**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SHORT LINE RAILROAD MODERNIZATION ACT” BY ADDING SECTION 12‑6‑3810 SO AS TO PROVIDE FOR AN INCOME TAX CREDIT EQUAL TO FIFTY PERCENT OF AN ELIGIBLE TAXPAYER’S QUALIFIED RAILROAD RECONSTRUCTION OR REPLACEMENT EXPENDITURES, AND TO PROVIDE FOR THE ADMINISTRATION OF THE TAX CREDIT.

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

SECTION 1. This act may be cited as the “Short Line Railroad Modernization Act”.

SECTION 2. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3810. (A) As used in this section:

(1) ‘Department’ means the South Carolina Department of Commerce.

(2) ‘Eligible taxpayer’ means any railroad owner located in this State that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(3) ‘Qualified railroad reconstruction or replacement expenditures’ means gross expenditures for maintenance, reconstruction or replacement of railroad infrastructure, including track, roadbed, bridges, industrial leads and sidings, and track‑related structures owned or leased by a Class II or Class III railroad located in this State.

(4) ‘Qualified new rail infrastructure expenditures’ means gross expenditures for new construction of industrial leads, switches, sidings, and extensions of existing sidings, new rail infrastructure, for servicing new customer locations or expansions in this State by a Class II or Class III railroad located in this State.

(5) ‘Eligible transferee’ means any taxpayer subject to tax under Sections 12‑6‑510, 12‑6‑530, 12‑11‑20, or 38‑7‑20.

(B)(1) There is allowed a credit against the tax imposed pursuant to Sections 12‑6‑510, 12‑6‑530, 12‑11‑20, or 38‑7‑20 equal to fifty percent of an eligible taxpayer’s qualified railroad reconstruction or replacement expenditures.

(2) There is allowed a credit against the tax imposed pursuant to Sections 12‑6‑510, 12‑6‑530, 12‑11‑20, or 38‑7‑20 equal to fifty percent of an eligible taxpayer’s qualified new rail infrastructure expenditures.

(3) For qualified railroad reconstruction or replacement expenditures the amount of the credit may not exceed five thousand dollars multiplied by the number of miles of railroad track owned or leased within this State by the eligible taxpayer as of the close of the taxable year.

(4) For qualified new rail infrastructure expenditures, the amount of the credit may not exceed five hundred thousand dollars for each new rail‑served customer project and the total amount of credits authorized for new construction serving new customer locations or expansions in this State may not exceed three million dollars annually.

(5) The total amount of credits allowed pursuant to this section may not exceed in the aggregate five million dollars each year. Each year, the Department of Revenue shall reserve an amount of the total available tax credits equal to the product of five thousand dollars and the number of miles of railroad track owned or leased within this State by a Class II or Class III railroad in this State for qualified railroad reconstruction or replacement expenditures. The remaining tax credits must be made available for qualified new rail infrastructure expenditures for serving new customer locations or expansions in this State on a first‑come, first‑served basis, provided the total amount of credits available to be taken, whether for maintenance, reconstructions, replacement or new construction, for all taxpayers in a taxable year, may not exceed five million dollars in the aggregate.

(C)(1) The department shall develop standards for the preapproval of a tax credit being sought for the qualified new rail infrastructure expenditures for serving new customer locations or expansions in this State. The standards must consider the availability of additional public or private funding for the project, the expected completion time of the project, and the anticipated impact of the project on usage of the railroad infrastructure.

(2) Before beginning any qualified new rail infrastructure expenditures, the eligible taxpayer shall submit an application and development plan to the department and an estimate of the qualified expenditures for the construction of new rail infrastructure under the development plan; provided, however, the eligible taxpayer, at its own risk, may incur qualified new rail infrastructure expenditures no earlier than six months before the submission of the application and development plan.

(3) The department shall review the application and development plan for qualified new rail infrastructure expenditures to determine if the information contained therein is complete. If the department determines that the application and development plan are complete, the department shall reserve, for the benefit of the eligible taxpayer, an allocation for a tax credit as provided in this section and shall notify the eligible taxpayer in writing of the amount of the reservation. The reservation of tax credits does not entitle the taxpayer to the tax credits until the owner complies with all other requirements of this section. Reservations of tax credits must be issued by the department within seventy‑five days from the filing of a completed application and development plan. The application must be submitted by the eligible taxpayer before the end of the calendar year for which a tax credit is applied for. Any application disapproved by the department must be removed from the review process, and the department shall notify the taxpayer in writing of the decision to remove the application. A disapproved application may be resubmitted but is considered to be a new submission and may be charged a new application fee. In the event the reservations of tax credits equal the total amount available for reservations during the tax year, all eligible taxpayers with applications then awaiting approval or thereafter submitted must be notified by the department that no additional tax credits may be granted during that tax year. The unapproved applications must remain in active status from the date of the original application and must be considered for recommendations of tax credits in the event that additional credits become available due to rescission by the department of tax credits. Unapproved applications must be carried over and considered when a new tax year’s allocation of tax credits becomes available.

(4) For processing a taxpayer’s application for a tax credit for qualified new rail infrastructure expenditures, the department may impose an application fee equal to one percent of the qualified railroad reconstruction or replacement expenditures, not to exceed a fee equal to two thousand five hundred dollars. The department may retain and expend the funds to implement the provisions of this section.

(5) Following the completion of a qualified new rail infrastructure expenditure project, the eligible taxpayer shall notify the Department of Commerce that the project has been completed and shall certify the qualified new rail infrastructure expenditures incurred with respect to the development plan. After receipt and approval of the foregoing documentation from the eligible taxpayer, the Department of Revenue shall issue a tax credit certificate in an amount equivalent to the amount of the qualified new rail infrastructure expenditures incurred with respect to the development plan as certified by the eligible taxpayer, not to exceed the amount of the tax credit reservation issued for the project.

(6) Following the completion of qualified railroad reconstruction or replacement expenditures, the eligible taxpayer shall submit to the Department of Commerce a verification of qualified expenditures on a form provided for that purpose by the Department of Commerce. The verification must include a statement certifying:

(a) the status of the owner or lessee of the railroad as an eligible taxpayer;

(b) certification of the miles of railroad track owned or leased in this State;

(c) the qualified railroad reconstruction or replacement work completed; and

(d) a description of the amount of qualified railroad reconstruction or replacement expenditures paid or incurred.

Within thirty days after receipt and approval of the foregoing documentation from the eligible taxpayer, the department shall issue a tax credit certificate in an amount equivalent to the amount of the qualified railroad reconstruction or replacement expenditures incurred by the eligible taxpayer, not to exceed the amount of the tax credits reserved for the project.

(7) At the end of each year, the department shall furnish to the Department of Revenue a list of all eligible taxpayers who have qualified for the credit along with the amount of the credit authorized.

(8) Section 12‑54‑240 may not apply to any information exchanged between the Department of Commerce and the Department of Revenue relating to the credit allowed pursuant to this section.

(D) The department may adopt rules to implement and administer this section and to enable the certification of the income tax credit amount earned by each eligible taxpayer.

(E) In order to obtain a credit against any state income tax due, an eligible taxpayer shall file the tax credit certificate with the taxpayer’s South Carolina state income tax return.

(F) Any tax credit generated pursuant to the provisions of this section, to the extent not used, may be carried forward for each of the five years following the year of qualification.

(G)(1) An eligible taxpayer may transfer any unused credit to any eligible transferee by written agreement, at any time during the five years following the tax year the qualified railroad reconstruction or replacement expenditures or the qualified new rail infrastructure expenditures are incurred or at any time during the five years following the tax year the qualified new railroad infrastructure expenditures are incurred. Any eligible transferee is entitled to claim the credit only for any period remaining for the tax credit.

(2) The eligible taxpayer and the eligible transferee must file jointly a copy of the written transfer agreement with the Department of Revenue, within thirty days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the eligible taxpayer and the eligible transferee, the tax year the eligible taxpayer incurred the qualified railroad reconstruction or replacement expenditures or the tax year the eligible taxpayer incurred the qualified new rail infrastructure expenditures, the amount of credit being transferred, and the tax year or years for which the credit maybe claimed.

(H) The department shall report to the Senate Finance Committee and the House Ways and Means Committee by July 1, 2025, and annually thereafter for the duration of the existence of this program, on the use of the credit, including the number of tax credits applied for and the number of tax credits granted from the qualified railroad reconstruction or replacement expenditures and qualified new rail infrastructure expenditures for which tax credits have been allowed.”

SECTION 3. This act takes effect upon approval by the Governor and first applies to income tax years beginning after December 31, 2021. The provisions of this act are repealed on December 31, 2026, except that if the credit allowed by Section 12‑6‑3810, as added by this act, is earned before the repeal, then the provisions of Section 12‑6‑3810 continue to apply until the credits have been fully claimed.

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