Agency Name: Department of Insurance

Statutory Authority: 1-23-110 et seq., 12-6-3660, and 38-3-110

Document Number: 3205

Proposed in State Register Volume and Issue: 32/2

House Committee: Ways and Means Committee

Senate Committee: Banking and Insurance Committee

120 Day Review Expiration Date for Automatic Approval: 5/13/2009

Final in State Register Volume and Issue: 33/6

Status: Final

Subject: Tax Credits for Fortification Measures

History: 3205

By Date Action Description Jt. Res. No. Expiration Date

- 2/22/2008 Proposed Reg Published in SR

- 1/13/2009 Received by Lt. Gov & Speaker 5/13/2009

H 01/13/2009 Referred to Committee

S 01/13/2009 Referred to Committee

S 03/11/2009 Resolution Introduced to Approve 573

- 05/13/2009 Approved by: Expiration Date

- 06/26/2009 Effective Date unless otherwise

provided for in the Regulation

Document No. 3205

**DEPARTMENT OF INSURANCE**

CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110 et seq., 12-6-3660 and 38-3-110

69-75. Tax Credits For Fortification Measures

**Synopsis:**

The Omnibus Coastal Property Insurance Reform Act of 2007 amended Article 25, Chapter 6, Title 12 of the S.C. Code Ann. by adding Section 12-6-3660 to require that an individual taxpayer is allowed a credit against the tax imposed pursuant to Section 12-6-510 for costs incurred to retrofit a structure qualifying as the taxpayer’s legal residence pursuant to Section 12-43-220(c) to make it more resistant to loss due to hurricane, rising floodwater, or other catastrophic windstorm event. Section 12-6-3665 provides that an individual taxpayer is allowed a credit from the income tax imposed pursuant to Section 12-6-510 for South Carolina state sales or use taxes paid on purchases of tangible personal property used to retrofit the individual’s legal residence pursuant to Section 12-6-3660. The Act provides the authority to the Department of Insurance to define by regulation how these fortification measures qualify for income tax credits and the evidence that the individual taxpayer shall maintain and provide to claim the credit. The proposed regulation provides detailed information about the fortification measures that qualify for the credits.

**Instructions:**

Add Regulation 69-75,Tax Credits For Fortification Measures, as drafted below, to the South Carolina Code of Regulations.

**Text:**

69-75. Tax Credits For Fortification Measures

Section 1. Purpose and Qualifying Fortification Measures

A. The purpose of this regulation is to set forth the fortification measures that qualify for the state income tax credit allowed pursuant to Section 12-6-3660.

B. An individual taxpayer is allowed a state income tax credit for costs incurred to implement the fortification measures outlined in this regulation. The fortification measures must be made to a structure qualifying as the taxpayer’s legal residence pursuant to Section 12-43-220(c). The tax credit allowed pursuant to Section 12-6-3660 for any taxable year must not exceed the lesser of:

(1) twenty-five percent of the cost incurred; or

(2) one thousand dollars

for a qualifying residence regardless of the number of taxpayers residing in the residence.

C. The standards which must be met by an individual taxpayer to qualify for state income tax credits for costs to fortify the taxpayer’s legal residence pursuant to S.C. Code Section 12-6-3660 or sales and use tax credits pursuant to S.C. Code Section 12-6-3665 are the same as those required under the SC Safe Home Program that are contained in the *South Carolina Safe Home Resource Document for Mitigation Techniques* dated July 2008, developed for the SC Safe Home Program by the Federal Alliance for Safe Homes and available at www.scsafehome.com. That document is incorporated herein by reference and available on the Department’s website. Fortification measures must be accomplished in accordance with the standards contained in the *South Carolina Safe Home Resource Document for Mitigation Techniques.* All products must have an ICC Evaluation Services Legacy Report or other appropriate test reports acceptable to the local building officials for the intended use.

The South Carolina Department of Insurance must review and update the manual as necessary to comply with changes in building code standards, mitigation measures or other applicable provisions of state or federal law.

Section 2. Evidence

A. To qualify for the tax credit, the individual taxpayer must maintain evidence that the fortification measures were implemented and costs incurred. Evidence necessary to prove the taxpayer is entitled to the credit must be provided to the Department of Revenue upon request.

B. The acceptable forms of evidence include:

(1) A written certification or a report (with certification) from a licensed professional with expertise in construction techniques, building design or property inspection or appraisal including, but not limited to an: architect; appraiser; building inspector; or contractor that the fortification measure has been implemented in accordance with applicable standards. Copies of the applicable receipts must accompany the certification or report; or

(2) An Affidavit from the individual taxpayer certifying that the fortification measures have been implemented. Copies of the applicable receipts must accompany the affidavit.

**Fiscal Impact Statement:**

There will be no increased costs to the state or its political subdivisions. There may be a reduction in income tax collected by the state from those taxpayers who qualify for the credit. It is believed this will be offset by the anticipated benefit to the state in reduced damage from windstorm. Any such decrease will positively affect the state by reducing debris, etc. from damaged property, and will benefit the public by reducing the possibility of death, injury, and homelessness from hurricanes or other catastrophic windstorm events.

**Statement of Rationale:**

This proposed regulation is a part of a comprehensive initiative to address the property insurance issues in South Carolina. A healthy insurance marketplace is imperative to the well-being of our state’s economy. Significant hurricane losses by the insurance industry and predictions for above-average hurricane frequency and severity have contributed to the decline of the property insurance market in South Carolina. Strengthening of residential structures should lessen the extent of damage to homes and reduce the loss of life or injury due to hurricanes or other catastrophic windstorm events.