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CHAPTER 34

Retail Facilities Revitalization Act

Editor’s Note

2006 Act No. 285, Section 2, provides as follows:

“Chapter 34 of Title 6 of the 1976 Code, as added by the provisions of Section 1 of this act, is repealed on July 1, 2016.”

2006 Act No. 285, Section 3.(A), provides as follows:

“Chapter 34 of Title 6 of the 1976 Code takes effect July 1, 2006, and applies for rehabilitation expenses incurred, without regard to the date these expenses were incurred, for eligible sites placed in service on or after July 1, 2006.”

**SECTION 6‑34‑10.** Citation of chapter.

This chapter is known and may be cited as the “South Carolina Retail Facilities Revitalization Act”.

HISTORY: 2006 Act No. 285, Section 1, eff July 1, 2006.

Editor’s Note

2006 Act No. 285, Section 3.(A), provides as follows:

“Chapter 34 of Title 6 of the 1976 Code takes effect July 1, 2006, and applies for rehabilitation expenses incurred, without regard to the date these expenses were incurred, for eligible sites placed in service on or after July 1, 2006.”

**SECTION 6‑34‑20.** Purpose.

(A) The primary purpose of this chapter is to create a meaningful incentive for the renovation, improvements, and redevelopment of abandoned retail facility sites located in South Carolina.

(B) The abandonment of retail facility sites has resulted in the disruption of communities and increased the cost to local governments by requiring additional police and fire services due to excessive vacancies. Many abandoned retail facility sites pose safety concerns. A public and corporate purpose of the local governments will be served by restoring the retail facility sites to a productive asset for the communities and result in increased job opportunities.

(C) There exists in many communities of this State abandoned retail facilities. The stable economic and physical development of these areas is endangered by the presence of these abandoned facilities as manifested by progressive and advanced deterioration of structures. As a result of the existence of these abandoned facilities, there is an excessive and disproportionate expenditure of public funds, inadequate public and private investment, unmarketability of property, growth in delinquencies, and crime in the areas together with an abnormal exodus of families and businesses so that the decline of these areas impairs the value of private investments and threatens the sound growth and the tax base of taxing districts in the areas, and threatens the health, safety, morals, and welfare of the public. To remove and alleviate these adverse conditions, it is necessary to encourage private investment and restore and enhance the tax base of the taxing districts in the areas by the redevelopment of these abandoned facilities.

HISTORY: 2006 Act No. 285, Section 1, eff July 1, 2006.

Editor’s Note

2006 Act No. 285, Section 3.(A), provides as follows:

“Chapter 34 of Title 6 of the 1976 Code takes effect July 1, 2006, and applies for rehabilitation expenses incurred, without regard to the date these expenses were incurred, for eligible sites placed in service on or after July 1, 2006.”

**SECTION 6‑34‑30.** Definitions.

For the purposes of this chapter, unless the context requires otherwise:

(1) “Abandoned” means that at least eighty percent of the eligible site’s facilities have been continuously closed to business or have been otherwise nonoperational for a period of at least one year immediately preceding the time at which the determination is to be made. The eligible site’s facilities only include the site’s building or structure.

(2) “Eligible site” means a shopping center, mall, or free standing site whose primary use was as a retail sales facility with at least one tenant or occupant located in a forty thousand square foot or larger building or structure. To qualify as an eligible site, the shopping center, mall, or freestanding site must be abandoned. During the abandonment, the eligible site may serve as a wholesale facility, provided the site serves as a wholesale facility for no more than one year.

(3) “Local taxing entities” means a county, municipality, school district, special purpose district, and any other entity or district with the power to levy ad valorem property taxes against the eligible site.

(4) “Local taxing entity ratio” means that percentage computed by dividing the millage rate of each local taxing entity by the total millage rate for the eligible site.

(5) “Placed in service” means the date upon which the eligible site is suitable for occupancy for the purposes intended.

(6) “Rehabilitation expenses” means the expenses incurred in the rehabilitation of the eligible site, excluding the cost of acquiring the eligible site or the cost of personal property maintained at the eligible site.

HISTORY: 2006 Act No. 285, Section 1, eff July 1, 2006.

Editor’s Note

2006 Act No. 285, Section 3.(A), provides as follows:

“Chapter 34 of Title 6 of the 1976 Code takes effect July 1, 2006, and applies for rehabilitation expenses incurred, without regard to the date these expenses were incurred, for eligible sites placed in service on or after July 1, 2006.”

**SECTION 6‑34‑40.** Tax credits for rehabilitation expenses.

(A) Subject to the terms and conditions of this chapter, a taxpayer who improves, renovates, or redevelops an eligible site is eligible for one of the following two tax credits:

(1) a credit against real property taxes levied by local taxing entities equal to twenty‑five percent of the rehabilitation expenses made to the eligible site times the local taxing entity ratio of each local taxing entity that has consented to the tax credit pursuant to subsection (B) below; or

(2) a credit against any state income taxes imposed equal to ten percent of the rehabilitation expenses.

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

(1) The municipality or, if the eligible site is located in an unincorporated area, the county first by resolution shall determine the eligibility of the eligible site and the eligibility of the proposed project seeking the credit. Any proposed project beginning after July 1, 2006, must be approved by a majority vote of the local governing body. The foregoing determinations and the municipality’s or county’s approval of the eligible site and proposed project must be by ordinance and public hearing. The ordinance shall provide for the credit to be taken as a credit against up to seventy‑five percent of the real property taxes due on the site each year not to exceed eight years. Before determining the eligibility of the proposed eligible site, the municipality or county shall make a finding that the credit will not violate any covenant, representation, or warranty in any of its tax increment financing transactions.

(2) Not less than forty‑five days before holding the public hearing contemplated in subsection (B)(1), the governing body of the municipality or county shall give notice to all affected local taxing entities where the eligible site is located of its intention to grant a tax credit for an eligible site and the amount of the tax credit proposed to be granted. 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, provided that the actual tax credit granted is equal to or less than the tax credit stated in the notice of public hearing.

(3) The tax credit shall vest in the taxpayer in the tax year when the eligible site is placed in service and may be carried forward, in whole or in part, for up to eight years following that date.

(C) If the taxpayer elects to receive the credit pursuant to subsection (A)(2), the following provisions apply:

(1) The entire credit may not be taken for the taxable year in which the eligible site is placed in service, but must be taken in equal installments over an eight‑year period beginning with the year in which the property is placed in service. Any unused portion of a credit installment may be carried forward for the succeeding five years.

(2) The credit earned pursuant to this subsection by a “S” corporation owing corporate level income tax must be used first at the entity level. Any remaining credit passes through to each shareholder in a percentage equal to each shareholder’s percentage of stock ownership.

(3) The credit earned pursuant to this subsection by a general partnership, limited partnership, limited liability company, or any other entity taxed as a partnership must be passed through to its partners and may be allocated among any of its partners, including without limitation, an allocation of the entire credit to one partner, in a manner agreed by the partners that is consistent with Subchapter K of the Internal Revenue Code. As used in this subsection, the term “partner” means a partner, member, or owner of an interest in the pass‑through entity, as applicable.

(4) The credit earned pursuant to this subsection is in addition to and does not offset the state historic credit in the event the eligible site also is eligible for the state historic credit.

(5) The South Carolina Department of Revenue may promulgate regulations to verify the site’s eligibility in accordance with the provisions of this chapter.

(D) The taxpayer shall elect the mode of credit pursuant to subsection (A)(1) or subsection (A)(2) by providing written notification of its intent to the South Carolina Department of Revenue prior to the date the eligible site is placed in service; provided, that, if the taxpayer did not obtain the approvals contained in subsection (B) or fails to affirmatively make the election prescribed in this chapter before the date the eligible site is placed in service, the taxpayer is considered to have elected to receive the credit provided in subsection (A)(2).

(E) The owner of the eligible site may transfer, devise, or distribute any unused credit to the tenant of the eligible site. To be effectual, the department must receive written notification and approve of the transfer, devise, or distribution.

(F) For the credit pursuant to subsection (A)(1), the governing body of a county or municipality where the site is located, by resolution, may reduce the forty thousand square foot eligibility requirement in Section 6‑34‑30(2) by not more than fifteen thousand square feet.

HISTORY: 2006 Act No. 285, Section 1, eff July 1, 2006; 2007 Act No. 110, Section 7.A, eff June 21, 2007; 2007 Act No. 116, Section 13.A, eff June 28, 2007.

Editor’s Note

2006 Act No. 285, Section 3.(A), provides as follows:

“Chapter 34 of Title 6 of the 1976 Code takes effect July 1, 2006, and applies for rehabilitation expenses incurred, without regard to the date these expenses were incurred, for eligible sites placed in service on or after July 1, 2006.”

2007 Act No. 110, Section 7.B and 2007 Act No. 116, Section 13.B, provide as follows:

“This section takes effect upon approval by the Governor and subsection (C)(3) applies for rehabilitation expenses for eligible sites placed in service after June 30, 2006.”

Effect of Amendment

The first 2007 amendment, in paragraph (C)(3), in the first sentence moved the provision relating to subchapter K of the Internal Revenue Code to the end of the sentence; and, in paragraph (C)(5), substituted “may” for “shall”.

The second 2007 amendment made the same changes to paragraphs (C)(3) and (C)(5) as the first.