

**South Carolina General Assembly**  
121st Session, 2015-2016

**A68, R97, H3725**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. J.E. Smith, Quinn, Lowe, Jordan and W.J. McLeod

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Companion/Similar bill(s): 532, 3908

Introduced in the House on February 25, 2015

Introduced in the Senate on April 29, 2015

Last Amended on April 28, 2015

Passed by the General Assembly on June 2, 2015

Governor's Action: June 9, 2015, Signed

Summary: State-owned abandoned buildings

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
2/25/2015	House	Introduced and read first time ( <a href="#">House Journal-page 16</a> )
2/25/2015	House	Referred to Committee on <b>Ways and Means</b> ( <a href="#">House Journal-page 16</a> )
4/23/2015	House	Member(s) request name added as sponsor: Lowe, Jordan
4/23/2015	House	Committee report: Favorable with amendment <b>Ways and Means</b> ( <a href="#">House Journal-page 120</a> )
4/28/2015		Scrivener's error corrected
4/28/2015	House	Member(s) request name added as sponsor: W.J.McLeod
4/28/2015	House	Amended ( <a href="#">House Journal-page 108</a> )
4/28/2015	House	Read second time ( <a href="#">House Journal-page 108</a> )
4/28/2015	House	Roll call Yeas-85 Nays-10 ( <a href="#">House Journal-page 115</a> )
4/29/2015	House	Read third time and sent to Senate ( <a href="#">House Journal-page 18</a> )
4/29/2015	Senate	Introduced and read first time ( <a href="#">Senate Journal-page 13</a> )
4/29/2015	Senate	Referred to Committee on <b>Finance</b> ( <a href="#">Senate Journal-page 13</a> )
4/29/2015		Scrivener's error corrected
5/20/2015	Senate	Committee report: Favorable <b>Finance</b> ( <a href="#">Senate Journal-page 8</a> )
5/21/2015		Scrivener's error corrected
5/28/2015	Senate	Read second time ( <a href="#">Senate Journal-page 16</a> )
5/28/2015	Senate	Roll call Ayes-34 Nays-0 ( <a href="#">Senate Journal-page 16</a> )
6/2/2015	Senate	Read third time and enrolled ( <a href="#">Senate Journal-page 22</a> )
6/3/2015		Ratified R 97
6/9/2015		Signed By Governor
6/12/2015		Effective date 06/09/15
6/15/2015		Act No. 68

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**VERSIONS OF THIS BILL**

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(A68, R97, H3725)

**AN ACT TO AMEND SECTION 12-6-3535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TAX CREDITS FOR MAKING QUALIFIED REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES, SO AS TO PROVIDE THAT A TAXPAYER MAY ELECT A TWENTY-FIVE PERCENT TAX CREDIT IN LIEU OF THE TEN PERCENT TAX CREDIT, NOT TO EXCEED ONE MILLION DOLLARS FOR EACH CERTIFIED HISTORIC STRUCTURE, TO PROVIDE FOR THE TIME PERIOD IN WHICH THE CREDIT MUST BE TAKEN, AND TO PROVIDE THAT THE TAX CREDIT MAY BE ASSIGNED; TO AMEND SECTION 12-67-120, RELATING TO DEFINITIONS, SO AS TO PROVIDE A DEFINITION FOR “STATE-OWNED ABANDONED BUILDING”; TO AMEND SECTION 12-67-140, RELATING TO ELIGIBILITY FOR THE ABANDONED BUILDING TAX CREDIT, SO AS TO INCLUDE INSURANCE PREMIUM TAXES AS ONE OF THE TAXES AGAINST WHICH A CREDIT CAN BE CLAIMED, TO PROVIDE FOR THE TIME PERIOD IN WHICH THE CREDIT MUST BE TAKEN, AND TO REMOVE A LIMITATION RELATED TO THE AMOUNT A TAXPAYER’S TAX LIABILITY MAY BE REDUCED; AND BY ADDING SECTION 12-67-160 SO AS TO PROVIDE FOR THE MANNER IN WHICH A TAXPAYER MAY APPLY TO OBTAIN CERTIFICATION OF THE ABANDONED BUILDING SITE.**

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

**Additional option for certified historic structure tax credit**

SECTION 1. Section 12-6-3535 of the 1976 Code is amended to read:

“Section 12-6-3535. (A)(1) 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 a combination of income taxes and license fees imposed by this title. For the purposes of this section, ‘qualified rehabilitation expenditures’ and ‘certified historic structures’ are defined as provided in the Internal Revenue Code Section 47 and the applicable treasury regulations. Except as provided in item (2), 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.

(2) A taxpayer may elect a twenty-five percent tax credit in lieu of the ten percent tax credit, not to exceed one million dollars for each certified historic structure.

(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.

(C)(1) 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 three-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, as defined in Section 12-6-545, 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. 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."

## **Definition**

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 under common control or common ownership with the taxpayer.”

### **Abandoned building rehabilitation tax credit revised**

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, 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 of them; or

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

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

(1) The taxpayer shall file with the department a Notice of Intent to Rehabilitate before incurring its first rehabilitation expenses at the building site. Failure to provide the Notice of Intent to Rehabilitate results in qualification of only those rehabilitation expenses incurred after the notice is provided.

(2) The amount of the credit is equal to twenty-five percent of the actual rehabilitation expenses incurred at the building site if the actual rehabilitation expenses incurred in rehabilitating the building site are between eighty percent and one hundred twenty-five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty-five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty-five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the building site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed.

(3)(a) The entire credit is earned in the taxable year in which the applicable phase or portion of the building site is placed in service but must be taken in equal installments over a three-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.

(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)(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.

(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.”

### **Certification of abandoned building site**

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

“Section 12-67-160. (A) Notwithstanding any other provision of law, 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 include 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.”

**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 3<sup>rd</sup> day of June, 2015.

Approved the 9<sup>th</sup> day of June, 2015.

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