**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3722**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Kirsh and White

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Introduced in the House on March 24, 2009

Introduced in the Senate on April 14, 2009

Last Amended on May 21, 2009

Currently residing in conference committee

Summary: Internal Revenue Code

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/24/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\03-24-09.docx)‑11

3/24/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\03-24-09.docx)‑14

3/31/2009 House Committee report: Favorable with amendment **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\03-31-09.docx)‑6

4/2/2009 House Debate adjourned [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑34

4/2/2009 House Amended [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑98

4/2/2009 House Read second time [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑115

4/2/2009 House Roll call Yeas‑104 Nays‑0 [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑115

4/2/2009 House Unanimous consent for third reading on next legislative day [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑116

4/3/2009 House Read third time and sent to Senate

4/14/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\04-14-09.docx)‑23

4/14/2009 Senate Referred to Committee on **Finance** [SJ](file:///h:\SJ%20Archive\2009\04-14-09.docx)‑23

5/14/2009 Senate Committee report: Favorable with amendment **Finance** [SJ](file:///h:\SJ%20Archive\2009\05-14-09.docx)‑14

5/20/2009 Senate Read second time [SJ](file:///h:\SJ%20Archive\2009\05-20-09.docx)‑65

5/21/2009 Senate Committee Amendment Amended and Adopted [SJ](file:///h:\SJ%20Archive\2009\05-21-09.docx)‑18

5/21/2009 Senate Amended [SJ](file:///h:\SJ%20Archive\2009\05-21-09.docx)‑18

5/21/2009 Senate Read third time and returned to House with amendments [SJ](file:///h:\SJ%20Archive\2009\05-21-09.docx)‑18

5/21/2009 House Non‑concurrence in Senate amendment [HJ](file:///h:\HJ%20Archive\2009\05-21-09.docx)‑143

5/21/2009 House Roll call Yeas‑0 Nays‑110

6/16/2009 Senate Senate insists upon amendment and conference committee appointed Hayes, Ryberg and Coleman [SJ](file:///h:\SJ%20Archive\2009\06-16-09.docx)‑102

6/16/2009 House Conference committee appointed Reps. Kirsh, Bingham, and White [HJ](file:///h:\HJ%20Archive\2009\06-16-09.docx)‑117

10/27/2009 House Reps. Ott and Cooper replaces Reps. Kirsh and White on Conference Committee [HJ](file:///h:\HJ%20Archive\2009\10-27-09.docx)‑11

**VERSIONS OF THIS BILL**

[3/24/2009](file:///p:\pprever\2009-10\3722_20090324.docx)

[3/31/2009](file:///p:\pprever\2009-10\3722_20090331.docx)

[4/2/2009](file:///p:\pprever\2009-10\3722_20090402.docx)

[5/14/2009](file:///p:\pprever\2009-10\3722_20090514.docx)

[5/21/2009](file:///p:\pprever\2009-10\3722_20090521.docx)

~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

May 21, 2009

**H. 3722**

Introduced by Reps. Kirsh and White

S. Printed 5/21/09--S.

Read the first time April 14, 2009.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑6‑1145 SO AS TO PROVIDE FOR DETERMINATION OF TREATMENT OF GAINS AND LOSSES APPORTIONED TO THIS STATE BY THE INTERNAL REVENUE CODE STANDARDS; BY ADDING SECTION 12‑36‑2575 SO AS TO PROVIDE FOR FILING OF A RETURN FOR EACH SALES OR USE TAX LIABILITY PERIOD EVEN IF NO TAX LIABILITY ACCRUES FOR THAT PERIOD; TO AMEND SECTION 12‑4‑320, AS AMENDED, RELATING TO POWERS AND DUTIES OF THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR ADOPTION OF FEDERAL RELIEF FOR CERTAIN ADVERSELY AFFECTED TAXPAYERS; TO AMEND SECTION 12‑6‑590, AS AMENDED, RELATING TO TREATMENT OF “S” CORPORATIONS FOR TAX PURPOSES, SO AS TO INCLUDE ADDITIONAL REFERENCES TO THE INTERNAL REVENUE CODE FOR SIMILAR STATE TREATMENT; TO AMEND SECTION 12‑6‑2250, AS AMENDED, RELATING TO THE APPORTIONMENT OF INCOME DERIVED BY A TAXPAYER TO THE TAXPAYER’S CONDUCT OF BUSINESS IN THIS STATE, SO AS TO CHANGE THE WORD “ALLOCATED” TO “APPORTIONED”; TO AMEND SECTION 12‑6‑2295, RELATING TO INCLUSIONS AND EXCLUSIONS IN CONNECTION WITH THE TERMS “SALES” AND “GROSS RECEIPTS” AS USED IN THE APPORTIONMENT OF INCOME TO THIS STATE FOR STATE INCOME TAX PURPOSES, SO AS TO FURTHER SPECIFY RENTAL AND SALES INCOME FROM TANGIBLE AND INTANGIBLE, REAL AND PERSONAL PROPERTY IN THE ORDINARY COURSE OF THE TAXPAYER’S TRADE OR BUSINESS; TO AMEND SECTION 12‑6‑3360, AS AMENDED, RELATING TO THE JOB TAX CREDIT AGAINST THE STATE INCOME TAX, SO AS TO DELETE A REFERENCE TO GENERAL CONTRACTORS IN CONNECTION WITH THE TERM “CORPORATE OFFICE”; TO AMEND SECTION 12‑6‑3376, RELATING TO A CREDIT AGAINST THE STATE INCOME TAX FOR THE PURCHASE OR LEASE OF A PLUG‑IN HYBRID VEHICLE, SO AS TO REQUIRE THAT THE CREDIT BE THE FIRST CLAIMED FOR THAT VEHICLE, TO PROVIDE FOR REGULATIONS PROMULGATED BY THE STATE ENERGY OFFICE, TO FURTHER PROVIDE FOR CLAIMING THE CAPPED CREDIT, AND TO PROVIDE FOR THE EFFECT OF A REPEAL OF THE CAPS ON THE CREDIT; TO AMEND SECTION 12‑6‑3377, RELATING TO THE ALTERNATIVE MOTOR VEHICLE FUEL CREDIT AGAINST THE STATE INCOME TAX, SO AS TO FURTHER PROVIDE FOR THE CALCULATION OF THE CREDIT FOR BUSINESS USE AND TO DELETE A PROVISION DEEMING THE FEDERAL TAX TREATMENT OF THE ALTERNATIVE FUEL CREDIT TO BE PERMANENT; TO AMEND SECTION 12‑6‑3535, AS AMENDED, RELATING TO A CREDIT AGAINST THE STATE INCOME TAX FOR REHABILITATION OF A HISTORIC STRUCTURE, SO AS TO INCLUDE A CREDIT AGAINST THE CORPORATE LICENSE FEES; TO AMEND SECTION 12‑6‑3550, AS AMENDED, RELATING TO THE VOLUNTARY CLEANUP INCOME TAX CREDIT, SO AS TO CLARIFY THAT THE CREDIT IS ONE AGAINST THE STATE INCOME TAX; TO AMEND SECTION 12‑6‑3585, AS AMENDED, RELATING TO THE INDUSTRY PARTNERSHIP FUND CREDIT AGAINST STATE TAXES, SO AS TO ALLOW THE CREDIT TO BE USED AGAINST THE TAXPAYER’S APPLICABLE STATE INCOME TAX, BANK TAX, INSURANCE PREMIUM TAX, OR LICENSE FEE LIABILITY; TO AMEND SECTION 12‑6‑3610, AS AMENDED, RELATING TO INCOME TAX CREDIT FOR PROPERTY USED FOR DISTRIBUTION OR DISPENSING OF RENEWABLE FUEL, SO AS TO DELETE CERTAIN TRANSITIONAL PROVISIONS; TO AMEND SECTION 12‑6‑3630, RELATING TO A CREDIT AGAINST CERTAIN STATE TAXES FOR A CONTRIBUTION TO THE SOUTH CAROLINA HYDROGEN INFRASTRUCTURE DEVELOPMENT FUND, SO AS TO FURTHER PROVIDE FOR CLAIMING THE CREDIT; TO AMEND SECTION 12‑8‑1530, RELATING TO QUARTERLY RETURNS OF WITHHELD TAX, SO AS TO REQUIRE RETURNS EVEN IN PERIODS WHEN NO TAX HAS BEEN WITHHELD; TO AMEND SECTION 12‑8‑1550, RELATING TO STATEMENTS REQUIRED TO BE FILED WITH THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR PRESCRIPTION BY THE DEPARTMENT OF EITHER ELECTRONIC OR MAGNETIC MEDIA METHOD FOR SUBMISSION OF CERTAIN INFORMATION; TO AMEND SECTION 12‑10‑80, AS AMENDED, RELATING TO THE JOB DEVELOPMENT TAX CREDIT, SO AS TO MAKE TECHNICAL CORRECTIONS AND ADD A CROSS REFERENCE; TO AMEND SECTION 12‑20‑100, RELATING TO LICENSE TAX ON UTILITIES AND ELECTRIC COOPERATIVES, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 12‑21‑2575, RELATING TO METHODS OF ACCOUNTING FOR ADMISSIONS OTHER THAN TICKETS, SO AS TO PROVIDE THAT THE TICKETS BE COLLECTED AND RETAINED TO ACCOUNT FOR ADMISSIONS; TO AMEND SECTION 12‑36‑910, AS AMENDED, RELATING TO THE FIVE PERCENT SALES TAX ON THE PROCEEDS OF THE SALE OF TANGIBLE PERSONAL PROPERTY, SO AS TO DELETE A REDUNDANCY AS TO THE TAX ON PROCEEDS FROM THE SALE OF A WARRANTY, MAINTENANCE, OR SIMILAR CONTRACT FOR TANGIBLE PERSONAL PROPERTY; TO AMEND SECTION 12‑36‑2120, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE’S SALES TAX, SO AS TO SPECIFY NOTIFICATION REQUIREMENTS FOR CLAIMING THE EXEMPTION ON THE CONSTRUCTION MATERIALS USED IN CERTAIN SINGLE MANUFACTURING AND DISTRIBUTION FACILITIES AND TO PROVIDE FOR ASSESSMENT OF ANY TAX DUE, TO SPECIFY THAT THE EXEMPTION IN CONNECTION WITH THE SALE OF CURRENCY APPLIES TO CURRENCY THAT IS LEGAL TENDER, AND TO CLARIFY THE EXEMPTION AS TO DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES; TO AMEND SECTION 12‑37‑90, RELATING TO DUTIES OF A FULL‑TIME COUNTY ASSESSOR, SO AS TO DELETE THE AUTHORITY OF THE DEPARTMENT OF REVENUE TO ALTER A VALUE OF REAL PROPERTY AS SET BY THE ASSESSOR; TO AMEND SECTION 12‑37‑220, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE FOR EXEMPTION OF THE REAL PROPERTY OF DEFINED TAX EXEMPT ORGANIZATIONS AND TO CORRECT A CROSS REFERENCE; TO AMEND SECTION 12‑44‑30, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO CORRECT A CROSS REFERENCE IN THE DEFINITION OF “SPONSOR”; TO AMEND SECTION 12‑54‑70, AS AMENDED, RELATING TO EXTENSION OF TIME FOR FILING RETURNS OR PAYING TAX, SO AS TO FURTHER DEFINE THE LENGTH OF THE EXTENSION; TO AMEND SECTION 12‑54‑85, AS AMENDED, RELATING TO TIME LIMITATION FOR ASSESSMENT OF TAXES OR FEES BY THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR THE INSTANCE OF A TAXPAYER LACKING A VALID BUSINESS PURPOSE; TO AMEND SECTION 12‑54‑240, AS AMENDED, RELATING TO DISCLOSURE OF RECORDS AND REPORTS FILED WITH THE DEPARTMENT OF REVENUE, SO AS TO REQUIRE THAT THE DISCLOSURE MUST BE WILFUL TO GIVE RISE TO THE PENALTIES; TO AMEND SECTION 12‑63‑20, AS AMENDED, RELATING TO THE ENERGY FREEDOM AND RURAL DEVELOPMENT ACT, SO AS TO DEFINE “BIODIESEL” FOR THAT PURPOSE; TO AMEND SECTION 30‑2‑320, RELATING TO DISCLOSURE OF IDENTIFYING INFORMATION IN CONNECTION WITH PUBLIC RECORDS, AND SECTION 37‑20‑180, RELATING TO DISCLOSURE OF IDENTIFYING INFORMATION IN CONNECTION WITH PUBLICATION OF A SOCIAL SECURITY NUMBER, BOTH SO AS TO ALLOW DISCLOSURE BY AND TO THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF CARRYING OUT ITS DUTIES AND RESPONSIBILITIES; TO AMEND SECTION 44‑43‑1360, AS AMENDED, RELATING TO ADMINISTRATION OF DONATE LIFE SOUTH CAROLINA, SO AS TO CORRECT A CROSS REFERENCE; AND TO REPEAL SECTION 12‑20‑175, RELATING TO REDUCTION OF LICENSE FEES DUE TO TAX CREDITS AND SECTION 12‑36‑30, RELATING TO THE DEFINITION OF “PERSON” FOR PURPOSES OF THE SALES AND USE TAX.

Amend Title To Conform

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

SECTION 1.A. Section 12‑6‑2295(A) of the 1976 Code, as added by Act 116 of 2007, is amended to read:

“(A) The terms ‘sales’ as used in Section 12‑6‑2280 and ‘gross receipts’ as used in Section 12‑6‑2290 include, but are not limited to, the following items if they have not been separately allocated:

(1) receipts from the sale or rental of tangible real or personal property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business including inventory;

(2) ~~receipts from the sale of accounts receivable acquired in the ordinary course of trade or business for services rendered or from the sale or rental of property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business if the accounts receivable were created by the taxpayer or a related party. For purposes of this item, a related person includes a person that bears a relationship to the taxpayer as described in Section 267 of the Internal Revenue Code;~~

~~(3)~~ receipts from the use of intangible property ~~in this State~~ including, but not limited to, royalties from patents, copyrights, trademarks, and trade names;

~~(4)~~(3) net gain from the sale of tangible personal property or intangible property used in the trade or business unless otherwise provided in item (1) or (4)~~.~~ ~~For purposes of this subsection, property used in the trade or business means property subject to the allowance for depreciation, real property used in the trade or business, and intangible property used in the trade or business which is:~~

~~(a)~~ ~~not property of a kind that properly would be includible in inventory of the business if on hand at the close of the taxable year; or~~

~~(b)~~ ~~held by the business primarily for sale to customers in the ordinary course of the trade or business~~;

(4) net gains from the sale of accounts receivable, loans, or other intangible property held for sale in the ordinary course of the taxpayer’s trade or business;

(5) receipts from services ~~if the entire income‑producing activity is within this State. If the income‑producing activity is performed partly within and partly without this State, sales are attributable to this State to the extent the income‑producing activity is performed within this State~~;

(6) receipts from the sale of intangible property which are unable to be attributed to any particular state or states are excluded from the numerator and denominator of the factor.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2008.

SECTION 2.A. Section 30‑2‑320(6) and (7) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(6) on a document filed in the official records of the courts; ~~and~~

(7) to an employer for employment verification or in the course of administration or provision of employee benefit programs, claims, and procedures related to employment including, but not limited to, termination from employment, retirement from employment, injuries suffered during the course of employment, and other such claims, benefits, and procedures; and

(8) by the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

B. Section 37‑20‑180(B)(9) and (10) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(9) to a recorded document in the official records of a county; ~~or~~

(10) to a document filed in the official records of the court; or

(11) to the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

C. Upon approval by the Governor, this section takes effect December 31, 2008.

SECTION 3. Section 12‑36‑2120 of the 1976 Code, as amended by Act 338 of 2008, is amended by adding an appropriately numbered item to read:

“(\_\_\_) Machinery and equipment including lighting, filming and computer equipment, building and other raw materials used in test specimens, and electricity and electrical transformers and substations purchased for use in the operation of a facility placed in service on or after July 2, 2009 owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials and construction methods used in residential, commercial, and agricultural buildings. To qualify for this exemption, the taxpayer shall notify the department of its intent to qualify and shall invest at least twenty million dollars in real or personal property at a single site in this State over a three‑year period beginning on the date provided by the taxpayer to the department in its notices. After the taxpayer notifies the department of its intent to qualify and use this exemption, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes. Within six months of the third anniversary of the taxpayer’s first use of the exemption, the taxpayer shall notify the department in writing that it has met the twenty million dollar investment requirement or that it has not met the twenty million dollar investment requirement. The department may assess any tax due on the machinery and equipment and all other materials purchased tax‑free pursuant to this item but due the State as a result of the taxpayer’s failure to meet the twenty million dollar investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the twenty million dollar investment requirement.”

SECTION 4. Section 12‑2‑25(B) of the 1976 Code is amended to read:

“(B) For all South Carolina tax purposes:

(1) a single‑member limited liability company, which is not taxed for South Carolina income tax purposes as a corporation, is not regarded as an entity separate from its owner;

(2) a ‘qualified subchapter S subsidiary’, as defined in Section 1361(b)(3)(B) of the Internal Revenue Code, is not regarded as an entity separate from the “S’ corporation that owns the stock of the qualified subchapter ‘S’ subsidiary; and

(3) a grantor trust, to the extent that it is a grantor trust, is not regarded as an entity separate from its grantor.”

SECTION 5. Section 12‑37‑220 of the 1976 Code, as last amended by Act 357 of 2008, is further amended by adding an item at the end to read:

“(51) All property used in the operation of a facility with a capital investment of twenty million dollars or more at a single site that is owned by an organization that qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of natural hazards such as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings.”

SECTION 6. A. Section 12‑37‑220(B)(33) of the 1976 Code is amended to read:

“(33)(a) All personal property including aircraft of an air carrier which operates an air carrier hub terminal facility in this State for a period of ten consecutive years from the date of qualification, if its qualifications are maintained. An air carrier hub terminal facility is defined in Section 55‑11‑500.

(b) All aircraft, including associated personal property, owned by a company owning aircraft meeting the requirements of Section 55‑11‑500(a)(3)(i) without regard to the other requirements of Section 55‑11‑500. An aircraft qualifying for the exemption allowed by this subitem may not be used by the operator of the aircraft as the basis for an exemption pursuant to subitem (a) of this item.”

B. This section takes effect upon approval by the Governor and applies for property tax years beginning after 2006.

SECTION 7. A. Section 12‑65‑30 of the 1976, as added by Act 313 of 2008, is amended to read:

“Section 12‑65‑30. (A) Subject to the terms and conditions of this chapter, a taxpayer who rehabilitates a textile mill site is eligible for either:

(1) a credit against real property taxes levied by local taxing entities; or

(2) a credit against income taxes imposed pursuant to Chapter 6 and Chapter 11 of this title or corporate license fees pursuant to Chapter 20 of this title, or ~~both~~ insurance premium taxes imposed by Chapter 7, Title 38, or any of them.

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

(1) The taxpayer shall file a Notice of Intent to Rehabilitate with the municipality, or the county if the textile mill site is located in an unincorporated area, in which the textile mill site is located before incurring its first rehabilitation expenses at the textile mill site. Failure to provide the Notice of Intent to Rehabilitate results in qualification of only those rehabilitation expenses incurred after notice is provided.

(2) Once the Notice of Intent to Rehabilitate has been provided to the county or municipality, the municipality or the county shall first by resolution determine the eligibility of the textile mill site and the proposed rehabilitation expenses for the credit. A proposed rehabilitation of a textile mill site must be approved by a positive majority vote of the local governing body. For purposes of this subsection, “positive majority vote” is as defined in Section 6‑1‑300(5). If the county or municipality determines that the textile mill site and the proposed rehabilitation expenses are eligible for the credit, there must be a public hearing and the municipality or county shall approve the textile mill site for the credit by ordinance. Before approving a textile mill site for the credit, the municipality or county shall make a finding that the credit does not violate a covenant, representation, or warranty in any of its tax increment financing transactions or an outstanding general obligation bond issued by the county or municipality.

(3)(a) The amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses made at the textile mill site times the local taxing entity ratio of each local taxing entity that has consented to the credit pursuant to item (4), if the actual rehabilitation expenses incurred in rehabilitating the textile mill site are between eighty percent and one hundred twenty‑five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the textile mill site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed. The ordinance must provide for the credit to be taken as a credit against up to seventy‑five percent of the real property taxes due on the textile mill site each year for up to eight years.

(b) The local taxing entity ratio is set as of the time the Notice of Intent to Rehabilitate is filed and remains set for the entire period that the credit may be claimed by the taxpayer.

(4) Not fewer than forty‑five days before holding the public hearing required by subsection (B)(2), the governing body of the municipality or county shall give notice to all affected local taxing entities in which the textile mill site is located of its intention to grant a credit against real property taxes for the textile mill site and the amount of estimated credit proposed to be granted based on the estimated rehabilitation expenses. If a local taxing entity does not file an objection to the tax credit with the municipality or county on or before the date of the public hearing, the local taxing entity is considered to have consented to the tax credit.

(5) The credit against real property taxes for each applicable phase or portion of the textile mill site may be claimed beginning for the property tax year in which the applicable phase or portion of the textile mill site is first placed in service.

(C) If the taxpayer ~~has acquired the textile mill site after December 31, 2007, and~~ elects to receive the credit pursuant to subsection (A)(2), the following provisions apply:

(1) The ~~taxpayer shall file with the department a notice of Intent to Rehabilitate before incurring its first~~ amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses made at the textile mill 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 made at the textile mill site if the actual rehabilitation expenses incurred in rehabilitating the textile mill site are between eighty percent and one hundred twenty‑five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the textile mill site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed.~~ If the taxpayer has acquired the textile mill site after December 31, 2007, the provisions of this item (2) apply to the textile mill site; provided, however, that transfers between affiliated taxpayers of phases of any textile mill site may not be deemed an acquisition for this purpose. The taxpayer shall file with the department a Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof. Failure to provide the Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof results in qualification of only those rehabilitation expenses incurred after the notice is provided. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses incurred in rehabilitating the textile mill site.

(3) The entire credit is earned in the taxable year in which the applicable phase or portion of the textile mill site is placed in service but must be taken in equal installments over a five‑year period beginning with the tax year in which the applicable phase or portion of the textile mill site is placed in service. Unused credit may be carried forward for the succeeding five years.

(4) If the taxpayer qualifies for both the credit allowed by this subsection and the credit allowed pursuant to Section 12‑6‑3535, the taxpayer may claim both credits.

(5) The credit allowed by this subsection is limited in use to fifty percent of ~~either~~ each of the following:

(a) the taxpayer’s income tax liability for the taxable year if taxpayer claims the credit allowed by this section as a credit against income tax imposed pursuant to Chapter 6 or Chapter 11 of this title;

(b) the taxpayer’s corporate license fees for the taxable year if the taxpayer claims the credit allowed by this section as a credit against license fees imposed pursuant to Chapter 20; or

(c) the taxpayer’s insurance premium taxes imposed by Chapter 7, Title 38.

(6)(a) If the taxpayer leases the textile mill site, or part of the textile mill site, the taxpayer may transfer any applicable ~~remaining~~ credit associated with the rehabilitation expenses incurred with respect to that part of the site to the lessee of the site. The provisions of item ~~(5)~~ (7) of this subsection apply to a lessee that is an entity taxed as a partnership. If a taxpayer sells the textile mill site, or any phase or portion of the textile mill site, the taxpayer may transfer all, or part of the ~~remaining~~ credit, associated with the rehabilitation expenses incurred with respect to that phase or portion of the site to the purchaser of the applicable portion of the textile mill site.

(b) To the extent that the taxpayer transfers the credit, the taxpayer must notify the department of the transfer in the manner the department prescribes.

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

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

B. Chapter 65, Title 12 of the 1976 Code is amended by adding:

“Section 12‑65‑50. (A) Entire textile mill sites placed in service on or before December 31, 2007, must be governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007.

(B) The provisions of this chapter shall apply to all textile mill sites or portions thereof placed in service on or after January 1, 2008.

(C) For any textile mill sites in which a portion but not all of the textile mill site was placed in service on or before December 31, 2007, the taxpayer may elect to either:

(1) have the portion of the textile mill site that was placed in service on or before December 31, 2007, governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007, as if the portion were an entire textile mill site; or

(2) have the portion be governed by this chapter such that the portion must be deemed to be a phase of the textile mill site placed in service on a date subsequent to December 31, 2007, identified by the taxpayer.”

C. Chapter 65, Title 12 of the 1976 Code is amended by adding:

“Section 12‑65‑60. The taxpayer may apply to the municipality or county in which the textile mill site is located for a certification of the textile mill site made by ordinance or binding resolution of the governing body of the municipality or county. The certification shall include findings that the:

(1) textile mill site was a textile mill as defined in Section 12‑65‑20(3);

(2) textile mill site has been abandoned as defined in Section 12‑65‑20(1); and

(3) geographic area of the textile mill site consistent with Section 12‑65‑20(4).

The taxpayer may conclusively rely upon the certification in determining the credit allowed; provided, however, that if the taxpayer is relying upon the certification, the taxpayer shall include a copy of the certification on the first return for which the credit is claimed.”

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

SECTION 8. Section 12‑37‑3150(B) of the 1976 Code is amended to read:

“(8) a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B); ~~or~~

(9) a transfer of an interest in a timeshare unit by deed or lease;

(10) a transfer of an undivided, fractional ownership interest in real estate in a single transaction or as a part of a series of related transactions, if the ownership interest or interests conveyed, or otherwise transferred, in the single transaction or series of related transactions within a twenty‑five year period, is not more than fifty percent of the entire fee simple title to the real estate;

(11) a transfer to a single member limited liability company, not taxed separately as a corporation, by its single member or a transfer from a single member limited liability company, not taxed separately as a corporation, to its single member, as provided in Section 12‑2‑25 (B) (1);

(12) a conveyance, assignment, release or modification of an easement, including but not limited to:

(a) a conservation easement, as defined in Chapter 8 of Title 27;

(b) a utility easement; or

(c) an easement for ingress, egress, and regress;

(13) a transfer or renunciation by deed, release, or agreement of a claim of interest in real property for the purpose of quieting and confirming title to real property in the name of one or more of the existing owners of the real property or for the purpose of confirming or establishing the location of an uncertain or disputed boundary line; or

(14) the execution or recording of a deed to real property for the purpose of creating or terminating a joint tenancy with rights of survivorship, provided the grantors and grantees are the same.

SECTION 9. If any section, subsection, part, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this severability, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 10. Except where otherwise provided, this act takes effect upon approval by the Governor.

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