTALLMENTS OVER A TWO-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 SUBSECTION MAY NOT EXCEED FIVE 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. WITH RESPECT TO ANY STATE-OWNED ABANDONED BUILDING, THE LIMITATION PROVIDED IN THIS SUBSECTION MUST BE ONE MILLION DOLLARS INSTEAD OF FIVE HUNDRED THOUSAND DOLLARS.

(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 THREE 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 THE 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 TAXES ON ASSOCIATIONS PURSUANT TO CHAPTER 13 OF THIS TITLE, OR BOTH; 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)(6)~~ 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.”

SECTION 4. CHAPTER 67, TITLE 12 OF THE 1976 CODE IS AMENDED BY ADDING:

“SECTION 12-67-160. (A) THE TAXPAYER MAY APPLY TO THE MUNICIPALITY OR COUNTY IN WHICH THE ABANDONED BUILDING IS LOCATED FOR A CERTIFICATION OF THE ABANDONED BUILDING SITE MADE BY ORDINANCE OR BINDING RESOLUTION OF THE GOVERNING BODY OF THE MUNICIPALITY OR COUNTY. THE CERTIFICATION MUST INCLUDING FINDINGS THAT THE:

(1) ABANDONED BUILDING SITE WAS AN ABANDONED BUILDING AS DEFINED IN SECTION 12-67-120(1); AND

(2) GEOGRAPHIC AREA OF THE ABANDONED BUILDING SITE IS CONSISTENT WITH SECTION 12-67-120(2).

(B) THE TAXPAYER MAY APPLY TO THE MUNICIPALITY OR COUNTY IN WHICH THE STATE-OWNED ABANDONED BUILDING IS LOCATED FOR A CERTIFICATION OF THE STATE-OWNED ABANDONED BUILDING SITE MADE BY ORDINANCE OR BINDING RESOLUTION OF THE GOVERNING BODY OF THE MUNICIPALITY OR COUNTY. THE CERTIFICATION MUST INCLUDE FINDINGS THAT THE:

(1) STATE-OWNED ABANDONED BUILDING SITE WAS A STATE-OWNED ABANDONED BUILDING AS DEFINED IN SECTION 12-67-120(8); AND

(2) GEOGRAPHIC AREA OF THE STATE-OWNED ABANDONED BUILDING SITE IS CONSISTENT WITH SECTION 12-67-120(8).

(C) THE TAXPAYER CONCLUSIVELY MAY 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.”

SECTION 5. THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR. /

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
 (803)734-0640 • RFA.SC.GOV/IMPACTS

Bill Number: H. 3725
 Author: J.E. Smith
 Requestor: House Ways and Means
 Date: April 9, 2015
 Subject: Solar energy systems
 RFA Analyst(s): Martin and Wren

Estimate of Fiscal Impact

	FY 2015-16	FY 2016-17	FY 2017-18
State Expenditure			
General Fund	N/A	N/A	N/A
Other and Federal	N/A	N/A	N/A
Full-Time Equivalent Position(s)	0.00	0.00	0.00
State Revenue			
General Fund	\$0	(\$14,133,333)	(\$14,133,333)
Other and Federal	\$0	\$12,500	N/A
Local Expenditure	N/A	N/A	N/A
Local Revenue	N/A	N/A	N/A

Fiscal Impact Summary

This bill would reduce General Fund individual income tax, corporate income tax, bank tax, savings and loan tax, and corporate license fees by an estimated \$13,300,000 in FY2016-17 and by an estimated \$13,300,000 in FY2017-18. Additionally, this bill would reduce General Fund individual income tax revenue by \$833,333 and increase Other Funds of the State Energy Office by \$12,500 in FY 2016-17. When the tax credits expire in 2019, we expect an increase in General Fund income tax revenue of \$312,814 in FY 2019-20.

Explanation of Fiscal Impact

State Expenditure

Since this legislation makes no substantive changes to existing programs or resources, the Department of Revenue and the State Energy Office can administer the legislative changes with existing resources.

State Revenue

The following is a section-by-section analysis of the bill.

Section 1. This section would amend Section 12-67-120 to add the definition of a “state-owned abandoned building”. The definition consists of one or more abandoned buildings that total more than 40,000 square feet, have been abandoned for more than five years, and not less than half of

the property were recently owned by the State, or an agency, instrumentality, or political subdivision of the State, prior to a taxpayer's acquisition of the property.

Section 2. The South Carolina Abandoned Buildings Revitalization Act was enacted in Act 57 of 2013. Currently, a taxpayer may claim a nonrefundable state income tax credit equal to twenty-five percent of actual rehabilitation expenses of an abandoned building. The tax credit may be applied against income taxes, bank taxes, savings and loan taxes, corporate license fees, or a combination of them. The tax credit may also be applied against real property taxes as levied by local taxing entities. The tax credit must be taken in equal installments over a five-year period and may not exceed \$500,000 for any taxpayer in a tax year. The credit is earned in the tax year in which the applicable phase or portion of the building site is placed in service. Unused tax credits may be carried forward for five years.

This section would amend Section 12-67-140 to also allow a credit earned in connection with a state-owned abandoned building to be claimed over a two year period instead of over a five year period for other qualified abandoned buildings, while removing the annual tax limitation of \$500,000 for the rehabilitation of a state-owned abandoned building. These provisions would accelerate the use of the tax credit. This section would also allow the taxpayer to transfer all or part of any remaining tax credit to the purchaser of the portion of the building being rehabilitated or the building site.

Section 3. Currently, a taxpayer is allowed a nonrefundable state income tax credit equal to ten percent against qualifying rehabilitation expenditures of a certified historic structure if the taxpayer qualifies for the comparable federal income tax credit. If the taxpayer is not eligible for the federal income tax credit, the taxpayer is eligible to claim a nonrefundable state income tax credit equal to twenty-five percent of qualifying rehabilitation expenditures. The state credit may be taken in equal installments over a five-year period and any unused credits may be carried forward for five years.

This section amends Section 12-6-3535 to allow a taxpayer that claims a federal income tax credit for qualified rehabilitation expenditures on a certified historic structure to claim a state nonrefundable tax credit against individual and corporate income taxes. This section would also allow a taxpayer who is allowed a federal income tax credit pursuant to IRS Code Section 47 to elect a twenty-five percent tax credit instead of the current ten percent tax credit. If a taxpayer elects a twenty-five percent tax credit the total amount that may be claimed shall not exceed \$1,000,000 for each certified historic structure. This limitation does not apply to credits claimed for qualified rehabilitation expenditures related to any state-owned abandoned building. This section, however, would also amend Section 12-6-3535(C)(1) to allow a credit earned in connection with a state-owned certified historic building to be claimed over a two year period instead of over a five year period for other qualified certified historic buildings, beginning with the year in which the property is placed in service. This provision would accelerate the use of the tax credit.

The most well-known example of a state-owned abandoned building is the Babcock Building located off Bull Street in Columbia, South Carolina. Built between 1858 and 1885, it was the home of the South Carolina State Hospital. On October 30, 1981, the Babcock Building was

added to the National Register of Historic Places. The property was sold for \$15,000,000 in July 2013, and the total renovation costs of the Babcock Building and the ancillary out-buildings are estimated at \$60,000,000.

As a result, the Bull Street property would be eligible for two tax credits – the abandoned buildings revitalization tax credit and the certified historic building tax credit. This bill amends language in each statute. Table 1 summarizes the net changes affecting the tax credits regarding this property under current law and the tax credits under the amended language to current law.

**Table 1. Analysis of Abandoned Building and Certified Historic Structure Tax Credits
Proposed \$60,000,000 Rehabilitation Project**

Abandoned Buildings Revitalization Tax Credit					
	Year 1	Year 2	Year 3	Year 4	Year 5
Current Law					
State (25%) 1/ Limitation 2/	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000
	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
H.3725 Proposal	\$7,500,000	\$7,500,000	\$0	\$0	\$0
Limitation	None	None			
Difference	\$7,000,000	\$7,000,000			
Tax Credit for a Certified Historic Structure					
	Year 1	Year 2	Year 3	Year 4	Year 5
Current Law					
Federal (20%) 3/ State (10%) 4/ Total Tax Credits	\$2,400,000 \$1,200,000 \$3,600,000	\$2,400,000 \$1,200,000 \$3,600,000	\$2,400,000 \$1,200,000 \$3,600,000	\$2,400,000 \$1,200,000 \$3,600,000	\$2,400,000 \$1,200,000 \$3,600,000
H.3725 Proposal					
Federal (20%) 3/ State (25%) Limitation - Non State-Owned Limitation - State-Owned Total Tax Credits	\$2,400,000 \$7,500,000 \$1,000,000 None \$9,900,000	\$2,400,000 \$7,500,000 \$1,000,000 None \$9,900,000	\$2,400,000 \$0 \$2,400,000	\$2,400,000 \$0 \$2,400,000	\$2,400,000 \$0 \$2,400,000
Difference	\$6,300,000	\$6,300,000			
TOTAL DIFFERENCE	\$13,300,000	\$13,300,000			

Notes:

- 1/ Section 12-67-140(B)(2), (3)(a)
- 2/ Section 12-67-140(B)(3)(b)
- 3/ 26 USC Sec. 47(a)(2)
- 4/ Section 12-6-3535(A), (C)(1)

In general, this bill removes the \$500,000 tax credit limitation that each taxpayer may claim each year for a state-owned abandoned building, and accelerates the time period the tax credits may be claimed from five years down to two years. This amendment would also affect the amount of tax credits for renovating a certified historic structure. Pursuant to IRS Code 47, a taxpayer may claim a twenty percent federal tax credit against qualified rehabilitation expenditures. Current state law allows the same taxpayer that is eligible for the federal tax credit to also claim a ten percent state tax credit for rehabilitating a certified historic structure. This is a combined federal-state subsidy of thirty percent of the total cost of rehabilitation expenses. This bill would allow a state taxpayer to claim a state tax credit of twenty-five percent in lieu of the current ten percent state tax credit. This amendment would increase the combined federal-state subsidy to forty-five percent of the total cost of rehabilitation expenses, and accelerates the time period the tax credits may be claimed from five years down to two years.

Although it is difficult to predict the exact timing of the completion of each phase of the redevelopment project, it is reasonable to expect that the majority of the project would be completed in the early years of development. After combining the net effects of the state-owned abandoned building tax credit and the tax credit for rehabilitation expenses of a certified historic structure, this bill would reduce General Fund individual income tax, corporate income tax, bank tax, savings and loan tax, and corporate license fees by an estimated \$13,300,000 in FY2016-17 and by an estimated \$13,300,000 in FY2017-18.

Section 4. This section would add Section 12-67-160 to allow a taxpayer of a rehabilitated abandoned building to apply to the municipality or county in which the abandoned building is located for a certification of the abandoned building site made by ordinance or binding resolution of the governing body of the municipality or county. The taxpayer should include a copy of the certification with the first tax return in which the credit is claimed to aid in determining the credit allowed. This section is not expected to affect state General Fund revenue in FY2015-16.

Section 5. This bill adds Section 12-6-3586, which grants an income and other specified tax credits for twenty-five percent of the cost of a non-residential solar energy system that uses solar radiation as a substitute for traditional energy used for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. Also included are related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy. The credit applies to systems placed in service beginning after 2015 and before 2019. The credit must be taken in three equal annual installments. The credit may not exceed three hundred thirty-three thousand dollars for each solar energy system installation and the credit may not exceed one million dollars for any taxpayer. The credit allowed pursuant to this section may not exceed one-half of the taxpayer's tax liability for a taxable year. The total amount of credits allocated for all taxpayers in a taxable year may not exceed five million dollars in the aggregate. The credit is allowed on a first come first serve basis and is monitored by the State Energy Office, with assistance from the Department of Revenue. Taxpayers wishing to claim the credit must submit an application fee equal to one percent of the credit applied for, but no more than two thousand five hundred dollars. The

application fee will be credited to the State Energy Office and must be used to meet the requirements of this Section.

The Department of Revenue reports that five commercial firms claimed the solar energy tax credit in 2013. Based upon our analysis of solar energy equipment tax credits for non-residential purposes over the past three years, we estimate that five commercial firms will claim the tax credit in FY 2016-17, for a total of \$5,000,000. Adjusting for the fact that the tax credit is to be taken in three equal annual installments and applying the fifty percent tax liability limitation, it is estimated that this bill would reduce General Fund income tax, bank tax, license fees, or insurance premium tax revenue by an estimated \$833,333 in FY 2016-17. Also, since the application fee is capped at two thousand five hundred dollars, Other Funds of the State Energy Office would increase by \$12,500 in FY 2016-17.

Section 6. Additionally, this bill amends Section 12-6-3587 by adding a subsection which applies to solar energy systems placed in service after tax year 2007 and before tax year 2019. Currently, Section 12-6-3587 allows for a credit not to exceed three thousand five hundred dollars for each facility, or fifty percent of the taxpayer's liability for that taxable year, whichever is less. If the amount of the credit exceeds three thousand five hundred dollars per facility, the taxpayer may carry forward the excess for up to ten years. Based on data from the Department of Revenue, two hundred fifty-six taxpayers claimed the existing solar energy tax credit for a total of \$625,628 in 2013. Assuming this trend continues, we expect a similar number of tax credits in 2019. We estimate fifty percent of these credits, or \$312,814 may be carried forward. Therefore, we expect an increase of \$312,814 in General Fund income tax revenue in FY 2019-20.

Section 7. Unless specified otherwise, this act takes effect upon approval by the Governor and applies for tax years beginning after 2015.



Frank A. Rainwater, Executive Director

South Carolina General Assembly
121st Session, 2015-2016

H. 3725

STATUS INFORMATION

General Bill

Sponsors: Reps. J.E. Smith and Quinn

Document Path: I:\council\bills\dka\3068sa15.docx

Companion/Similar bill(s): 532, 3908

Introduced in the House on February 25, 2015

Currently residing in the House Committee on **Ways and Means**

Summary: Solar energy systems

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/25/2015	House	Introduced and read first time (<u>House Journal-page 16</u>)
2/25/2015	House	Referred to Committee on Ways and Means (<u>House Journal-page 16</u>)

View the latest legislative information at the website

VERSIONS OF THIS BILL

2/25/2015

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10

A BILL

11 TO AMEND SECTION 12-67-120, CODE OF LAWS OF SOUTH
12 CAROLINA, 1976, RELATING TO DEFINITIONS IN REGARD
13 TO THE SOUTH CAROLINA ABANDONED BUILDINGS
14 REVITALIZATION ACT, SO AS TO ADD THE DEFINITION
15 OF "STATE-OWNED ABANDONED BUILDINGS"; TO
16 AMEND SECTION 12-67-140, RELATING TO THE
17 ELIGIBILITY OF A TAXPAYER TO RECEIVE A TAX CREDIT
18 FOR REHABILITATING AN ABANDONED BUILDING, SO AS
19 TO PROVIDE IF A TAX CREDIT IS EARNED BY A
20 TAXPAYER WHO REHABILITATES A STATE-OWNED
21 ABANDONED BUILDING THE CREDIT MUST BE CLAIMED
22 OVER A TWO-YEAR PERIOD AND TO PROVIDE
23 REQUIREMENTS FOR A TAXPAYER WHO SELLS A
24 BUILDING SITE; TO AMEND SECTION 12-6-3535,
25 RELATING TO INCOME TAX CREDITS FOR MAKING
26 QUALIFIED REHABILITATION EXPENDITURES FOR A
27 CERTIFIED HISTORIC STRUCTURE, SO AS TO PROVIDE AN
28 ADDITIONAL INCOME TAX CREDIT OPTION FOR
29 TAXPAYERS, TO PROVIDE ADDITIONAL REQUIREMENTS
30 FOR WHEN A TAX CREDIT MAY BE TAKEN WHEN A
31 TAXPAYER REHABILITATES A STATE-OWNED
32 ABANDONED BUILDING, AND TO PROVIDE
33 REQUIREMENTS FOR TAX CREDITS EARNED BY A
34 PASS-THROUGH ENTITY; BY ADDING SECTION 12-67-160
35 SO AS TO PROVIDE REQUIREMENTS FOR A
36 CERTIFICATION OF THE ABANDONED BUILDING SITE; BY
37 ADDING SECTION 12-6-3586 SO AS TO ALLOW A TAX
38 CREDIT TO A TAXPAYER WHO CONSTRUCTS,
39 PURCHASES, OR LEASES A NONRESIDENTIAL SOLAR
40 ENERGY SYSTEM; AND TO AMEND SECTION 12-6-3587,
41 RELATING TO THE PURCHASE AND INSTALLATION OF
42 SOLAR ENERGY SYSTEMS FOR HEATING WATER, SPACE

1 HEATING, AIR COOLING, OR GENERATING ELECTRICITY,
2 SO AS TO PROVIDE THAT THE CREDIT IS ALLOWED
3 WITHOUT REGARD TO WHETHER THE TAXPAYER
4 OCCUPIES THE INSTALLATION SITE.

5
6 Be it enacted by the General Assembly of the State of South
7 Carolina:

8
9 SECTION 1. Section 12-67-120 of the 1976 Code, as added by Act
10 57 of 2015, is amended by adding an item at the end to read:

11
12 “(8) ‘State-owned abandoned building’ means an abandoned
13 building and its ancillary service buildings or a project consisting of
14 two or more abandoned buildings, the aggregate square footage of
15 which is greater than forty thousand square feet, that has been
16 abandoned for more than five years, and before the taxpayer’s
17 acquisition of the buildings, all or a portion, but not less than half,
18 was most recently owned by the State, or an agency, instrumentality,
19 or political subdivision of the State. For purposes of this item,
20 ‘taxpayer’ includes an entity under common control or common
21 ownership with the taxpayer.”

22
23 SECTION 2. A. Section 12-67-140(B)(3) of 1976 Code, as
24 added by Act 57 of 2015, is amended to read:

25
26 “(3)(a) The Except for a credit claimed in connection with the
27 rehabilitation of a state-owned abandoned building, the entire credit
28 is earned in the taxable year in which the applicable phase or portion
29 of the building site is placed in service but must be taken in equal
30 installments over a five-year period beginning with the tax year in
31 which the applicable phase or portion of the building site is placed
32 in service. If the credit is earned in connection with the rehabilitation
33 of a state-owned abandoned building, the entire credit is earned in
34 the taxable year in which the applicable phase or portion of the
35 building site is placed in service but must be claimed in equal
36 installments over a two-year period beginning with the tax year in
37 which the applicable phase or portion of the building site is placed
38 in service. Unused credit may be carried forward for the succeeding
39 five years.

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

1 abandoned building site. The limitation provided for in this subitem
2 does not apply to any state-owned abandoned building.”

3
4 B. Section 12-67-140(C) of the 1976 Code, as added by Act 57 of
5 2015, is amended by adding an item at the end to read:

6
7 “(6) If a taxpayer sells the building site, or any phase or portion
8 of the building site, the taxpayer may transfer all or part of the
9 remaining credit, associated with the rehabilitation expenses
10 incurred with respect to that phase or portion of the site, to the
11 purchaser of the applicable portion of the building site. To the
12 extent that the taxpayer transfers the credit, the taxpayer shall notify
13 the county auditor of the transfer in the manner the department
14 prescribes.”

15
16 SECTION 3. Section 12-6-3535(A) and (C) of the 1976 Code is
17 amended to read:

18
19 “(A) A taxpayer who is allowed a federal income tax credit
20 pursuant to Section 47 of the Internal Revenue Code for making
21 qualified rehabilitation expenditures for a certified historic structure
22 located in this State is allowed to claim a credit against income taxes
23 and license fees imposed by this title. For the purposes of this
24 section, ‘qualified rehabilitation expenditures’ and ‘certified
25 historic structure are defined as provided in the Internal Revenue
26 Code Section 47 and the applicable treasury regulations. Except as
27 provided in item (1), the amount of the credit is ten percent of the
28 expenditures that qualify for the federal credit. To claim the credit
29 allowed by this subsection, a taxpayer filing a paper return ~~must~~
30 shall attach a copy of the section of the federal income tax return
31 showing the credit claimed, along with other information that the
32 Department of Revenue determines is necessary for the calculation
33 of the credit provided by this subsection.

34 (1) A taxpayer may elect a twenty-five percent tax credit
35 instead of the ten percent tax credit.

36 (2) A taxpayer electing a twenty-five percent tax credit may
37 not claim a credit that exceeds one million dollars for each certified
38 historic structure. The limitation provided for in this item does not
39 apply to credits claimed for qualified rehabilitation expenditures
40 related to any state-owned abandoned building.

41
42 (C)(1) Except for a credit claimed in connection with the
43 rehabilitation of a state-owned abandoned building, the entire credit

1 may not be taken for the taxable year in which the property is placed
2 in service but must be taken in equal installments over a five-year
3 period beginning with the year in which the property is placed in
4 service. If the credit is claimed in connection with the rehabilitation
5 of a state-owned abandoned building, the entire credit may not be
6 taken for the taxable year in which the property is placed in service,
7 but, rather must be taken in equal installments over a two-year
8 period beginning with the year in which the property is placed in
9 service. For purposes of this section, ‘state-owned abandoned
10 building’ has the same meaning as provided in Section 12-67-120.
11 ‘Placed in service’ means the rehabilitation is completed and allows
12 for the intended use. Any unused portion of any credit installment
13 may be carried forward for the succeeding five years.

14 (2) The credit earned pursuant to this section by an ‘S’
15 corporation owing corporate level income tax must be used first at
16 the entity level. Remaining credit passes through to each
17 shareholder in a percentage equal to each shareholder’s percentage
18 of stock ownership. The credit earned pursuant to this section by a
19 general partnership, limited partnership, limited liability company,
20 or other pass-through entity ~~taxed as a partnership~~ must be passed
21 through to its partners and may be allocated among partners,
22 including without limitation, an allocation of the entire credit to one
23 partner, in a manner agreed by the partners ~~that is consistent with~~
24 ~~Subchapter K of the Internal Revenue Code.~~ As used in this item the
25 term “partner” means a partner, member, or owner of an interest in
26 the pass-through entity, as applicable. If the taxpayer makes a
27 pass-through election under Section 50(d)(5) of the Internal
28 Revenue Code with respect to federal income tax credits available
29 under Section 47 of the Internal Revenue Code, the taxpayer may
30 elect to either pass the tax credit claimed pursuant to this section to
31 the tenant of the eligible structure or to retain the tax credit for its
32 own use.”

33
34 SECTION 4. Chapter 67, Title 12 of the 1976 Code is amended by
35 adding:

36
37 “Section 12-67-160. (A) A taxpayer may apply to the
38 municipality or county in which the abandoned building is located
39 for a certification of the abandoned building site made by ordinance
40 or binding resolution of the governing body of the municipality or
41 county. The certification must include findings that:

42 (1) an abandoned building site is an abandoned building as
43 defined in Section 12-67-120; and

1 (2) the geographic area of the abandoned building site is
2 consistent with Section 12-67-120.

3 (B) A taxpayer may apply to the municipality or county in which
4 the state-owned abandoned building is located for a certification of
5 the state-owned abandoned building site made by ordinance or
6 binding resolution of the governing body of the municipality or
7 county. The certification must include findings that:

8 (1) a state-owned abandoned building site was a state-owned
9 abandoned building as defined in Section 12-67-120; and

10 (2) the geographic area of the state-owned abandoned
11 building site is consistent with Section 12-67-120.

12 (C) The taxpayer conclusively may rely upon a certification
13 made pursuant to this section in determining the credit allowed. If
14 the taxpayer is relying upon a certification, the taxpayer shall
15 include a copy of the certification on the first return for which the
16 credit is claimed.”

17
18 SECTION 5. A. Article 25, Chapter 6, Title 12 of the 1976 Code
19 is amended by adding:

20
21 “Section 12-6-3586. (A) As used in this section:

22 (1) ‘Solar energy system’ is a nonresidential system that, as
23 determined by the State Energy Office, uses solar radiation as a
24 substitute for traditional energy for water heating, active space
25 heating and cooling, passive heating, daylighting, generating
26 electricity not greater than one megawatt alternating current,
27 distillation, desalination, detoxification, or the production of
28 industrial or commercial process heat. The term also includes
29 related devices necessary for collecting, storing, exchanging,
30 conditioning, or converting solar energy to other useful forms of
31 energy.

32 (2) ‘Tax liability’ includes income taxes imposed pursuant to
33 this chapter, license taxes imposed pursuant to Chapter 20 of this
34 title, bank and building and loan taxes imposed pursuant to Chapters
35 11 and 13 of this title, and premium taxes imposed pursuant to Title
36 38.

37 (3) ‘Department’ means the South Carolina Department of
38 Revenue.

39 (B)(1) For tax years beginning after 2015 and before 2019, if a
40 taxpayer that has constructed, purchased, or leased a nonresidential
41 solar energy system, the taxpayer, subject to the limitations provided
42 for in subsection (E), is allowed a credit against his tax liability

1 equal to twenty-five percent of the cost of the system in the taxable
2 year in which the system is placed in service.

3 (2) The entire credit may not be taken for the taxable year in
4 which the system is placed in service but must be taken in three
5 equal annual installments beginning with the taxable year in which
6 the system is placed in service, and subject to this annual limit,
7 unused credit may be carried forward for taxable years four through
8 ten succeeding the year the system was placed in service.

9 (3) If a taxpayer is not allowed all or part of the credit, the
10 taxpayer is authorized to receive, because of the limitations
11 provided for in subsection (E), the carry forward years provided in
12 item (1) beginning in the year in which all or part of the credit is
13 first allowed. However, if the credit is not allowed before tax year
14 2019, the taxpayer is not eligible to claim the credit.

15 (C) If, in one of the years in which the installment of a credit
16 accrues, the solar energy system, with respect to which the credit
17 was claimed, is disposed of, taken out of service, or moved out of
18 State, the credit expires and the taxpayer may not take any
19 remaining installment of the credit. A disposition does not include
20 the sale or assignment of the partnership interests or limited liability
21 company interests of a partnership or limited liability company that
22 owns or leases a solar energy system. The taxpayer, however, may
23 take the portion of an installment that accrued in a previous year and
24 was carried forward to the extent permitted pursuant to subsection
25 (B) of this section. For purposes of calculating the credit, if the solar
26 energy system was provided, in whole or in part, by public funds,
27 the amount of public funds expended on the solar energy system is
28 not considered a cost of the system. The amount of any credit
29 allowed pursuant to this section must be reduced by any credit
30 claimed pursuant to Section 12-6-3587 or any other credit allowed
31 pursuant to this title for the solar energy system. Public funds do
32 not include proceeds of the investment credit pursuant to Section 48
33 of the Internal Revenue Code, or the grant in lieu thereof under
34 Section 1603 program administered by the United States
35 Department of Treasury. In no case may a credit allowed pursuant
36 to this section exceed one-half of the taxpayer's tax liability for a
37 taxable year.

38 (D) The credit allowed by this section may not exceed three
39 hundred thirty-three thousand dollars for each solar energy system
40 installation and the credit may not exceed one million dollars for
41 any taxpayer.

42 (E)(1) The total amount of credits allocated for all taxpayers in a
43 taxable year may not exceed five million dollars in the aggregate.

1 For purposes of this subsection, notwithstanding subsection (B), the
2 entire credit is considered taken in the tax year in which the system
3 is placed in service.

4 (2) If an allocation provided for in this item is not completely
5 exhausted, the remaining amount may be carried forward by the
6 department to the next year and used for the same purpose, and is in
7 addition to the aggregate amount provided for in item (1). No
8 amount may be carried forward by the department beyond tax year
9 2018.

10 (F) If the taxpayer leases the solar energy system, or part of the
11 solar energy system, the taxpayer may transfer any applicable
12 remaining credit associated with the solar energy system expenses
13 incurred with respect to that part of the solar energy system to the
14 lessee of the solar energy system. The provisions of this subsection
15 apply to a lessee that is an entity taxed as a partnership.

16 (G) To the extent that the taxpayer is a partnership or a limited
17 liability company taxed as a partnership, the credit may be passed
18 through to the partners or members and may be allocated by the
19 taxpayer among any of its partners or members on an annual basis
20 including, without limitation, an allocation of the entire credit to any
21 partner or member who was a member or partner at any time during
22 the year in which the credit is allocated.

23 (H) This credit does not imply or allow the third party sale of
24 electricity between parties nor does this section modify the
25 provisions of Title 58 and 'lessee' refers to the financial structuring
26 of the payment for the 'solar energy system'.

27 (I)(1) After the system is placed in service, a taxpayer seeking
28 to claim the credit provided in this section shall submit an
29 application to the State Energy Office for tentative approval of the
30 credit. Within forty-five days of receipt of the application, the State
31 Energy Office shall review the application and tentatively shall
32 approve the application upon determining that the taxpayer qualifies
33 for the credit, and only if the aggregate credit, pursuant to subsection
34 (E), has not yet been reached for the taxable year. The State Energy
35 Office shall notify the applicant whether all or part of the credit may
36 be claimed and the amount that may be claimed in the current year.
37 Also, the State Energy Office shall forward the notice to the
38 department.

39 (2) The credit is allowed on a first-come, first-served basis.
40 The aggregate amount of tax credits approved by the State Energy
41 Office for all taxpayers in a taxable year may not exceed the
42 limitations specified in subsection (E). For tax years 2016 and 2017,
43 if the taxpayer timely files an application for the credit but is not

1 allowed all or part of the credit the taxpayer is authorized to receive
2 because of the limitations provided for in subsection (E), the
3 taxpayer must be added to a priority waiting list of applications,
4 prioritized by the date of the taxpayer's first filed application. With
5 respect to the credit allocation in subsequent years, a taxpayer on the
6 priority waiting list shall have priority over other taxpayers who
7 apply for the credit for an installation in the subsequent year. For
8 purposes of subsection (E), if a taxpayer on the priority waiting list
9 is allowed the credit in a taxable year after the system is placed in
10 service, then the entire credit is considered taken in the year in which
11 the credit is first allowed.

12 (J)(1) The department, in consultation with the State Energy
13 Office, shall develop an application form. Also, the department and
14 the State Energy Office shall adopt rules to provide for the
15 administration of this credit. The State Energy Office, with
16 assistance from the department, shall create a mechanism to track
17 and report the status and availability of credits for the public to
18 review on a regular basis, as determined by the State Energy Office.

19 (2) There is a nonrefundable application fee equal to one
20 percent of the credit applied for, but no more than two thousand five
21 hundred dollars. The fee must accompany the application. The fee
22 must be credited to the State Energy Office and must be used to meet
23 the requirements of this section.

24 (K) In addition to the carry forward of unused credit allowed
25 pursuant to this section, unused credit may be transferred, devised,
26 or distributed, with or without consideration, by an individual,
27 partnership, limited liability company, corporation, trust, or estate.
28 To be effective, such a transfer, devise, or distribution requires
29 written notification to and approval by the department with the
30 unused credit maintaining all its original attributes in the hands of
31 the original recipient including, but not limited to, the limit on the
32 amount by which the taxpayer's tax liability may be reduced. With
33 regard to the sale or exchange of a credit allowed pursuant to this
34 section, general income tax principles apply for purposes of the state
35 income tax.

36 (L) Not later than June 1, 2017, and by June first each year
37 thereafter, the State Energy Office shall prepare a report detailing:

38 (1) the number of taxpayers applying for the credit, the
39 amount applied for, and the system sizes, including the total cost of
40 the system installed against which the credit is being claimed, and
41 the county in which the system was installed;

42 (2) the number of taxpayers allocated the credit, the amount
43 allocated, and the system sizes, including the total cost of the system

1 installed against which the credit is being claimed, and the county
2 in which the system was installed;

3 (3) the number of taxpayers denied the credit based on an
4 ineligibility determination by the department; and

5 (4) the number of taxpayers eligible for the credit, but placed
6 on the waiting list due to the limitations provided for in subsection
7 (E).

8 The report must be delivered to the Governor, the Chairman of
9 the Senate Finance Committee, the Chairman of the House Ways
10 and Means Committee, the Public Utilities Review Committee, the
11 Public Service Commission, and the Office of Regulatory Staff.
12 The report also must be made available in a conspicuous place on
13 the website maintained by the State Energy Office.”

14
15 B. This SECTION applies to solar energy systems placed in
16 service in taxable years beginning after 2015 and before 2019.

17
18 SECTION 6. A. Section 12-6-3587(A) of the 1976 Code is
19 amended to read:

20
21 “(A) There is allowed as a tax credit against the income tax
22 liability of a taxpayer imposed by this chapter an amount equal to
23 twenty-five percent of the costs incurred by the taxpayer in the
24 purchase and installation of a solar energy system or small
25 hydropower system for heating water, space heating, air cooling,
26 energy-efficient daylighting, heat reclamation, energy-efficient
27 demand response, or the generation of electricity in or on a facility
28 in South Carolina and owned by the taxpayer. The tax credit allowed
29 by this section must not be claimed before the completion of the
30 installation. The credit is allowed without regard to whether the
31 owner-taxpayer occupies the installation site. The amount of the
32 credit in any year may not exceed three thousand five hundred
33 dollars for each facility or fifty percent of the taxpayer’s tax liability
34 for that taxable year, whichever is less. If the amount of the credit
35 exceeds three thousand five hundred dollars for each facility, the
36 taxpayer may carry forward the excess for up to ten years.”

37
38 B. Section 12-6-3587 of the 1976 Code is amended by adding a
39 subsection at the end to read:

40
41 “(D) With respect to solar energy systems, this section only
42 applies to a system placed in service after tax year 2007 and before
43 tax year 2019.”

1
2 SECTION 7. Unless specified otherwise, this act takes effect upon
3 approval by the Governor and applies for tax years beginning after
4 2015. The provisions of Section 1B of Act 57 of 2015 apply to the
5 provisions of Sections 12-67-120 and 12-67-140 of the 1976 Code
6 as amended by this act.

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