**South Carolina General Assembly**

122nd Session, 2017-2018

**A265, R291, S1043**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Turner and Talley

Document Path: l:\council\bills\bbm\9752dg18.docx

Introduced in the Senate on February 22, 2018

Introduced in the House on May 1, 2018

Last Amended on June 28, 2018

Passed by the General Assembly on June 28, 2018

Governor's Action: July 3, 2018, Vetoed

Legislative veto action(s): Veto overridden

Summary: SC Abandoned Buildings and Revitalization Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/22/2018 Senate Introduced and read first time ([Senate Journal‑page 6](file:///h%3A%5Csj%5C20180222.docx))

 2/22/2018 Senate Referred to Committee on **Finance** ([Senate Journal‑page 6](file:///h%3A%5Csj%5C20180222.docx))

 4/24/2018 Senate Committee report: Favorable with amendment **Finance** ([Senate Journal‑page 11](file:///h%3A%5Csj%5C20180424.docx))

 4/25/2018 Scrivener's error corrected

 4/26/2018 Senate Committee Amendment Adopted

 4/26/2018 Senate Read second time ([Senate Journal‑page 22](file:///h%3A%5Csj%5C20180426.docx))

 4/26/2018 Senate Roll call Ayes‑41 Nays‑1 ([Senate Journal‑page 22](file:///h%3A%5Csj%5C20180426.docx))

 4/26/2018 Senate Unanimous consent for third reading on next legislative day ([Senate Journal‑page 22](file:///h%3A%5Csj%5C20180426.docx))

 4/27/2018 Senate Read third time and sent to House ([Senate Journal‑page 4](file:///h%3A%5Csj%5C20180427.docx))

 5/1/2018 House Introduced, read first time, placed on calendar without reference ([House Journal‑page 62](file:///h%3A%5Chj%5C20180501.docx))

 5/3/2018 House Amended ([House Journal‑page 13](file:///h%3A%5Chj%5C20180503.docx))

 5/3/2018 House Read second time ([House Journal‑page 13](file:///h%3A%5Chj%5C20180503.docx))

 5/3/2018 House Roll call Yeas‑92 Nays‑0 ([House Journal‑page 14](file:///h%3A%5Chj%5C20180503.docx))

 5/3/2018 House Unanimous consent for third reading on next legislative day ([House Journal‑page 15](file:///h%3A%5Chj%5C20180503.docx))

 5/4/2018 House Read third time and returned to Senate with amendments ([House Journal‑page 2](file:///h%3A%5Chj%5C20180504.docx))

 5/9/2018 Senate House amendment amended ([Senate Journal‑page 132](file:///h%3A%5Csj%5C20180509.docx))

 5/9/2018 Senate Roll call Ayes‑43 Nays‑0 ([Senate Journal‑page 132](file:///h%3A%5Csj%5C20180509.docx))

 5/9/2018 Senate Returned to House with amendments ([Senate Journal‑page 132](file:///h%3A%5Csj%5C20180509.docx))

 5/10/2018 House Non‑concurrence in Senate amendment ([House Journal‑page 78](file:///h%3A%5Chj%5C20180510.docx))

 5/10/2018 House Roll call Yeas‑2 Nays‑101 ([House Journal‑page 78](file:///h%3A%5Chj%5C20180510.docx))

 5/10/2018 Senate Senate insists upon amendment and conference committee appointed Reese, Grooms,, Talley ([Senate Journal‑page 17](file:///h%3A%5Csj%5C20180510.docx))

 5/10/2018 House Conference committee appointed Cole, Simrill, Rutherford ([House Journal‑page 87](file:///h%3A%5Chj%5C20180510.docx))

 6/28/2018 Senate Conference report received and adopted ([Senate Journal‑page 16](file:///h%3A%5Csj%5C20180628.docx))

 6/28/2018 Senate Roll call Ayes‑38 Nays‑0 ([Senate Journal‑page 16](file:///h%3A%5Csj%5C20180628.docx))

 6/28/2018 House Conference report received and adopted ([House Journal‑page 42](file:///h%3A%5Chj%5C20180628.docx))

 6/28/2018 House Roll call Yeas‑99 Nays‑1 ([House Journal‑page 54](file:///h%3A%5Chj%5C20180628.docx))

 6/28/2018 House Ordered enrolled for ratification ([House Journal‑page 55](file:///h%3A%5Chj%5C20180628.docx))

 6/29/2018 Ratified R 291

 7/3/2018 Vetoed by Governor

 10/2/2018 Senate Veto overridden Ayes‑31 Nays‑8 ([Senate Journal‑page 11](file:///h%3A%5Csj%5C20181002.docx))

 10/3/2018 House Veto overridden Yeas‑112 Nays‑4 ([House Journal‑page 21](file:///h%3A%5Chj%5C20181003.docx))

 10/8/2018 Effective date See Act

 10/9/2018 Act No. 265

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**VERSIONS OF THIS BILL**

[2/22/2018](file:///p%3A%5Cpprever%5C2017-18%5C1043_20180222.docx)

[4/24/2018](file:///p%3A%5Cpprever%5C2017-18%5C1043_20180424.docx)

[4/25/2018](file:///p%3A%5Cpprever%5C2017-18%5C1043_20180425.docx)

[4/26/2018](file:///p%3A%5Cpprever%5C2017-18%5C1043_20180426.docx)

[5/1/2018](file:///p%3A%5Cpprever%5C2017-18%5C1043_20180501.docx)

[5/3/2018](file:///p%3A%5Cpprever%5C2017-18%5C1043_20180503.docx)

[5/9/2018](file:///p%3A%5Cpprever%5C2017-18%5C1043_20180509.docx)

[6/28/2018](file:///p%3A%5Cpprever%5C2017-18%5C1043_20180628.docx)

(A265, R291, S1043)

**AN ACT TO EXTEND THE PROVISIONS OF THE SOUTH CAROLINA ABANDONED BUILDINGS REVITALIZATION ACT AS CONTAINED IN CHAPTER 67, TITLE 12 OF THE 1976 CODE UNTIL DECEMBER 31, 2021; TO AMEND SECTION 12‑67‑140, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TAX CREDIT FOR REVITALIZING AN ABANDONED BUILDING, SO AS TO SPECIFY THE MANNER IN WHICH CERTAIN BUILDINGS MAY BE SUBDIVIDED; TO AMEND SECTION 12‑65‑20, RELATING TO THE SOUTH CAROLINA TEXTILES COMMUNITIES REVITALIZATION ACT, SO AS TO MODIFY CERTAIN DEFINITIONS; TO AMEND SECTION 12‑6‑50, RELATING TO SECTIONS OF THE INTERNAL REVENUE CODE SPECIFICALLY NOT ADOPTED BY THIS STATE, SO AS TO REMOVE THE ALTERNATIVE TAX ON QUALIFYING SHIPPING ACTIVITIES; TO AMEND SECTION 12‑6‑1110, RELATING TO MODIFICATIONS OF INCOME, SO AS TO MAKE A CONFORMING CHANGE; TO AMEND SECTIONS 12‑67‑140 AND 12‑6‑3535, RELATING TO THE TAX CREDIT FOR REHABILITATING AN ABANDONED BUILDING OR A CERTIFIED HISTORIC STRUCTURE, RESPECTIVELY, SO AS TO SPECIFY THE MANNER IN WHICH UNUSED CREDIT MAY BE CARRIED FORWARD AND ALLOCATED; BY ADDING SECTION 12‑6‑3378 SO AS TO ALLOW A TAX CREDIT TO AN AGRIBUSINESS OPERATION OR AN AGRICULTURAL PACKAGING OPERATION THAT INCREASES ITS PURCHASES OF AGRICULTURAL PRODUCTS WHICH HAVE BEEN CERTIFIED AS SOUTH CAROLINA GROWN, AND TO SPECIFY THE MANNER IN WHICH THE CREDIT IS ADMINISTERED; TO AMEND SECTION 12‑10‑80, RELATING TO THE JOBS DEVELOPMENT CREDIT, SO AS TO MAKE CERTAIN QUALIFYING SERVICE‑RELATED FACILITIES ELIGIBLE FOR THE CREDIT; TO AMEND SECTION 12‑6‑2295, RELATING TO ITEMS INCLUDED AND EXCLUDED FROM THE TERMS “SALES” AND “GROSS RECEIPTS”, SO AS TO PROVIDE THAT RECEIPTS FROM THE PROVISION OF DIRECT BROADCAST SATELLITE SERVICE ARE ATTRIBUTABLE TO THIS STATE IN PRO RATA PROPORTION OF THE COSTS OF PERFORMING THE SERVICE; TO AMEND SECTION 12‑60‑30, RELATING TO SOUTH CAROLINA REVENUE PROCEDURES DEFINITIONS, SO AS TO PROVIDE ADDITIONAL DEFINITIONS; TO AMEND SECTION 12‑60‑450, RELATING TO APPEALS OF PROPOSED ASSESSMENTS, SO AS TO REQUIRE THE DEPARTMENT TO NOTIFY AFFECTED COUNTIES IN CERTAIN INSTANCES; TO AMEND SECTION 12‑60‑2120, RELATING TO PROPERTY TAX APPEALS BY WRITTEN PROTEST, SO AS TO PROVIDE THAT THE DEPARTMENT SHALL NOTIFY ANY AFFECTED COUNTIES OF A WRITTEN PROTEST; TO AMEND SECTION 12‑60‑2140, RELATING TO CERTAIN PAYMENTS AND REFUNDS, SO AS TO PROVIDE THAT NO REFUND IS DUE FOR ANY TAX YEAR BEFORE THE THREE TAX YEARS IMMEDIATELY PRECEDING THE FINAL DETERMINATION; AND TO AMEND SECTION 12‑60‑2150, RELATING TO FILING A CLAIM FOR A REFUND, SO AS TO PROVIDE FOR CERTAIN NOTIFICATIONS AND TO PROVIDE THAT A FAILURE TO TIMELY ISSUE A WRITTEN NOTICE IS CONSIDERED A DENIAL.**

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

**Extension of Abandoned Buildings Revitalization Act**

SECTION 1. Notwithstanding SECTION 1.B. of Act 57 of 2013, the provisions of Chapter 67, Title 12 of the 1976 Code are repealed on December 31, 2021.

**Subdivisions of certain abandoned buildings**

SECTION 2. A. Section 12‑67‑140 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

 “( ) For building sites which have had no portion thereof placed into service before July 1, 2018, and upon which is located a redeveloped multi‑floor structure that is listed on the National Register of Historic Places, the taxpayer may subdivide the structure into separate units in the manner as provided for in this chapter, except that up to seven separate floors may be considered seven separate subdivided units if a floor is redeveloped for the exclusive use as a residential apartment or apartments. Before making an initial claim for tax credits pursuant to this chapter, in lieu of the requirements of Section 12‑67‑140(B)(1), a taxpayer utilizing the provisions of this subsection must notify the department in writing of his intent to claim tax credits pursuant to this chapter, providing any information required by the department, including, but not necessarily limited to, the location of the building site, the actual expenses incurred in connection with the rehabilitation of the building site, the number of units for which a credit is being claimed, and the date the building site will be placed in service. Except as specifically provided otherwise in this subsection, taxpayers are subject to all other requirements of this chapter.”

B. This SECTION takes effect upon approval by the Governor and first applies to eligible building sites placed in service after June 30, 2018.

**Definitions for Textiles Communities Revitalization Act**

SECTION 3. A. Section 12‑65‑20(4) and (8) of the 1976 Code are amended to read:

 “(4) ‘Textile mill site’ means the textile mill together with the land and other improvements on it which were used directly for textile manufacturing operations or ancillary uses. However, the area of the site is limited to the land located within the boundaries where the textile manufacturing, dying, or finishing facility structure is located and does not include land located outside the boundaries of the structure or devoted to ancillary uses. Notwithstanding the provisions of this item, with respect to any site acquired by a taxpayer before January 1, 2008, a site located on the Catawba River near Interstate 77, or a site which, on the date the notice of intent to rehabilitate is filed, is located in a distressed area of a county in this State, as designated by the applicable council of government, the textile mill site includes the textile mill structure, together with all land and improvements which were used directly for textile manufacturing operations or ancillary uses, or were located on the same parcel or a contiguous parcel within one thousand feet of any textile mill structure or ancillary uses. For purposes of this item, ‘contiguous parcel’ means any separate tax parcel sharing a common boundary with an adjacent parcel or separated only by a private or public road.

 (8) ‘Rehabilitation expenses’ means the expenses or capital expenditures incurred in the rehabilitation, renovation, or redevelopment of the textile mill site, including without limitations, the demolition of existing buildings, environmental remediation, site improvements and the construction of new buildings and other improvements on the textile mill site, but excluding the cost of acquiring the textile mill site or the cost of personal property located at the textile mill site. For expenses associated with a textile mill site to qualify for the credit, the textile mill and buildings on the textile mill site must be either renovated or demolished. Rehabilitation expenses associated with new or rehabilitated buildings on a textile mill site that increases the amount of square footage of the buildings that existed on the site by more than two hundred percent must not be considered a rehabilitation expense for the purpose of calculating the credit.”

B. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning after 2017.

**Taxable income from international shipping activities**

SECTION 4. A. Section 12‑6‑50(13) of the 1976 Code is amended to read:

 “(13) Reserved;”

B. Section 12‑6‑1110 of the 1976 Code is amended to read:

 “Section 12‑6‑1110. For South Carolina income tax purposes, gross income, adjusted gross income, and taxable income as calculated under the Internal Revenue Code are modified as provided in this article and subject to allocation and apportionment as provided in Article 17 of this chapter.”

C. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning after 2017.

**Tax credits for Abandoned Buildings Revitalization Act**

SECTION 5. A. Section 12‑67‑140(B)(3)(a) of the 1976 Code is amended to read:

 “(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 at the individual, partnership, or limited liability company level.”

B. Section 12‑67‑140(B)(6) of the 1976 Code is amended to read:

 “(6) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit, including any unused credit amount carried forward, may be passed through to the partners or members and may be allocated among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit or unused carryforward to any partner or member who was a member or partner at any time in the year in which the credit or unused carryforward is allocated. The allocation must be allowed 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.”

C. Section 12‑6‑3535(C) of the 1976 Code is amended to read:

 “(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 at the individual, partnership, or limited liability company level.

 (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, including any unused credit amount carried forward, 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 or unused carryforward to any partner who was a member or partner at any time in the year in which the credit or unused carryforward is allocated, in a manner agreed to by the partners or members. 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. This SECTION takes effect upon approval by the Governor and first applies to buildings placed in service after June 30, 2018.

**Tax credits for certain agribusinesses and service‑related facilities**

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

 “Section 12‑6‑3378. (A)(1) In tax years beginning after 2017 and ending before 2028, an agribusiness operation or an agricultural packaging operation, as defined in Section 12‑6‑3360, that increases its purchases of agricultural products which have been certified as South Carolina grown by the South Carolina Department of Agriculture by a minimum of fifteen percent in a single calendar year over its base year is eligible to claim an income tax credit or a credit against employee withholding in an amount determined by the Coordinating Council for Economic Development (council). However, a taxpayer may not be awarded a credit pursuant to this section in excess of one hundred thousand dollars in any tax year.

 (2) The maximum amount of tax credits allowed to all qualifying taxpayers pursuant to this section may not exceed the following for each calendar year:

 2018 ‑ $500,000

 2019 ‑ $1,000,000

 2020 ‑ $1,500,000

 After 2020 ‑ $2,000,000

 (B)(1) If the income tax credit exceeds the taxpayer’s income tax liability for the taxable year, the excess amount may be carried forward and claimed against income taxes in the next five succeeding taxable years.

 (2) If the credit against withholding taxes exceeds the taxpayer’s withholding tax liability for the taxable quarter that is not otherwise refunded pursuant to this title, the excess amount may be carried forward and claimed against withholding liability that is not otherwise refunded under this title in the next twenty succeeding taxable quarters.

 (C) The council has sole discretion in allocating the credits provided by this section and must consider the following factors:

 (1) the amount of base year purchases of certified agricultural products;

 (2) the total and percentage increase in purchases; and

 (3) factors related to the economic benefit of the State or other factors.

 (D) For every year in which a taxpayer claims the credit, the taxpayer shall submit an application to the council after the calendar year in which the increase in purchases of certified products occurs. Allocations of the credit may be made on a monthly, quarterly, or annual basis. The taxpayer shall attach a schedule to the taxpayer’s application to the council with the following information and information requested by the council or the department:

 (1) a description of how the base year purchases of certified agricultural products and the increase in purchases was determined;

 (2) the amount of the base year purchases of certified agricultural products;

 (3) the amount of the increase in purchases of certified agricultural products for the taxable year stated both as a percentage increase and as a total increase in purchases of certified agricultural products, including information which demonstrates an increase in purchases of certified agricultural products in excess of the minimum amount required to claim the tax credits pursuant to this section;

 (4) any tax credit utilized by the taxpayer in prior years; and

 (5) the amount of tax credit carried over from prior years.

 (E) By March first of each year, the council shall submit a report to the General Assembly detailing the recipients of the credits allowed by this section, including the credit amount of each recipient.

 (F) The Department of Commerce, upon consultation with the Department of Agriculture, may establish guidelines necessary to ensure all applications, product certification record sheets, and checklists are accurately and effectively created and comply with the provisions of this section.

 (G) For purposes of this section, ‘base year’ initially means the total dollar purchases of agricultural products certified as South Carolina grown during the period from January first through December thirty‑first of the same year. However, the base year total dollar purchases must exceed one hundred thousand dollars for a taxpayer to be eligible for the credits provided in this section. For a taxpayer who does not meet the one hundred thousand dollar purchases requirement in the year ending December thirty‑first of the previous year, including a taxpayer who locates in South Carolina after December thirty‑first of the previous year, its base certified grown purchases must be measured by the initial January first through December thirty‑first calendar year in which it meets the purchasing requirement. The base year must be recalculated each calendar year after the initial base year.”

B. Section 12‑10‑80 of the 1976 Code is amended by adding two subsections at the end to read:

 “(K) For purposes of this section, the job and per capita income thresholds contained in the definition of ‘qualifying service‑related facility’ as set forth in Section 12‑6‑3360(M)(13)(b) must be modified to read as set forth in the item below:

 (1) a business, other than a business engaged in legal, accounting, banking, or investment services (including a business identified under NAICS Section 55) or retail sales, which has a net increase of at least:

 (a) one hundred twenty‑five jobs at a single location;

 (b) one hundred jobs at a single location comprised of a building or portion of a building that has been vacant for at least twelve consecutive months before the taxpayer’s investment;

 (c) seventy‑five jobs at a single location and the jobs have an average cash compensation level of more than one and one‑half times the lower of state per capita income or per capita income in the county where the jobs are located;

 (d) fifty jobs at a single location and the jobs have an average cash compensation level of more than twice the lower of state per capita income or per capita income in the county where the jobs are located; or

 (e) twenty‑five jobs at a single location and the jobs have an average cash compensation level of more than two and one‑half times the lower of state per capita income or per capita income in the county where the jobs are located.

 (L) For purposes of this section and notwithstanding the provisions of Section 12‑10‑50(A)(1), subject to the discretion of the council, the definition of ‘qualifying service‑related facility’ as defined in Section 12‑6‑3360(M)(13), as modified by Section 12‑10‑80(K)(1), shall also include the following:

 (1) a business engaged in legal, accounting, banking, or investment services operating at a single facility if the single facility would otherwise qualify as a qualifying service‑related facility as defined in Section 12‑6‑3360(M)(13)(b), as modified by subsections (J) and (K) above, if not for the exclusions contained in Section 12‑6‑3360(M)(13)(b);

 (2) a business generally engaged in retail sales at a single facility if that single facility would otherwise qualify as a qualifying service‑related facility as defined in Section 12‑6‑3360(M)(13)(b), as modified by subsections (J) and (K) above, if not for the exclusions contained in Section 12‑6‑3360(M)(13)(b) and provided that no retail sales are conducted at that single facility; and

 (3) In making a determination with regard to Section 12‑10‑80(L)(1) or Section 12‑10‑80(L)(2), the council may consider the following:

 (a) the percentage of such business’s annual gross receipts from services or other income producing activity derived from customers or clients located outside of South Carolina for the twelve months preceding the month in which such business applies to the council to claim a job development credit and such percentage may not be less than seventy‑five percent;

 (b) the nature of the new jobs to be created at the project;

 (c) the wages of the new jobs to be created at the project;

 (d) the capital investment of the project; and

 (e) the potential for expansion or growth of the business or industry.”

C. This SECTION takes effect upon approval by the Governor and applies for tax years beginning after 2017.

**Taxation from sales of direct broadcast satellite service**

SECTION 7. A. Section 12‑6‑2295(A) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

 “( ) receipts from the provision of direct broadcast satellite service that are attributable to this State in pro rata proportion of the costs of performing the service, including the costs of acquiring programming distribution rights and constructing and maintaining distribution infrastructure, that the service provider incurs within this State. As used in this subsection, the term ‘direct broadcast satellite service’ means the distribution or broadcasting of programming or services by satellite directly to the subscriber’s premises without the use of ground receiving or distribution equipment, except at the subscriber’s premises or in the uplink process to the satellite.”

B. This SECTION takes effect upon approval by the Governor and applies to all open tax periods excluding assessments under judicial review as of the date of the Governor’s approval.

**Tax procedure**

SECTION 8. A. Section 12‑60‑30 of the 1976 Code is amended by adding appropriately numbered items to read:

 “( ) ‘Local governing body’ means, for property tax purposes, the governing body of a county, municipality, or other political subdivision that is entitled to receive any portion of the tax revenue generated from a property tax assessment.

 ( ) ‘Affected county’ means, for property tax purposes, a county that administers property tax collections for its own jurisdiction or for another local governing body and is in a property tax dispute with a taxpayer.

 ( ) ‘Chief executive officer’ means, for property tax purposes, the official identified in Section 8‑13‑1110(B)(5).

 ( ) ‘Chief administrative official’ means, for property tax purposes, the official identified in Section 8‑13‑1110(B)(6).”

B. Section 12‑60‑30(10) of the 1976 Code is amended to read:

 “(10) ‘Department determination’ means the final determination within the department from which a taxpayer or a local governing body, as applicable, may request a contested case hearing before the Administrative Law Court.”

C. Section 12‑60‑450(E) of the 1976 Code is amended to read:

 “(E)(1) The department shall make a department determination using the information provided by the taxpayer in accordance with Section 12‑60‑30(15)(c)(iii).

 (2) A department determination must be in writing and must:

 (a) be sent by first class mail or delivered to the taxpayer and any affected county;

 (b) explain the basis for the department’s determination;

 (c) inform the taxpayer and any affected county of the right to request a contested case hearing; and

 (d) if a proposed assessment was protested, explain that the taxes will be assessed in thirty days and payment demanded unless the taxpayer or any local governing body requests a contested case hearing.

 (3) The department must issue the department determination not later than one year after the date the written protest or claim was filed with the department by the taxpayer unless the department requests and is granted an extension of time not to exceed six months from the Administrative Law Court. Upon failure of the department to timely issue the department determination, the department shall notify the taxpayer and any affected county of the right to request a contested case hearing before the Administrative Law Court for a determination of the tax controversy. A request for a contested case hearing before the Administrative Law Court must be made in accordance with its rules and must be made within thirty days after the date the department’s notice was sent by first class mail or delivered to the taxpayer or any affected county.

 (4) In order to comply with the provisions of this section requiring the department to notify affected counties, the department shall notify the chief executive officer, auditor, assessor, and treasurer of each affected county. The county auditor, upon notification, shall notify any local governing bodies by notifying the chief administrative official of each local governing body.”

D. Section 12‑60‑2120(A) and (B) of the 1976 Code is amended to read:

 “(A)(1) A property taxpayer may appeal a property tax assessment proposed by a division of the department by filing a written protest with the department.

 (2) The department shall notify any affected counties of the written protest.

 (B)(1) A property taxpayer may protest any denial of a tax exemption by the department for property he believes is exempt from property tax by filing a written protest with the department.

 (2) If a written protest is filed by a taxpayer, other than an individual, then the department must notify any affected counties of the written protest.”

E. Section 12‑60‑2140(C) of the 1976 Code is amended to read:

 “(C) After a final determination, if the property tax assessment is less than the adjusted property tax assessment, a corrected property tax assessment must be made and entered, provided that a refund is not due for any tax year before the three tax years immediately preceding the final determination unless the Administrative Law Court approves the refund. The overpayment of tax must be refunded together with interest determined in accordance with Section 12‑54‑25 on the overpayment.”

F. Section 12‑60‑2150(B), (D), and (F) of the 1976 Code is amended to read:

 “(B) The department shall notify the counties affected by the claim for refund by notifying the chief executive officer, auditor, assessor, and treasurer of each affected county. A county auditor, upon notification, shall notify the chief administrative official of any local governing bodies affected by the claim for refund.

 (D) The appropriate division of the department shall determine what refund is due, if any, and give the taxpayer written notice of its determination as soon as practicable after a claim has been filed, but not later than six months after the date the claim for refund was filed with the department. If the department fails to timely issue a written notice of its determination, that failure is considered a written denial of the claim for refund.

 (F) The department shall consider the written protest, determine the correct property tax assessment, and issue a department determination in accordance with the provisions of Section 12‑60‑450(E). All appeals before the department must be conducted as provided in Section 12‑60‑450(C) through (E).”

**Time effective**

SECTION 9. Except where specified otherwise, this act takes effect upon approval by the Governor.

Ratified the 29th day of June, 2018.

Vetoed by the Governor -- 7/3/18.

Veto overridden by Senate -- 10/2/18.

Veto overridden by House -- 10/3/18.

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