CHAPTER 12

Redevelopment of Federal Military Installations and Other Defense Sites

**SECTION 31‑12‑10.** Short title.

 This chapter may be cited as the “Federal Defense Facilities Redevelopment Law”.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑20.** Legislative findings.

 The General Assembly finds that:

 (1) As a result of the closure, realignment, and drastic downsizing of federal military installations and other federal defense sites in the United States, federal property located in the State has and will become available for the state’s use. It is in the best interests of the citizens of this State for the State, municipalities, and counties to work in concert and oversee and dispose of federal defense facilities and other excess federal property in an orderly and cooperative manner. It is the intent of this chapter that redevelopment authorities may be appointed to deal with federal defense facilities that have been scheduled for closure, realignment, or drastic downsizing by the United States Congress and to consult with the federal government pursuant to federal law in that connection. If any other incidental excess federal property is included with a scheduled closing, realignment, and drastic downsizing, that property also may be dealt with by the authorities.

 (2) The redevelopment of these facilities often may require substantial periods of time and substantial investment in redevelopment of the properties, including public infrastructure on the properties themselves and in the communities immediately surrounding the properties in order to re‑integrate the former federal defense facilities into the surrounding communities, and all reasonable means should be provided to assist the redevelopment authorities created pursuant to this chapter to fund improvements for redevelopment including, in the case of properties located within incorporated municipalities, tax increment financing as authorized by Section 14 of Article X of the Constitution of South Carolina.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑30.** Definitions.

 As used in this chapter, unless the context clearly indicates otherwise:

 (1) “Area of operation” means the area within the territorial boundaries of the counties entitled to representation on an authority which consists of both the real property to be disposed of by an authority as well as any other properties disposed of directly by the federal government to public or private persons or entities, other than disposal to the federal government for other defense uses, in connection with military installation closure and realignment or other federal defense site closure, realignment, or drastic downsizing, together with such areas of the surrounding community as may need planning for infrastructure improvements to support the redevelopment project area.

 (2) “Authority” means a redevelopment authority created pursuant to Section 31‑12‑40.

 (3) “Municipality” means an incorporated municipality of this State.

 (4) “Obligations” means bonds, notes, or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

 (5) “Redevelopment plan” means the comprehensive program of the authority for redevelopment intended by the payment of redevelopment costs to redevelop properties scheduled for disposal which may tend to return properties to the tax rolls, replace lost jobs, and integrate the properties back into the community, enhancing the tax bases of the taxing districts which extend into the project redevelopment area and the economic health of the community in which it lies. Each redevelopment plan must set forth in writing the program to be undertaken to accomplish the objectives and must include, but not be limited to, estimated redevelopment project costs, possible sources of funds to pay costs, the most recent equalized assessed valuation of the project area as of the time of creation of a tax increment finance district pursuant to Section 31‑12‑200, an estimate as to the equalized assessed valuation after redevelopment, and the general land uses to apply in the redevelopment project area.

 (6) “Redevelopment project” means buildings, improvements, including street improvements, water, sewer and storm drainage facilities, parking facilities, and recreational facilities. A project or undertaking authorized under Section 6‑21‑50 also may qualify as a redevelopment project under this chapter. All such projects may be owned by the authority, the municipality, the county, or other appropriate public body. This term includes portions of the redevelopment project located outside the redevelopment project area so long as they provide needed infrastructure support for the redevelopment project area.

 (7) “Redevelopment project area” means an area within the incorporated area of a municipality and designated pursuant to Section 31‑12‑200, which is not less in the aggregate than one and one‑half acres. It includes both the real property to be disposed of by an authority as well as other properties disposed of directly by the federal government to public or private persons or entities, other than disposal to the federal government for other defense uses, in connection with military installation closure and realignment or other federal defense site closure, realignment, or drastic downsizing. Redevelopment project areas designated pursuant to Section 31‑12‑200 may not be counted against the limits on acreage of redevelopment project areas within municipalities contained in Section 31‑6‑30(7).

 (8) “Redevelopment project costs” means and includes the total of all reasonable or necessary costs incurred or estimated to be incurred and any costs incidental to a redevelopment project. The costs include, without limitation:

 (a) costs of studies and surveys, plans, and specifications, professional service costs including, but not limited to, architectural, engineering, legal, marketing, financial, planning, or special services;

 (b) property assembly costs including, but not limited to, acquisition of land and other property, real or personal, or rights or interests in it, demolition of buildings, and the clearing and grading of land;

 (c) costs of rehabilitation, reconstruction, repair, or remodeling of a redevelopment project;

 (d) costs of the construction of a redevelopment project;

 (e) financing costs including, but not limited to, all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on obligations issued under the provisions of this chapter accruing during the estimated period of construction of any redevelopment project for which the obligations are issued and including reasonable reserves related to them;

 (f) relocation costs to the extent that a municipality determines that relocation costs must be paid or required by federal or state law.

 (9) “Taxing districts” means counties, incorporated municipalities, schools, special purpose districts, and any other municipal corporations or districts with the power to levy taxes.

 (10) “Real property” includes all property assessed under authority of Section 12‑4‑540 when the term is used in this chapter with regard to tax increment financing.

 (11) “Personal property” includes all goods, classified as equipment, used or bought for use primarily in the operation of the federal defense facility, not to include inventory, consumer goods, or farm products, as defined in Sections 36‑2‑105 and 36‑9‑109.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑40.** Redevelopment authorities; creation; membership.

 (A) The Governor may create separate and distinct bodies corporate and politic to be known as redevelopment authorities to oversee the disposition of real and personal federal property that has been or will be turned over to the State or to the redevelopment authority as referred to in the Defense Base Closure and Realignment Act, 10 U.S.C. 2901, et seq., as it may be amended from time to time, by the federal government or real and personal federal property that has been designated as surplus property by the federal government and is to be disposed of by the State or the redevelopment authority as a result of the closure, realignment, or drastic downsizing of federal defense facilities in the State. No more than one authority may be created with jurisdiction over a single federal military installation or other federal defense site. Only one authority may be designated within a county, and the Governor shall exercise his authority under this chapter so as to ensure that the composition of any authority created under this section is structured or restructured in accordance with the requirements contained in this section as additional properties may be added through other closures, realignments, and drastic downsizings, as properties are disposed of and as federally defined Metropolitan Statistical Areas (MSA’s) are redefined, from time to time. If an authority is designated, it is the sole representative of the State for negotiations with the appropriate federal authority for reuse and disposal of property.

 (B) If the federal property subject to disposal is contained wholly within one county, which county does not lie in an MSA extending over more than one South Carolina county and is not included in a multicounty authority under subsections (C) or (D), the authority must include:

 (1) two representatives of the State, nominated by a majority of the Senate and a majority of the House, who must be appointed by the Governor;

 (2) three representatives of the county appointed by the county governing body;

 (3) three representatives of each municipality in which the municipality’s boundaries contain all or a portion of the federal defense properties scheduled for disposal, appointed by the municipal governing body; and

 (4) one at‑large appointment by the Governor, who shall be a resident of the county.

 (C) If the federal property subject to disposal is contained within more than one county, with no portion of the counties lying within an MSA which extends over more than one South Carolina county, the authority must include:

 (1) two representatives of the State nominated by a majority of the Senate and a majority of the House, who must be appointed by the Governor;

 (2) two representatives of each county appointed by the respective county governing body;

 (3) two representatives of each municipality in which the municipality’s boundaries contain all or a portion of the federal defense properties scheduled for disposal, appointed by the respective municipal governing body; and

 (4) one at‑large appointment by the Governor, who shall be a resident of one of the counties.

 (D)(1) If the federal property subject to disposal is contained wholly or partially within a county, all or a portion of which lies in an MSA which extends over more than one South Carolina county, the authority must include:

 (a) one representative who is a resident of each South Carolina county which contains all or a portion of the federal property subject to disposal, appointed by the Governor;

 (b) one representative who is a resident of each South Carolina county in the MSA not entitled to a resident representative under subsection (D)(1)(a), appointed by the Governor;

 (c) additional representatives who are residents of the respective municipalities as may be necessary to provide any municipality within whose boundaries the major portion of federal defense properties scheduled for disposal lies with one less than the collective number of representatives provided for in subsections (D)(1)(a), (D)(1)(b), and (D)(1)(e) appointed by the Governor from a slate of candidates submitted by the municipal governing body;

 (d) if the major portion of properties scheduled for disposal lies within a single county but not within the boundaries of any single municipality, such additional representatives as may be necessary to provide that county with one less than the collective number of representatives provided for in subsections (D)(1)(a), (D)(1)(b), and (D)(1)(e) appointed by the county governing body;

 (e) one at‑large appointment by the Governor, who shall be a resident of one of the counties which lie, wholly or partially, in the MSA which is entitled to representation under subsections (D)(1)(a), (D)(1)(b),or (D)(1)(d);

 (2) the Governor, in his discretion, may accept or reject the name of any individual submitted for his consideration pursuant to subsection (D)(1)(c). If the name of an individual is rejected or is not submitted to the Senate as provided in subsection (H), the municipality may submit the name of another individual for the Governor’s consideration as provided in subsection (D)(1)(c); and

 (3) notwithstanding any other provision of law, an individual appointed pursuant to subsections (D)(1)(a) through (D)(1)(e) may be removed as provided in Section 1‑3‑240(B).

 (E) A member of an authority may not be an elected official or hold another office of honor or profit of this State or any of its political subdivisions while serving on the authority as prohibited by the South Carolina Constitution. Each member of an authority must comply with the provisions of Chapter 13 of Title 8 of the 1976 Code of Laws including the requirement to file a statement of economic interests.

 (F) All executive orders of the Governor establishing any authority, commission, committee, or other entity relating to or concerned with the effects of the closure of a federal military installation or other federal defense site expire on March 1, 1995. The Governor may issue no executive order relating to the purposes of this chapter except to create or to modify the membership of an authority as provided in Section 31‑12‑40.

 (G) Upon the creation of an authority under the provisions of this chapter with regard to property scheduled for disposal which was also the subject of an executive order of the Governor issued prior to the effective date of this act, the authority, by its resolution, may assume all or part of the responsibilities and activities of the entity previously authorized by the executive order.

 (H) The appointments made pursuant to subsections (B)(2), (B)(3), and (B)(4), subsections (C)(2), (C)(3), and (C)(4), and subsections (D)(1)(a), (D)(1)(b), (D)(1)(c), (D)(1)(d), and (D)(1)(e) are subject to the advice and consent of the Senate.

 (I) An authority also may be created by resolutions of municipalities and of counties eligible to make the majority of the appointments to an authority pursuant to subsection (B) or (C), respectively.

 (J) A vacancy occurring during the recess of the Senate may be filled by an interim appointment by the appointing body or officer. The Senate must be notified of the interim appointment, which must be submitted no later than the end of the third week of its next regular session. The Senate may give or withhold its advice and consent to an appointment at any time after submission of the appointment, provided, that if the Senate does not advise and consent to an appointment before sine die adjournment of that session, the office remains vacant and the interim appointment does not serve in holdover status notwithstanding any other provision of law to the contrary. In no event may the same individual be reappointed by the appointing body or officer until the term for which the interim appointee would have served expires.

 (K) A vacancy occurring while the Senate is in session, including a vacancy occurring due to the failure of the Senate to give advice and consent to an appointment, may be filled while the Senate is in session by an appointment of an individual other than the one that failed to receive advice and consent. The appointment must be transmitted to the Senate for its consideration within one week after the appointment is made. If the vacancy occurs prior to May 1 and the Senate does not advise and consent to the appointment before sine die adjournment of that session, the office remains vacant and the appointee does not serve in holdover status notwithstanding any other provision of law to the contrary. In no event may the same individual be reappointed until the term for which the appointee would have served expires. If the vacancy occurs on or after May 1, the appointee is an interim appointee and is subject to the provisions of subsection (J).

 (L) [Reserved]

HISTORY: 1994 Act No. 462, Section 1; 1995 Act No. 37, Sections 1‑5; 1998 Act No. 421, Section 1.

Editor’s Note

2014 Act No. 121, Section 22, provides as follows:

“SECTION 22. (A) Notwithstanding any other provision of law, in addition to the present members of the Charleston Naval Complex Redevelopment Authority, as created by gubernatorial executive order pursuant to Section 31‑12‑40 of the 1976 Code, there shall be four additional members, two appointed by the Speaker of the House of Representatives and two appointed by the President Pro Tempore of the Senate. These four additional members shall each serve for terms of four years and until their successors are appointed and qualify. Vacancies shall be filled for the remainder of the unexpired term by appointment in the same manner of original appointment.

“(B) These four additional members shall serve as members of the Charleston Naval Complex Redevelopment Authority with the same powers, duties, and responsibilities of other such members as provided by law. In addition, these four members, together with the gubernatorial appointees to the Charleston Naval Complex Redevelopment Authority, also shall constitute the Charleston Naval Base Museum Authority as a division of the Charleston Naval Redevelopment Authority. Service as a member of the Naval Base Museum Authority is considered an additional and supplemental function and duty of those specified members of the Naval Complex Redevelopment Authority and is not considered another office of honor or profit of this State. The Naval Base Museum Authority shall select from among its members a chairman and such other officers as they consider necessary.

“(C) The Naval Base Museum Authority shall become operative upon the signing of a Memorandum of Understanding between the RDA and the Hunley Commission. With respect to the Hunley project, the MOU must provide for the Naval Base Museum Authority division of the RDA to undertake and comply with the duties, responsibilities, powers, and functions of the Hunley Commission as specified in Sections 54‑7‑100 and 54‑7‑110 of the 1976 Code, and as otherwise provided by law. The Naval Base Museum Authority shall possess and may exercise all powers and authority granted to the Hunley Commission by specific statutory reference in Sections 54‑7‑100 and 54‑7‑110.

“(D) Notwithstanding the provisions of this act, the provisions of this section take effect upon approval by the Governor.”

**SECTION 31‑12‑50.** Redevelopment authority members; terms of office; filling vacancies; removal; reimbursement of expenses.

 (A) The term of office for members appointed pursuant to Sections 31‑12‑40(B) and 31‑12‑40(C) is as follows: one of the state representatives, one of the county representatives, and one of the municipality representatives shall serve a four‑year term as designated by the respective delegation or governing body. The other members shall serve an initial two‑year term, including the at‑large appointment by the Governor. The term of office for members appointed pursuant to Section 31‑12‑40(D) shall be split equally between two or four years, as determined by lot at their first organizational meeting, other than the appointment by the Governor pursuant to Section 31‑12‑40(D)(1)(e), who shall serve an initial two‑year term. After the initial terms, all members shall serve four‑year terms. Each member shall hold office until his successor is appointed and qualified.

 (B) Vacancies for the unexpired terms of a member who resigns, ceases to be qualified, or is removed must be promptly filled in the manner of the original appointment. A member who is guilty of malfeasance, misfeasance, incompetency, persistent absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity is subject to removal by majority vote of the appointing body upon any of the foregoing causes being made to appear satisfactory to the appointing body. A member is subject to removal by an appointing body, with or without cause, upon a two‑thirds vote of an appointing body. An appointing officer may remove a member of an authority with or without cause. A member shall receive, as the authority determines, reimbursement for reasonable travel expenses and other out‑of‑pocket expenses incurred in the discharge of the member’s duties.

HISTORY: 1994 Act No. 462, Section 1; 1995 Act No. 37, Section 6; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑60.** Officers; employees; quorum; personal liability of members; delegation of powers.

 (A) The Governor’s at‑large appointment shall serve for a two‑year term as chairman of any authority initially established. The authority shall select its vice chairman and such other officers as the authority may determine from its membership. The authority shall select its chairman at all times after the initial two‑year period during which the Governor’s at‑large appointee serves as chairman.

 (B) The authority may employ or contract with technical experts and other agents and employees as it requires and may determine the qualifications and compensation of these persons. A majority of the members then in office constitute a quorum for its meeting. A member is not liable personally for losses unless the losses are occasioned by the wilful misconduct of the member. An authority may delegate one or more of its members, agents, or employees any of its powers that it considers necessary to carry out the purposes of the authority, subject always to the supervision and control of the whole authority.

HISTORY: 1994 Act No. 462, Section 1; 1995 Act No. 37, Section 7; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑70.** Powers of redevelopment authority.

 (A) An authority is a public body, corporate and politic, exercising public and essential governmental powers, including powers necessary or appropriate to carry out and effectuate the purposes and provisions of this chapter, including the following powers:

 (1) to make and from time to time amend and repeal bylaws, rules, regulations, and resolutions;

 (2) to have perpetual succession;

 (3) to adopt a seal;

 (4) to sue and be sued;

 (5) to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and any contract or instrument when signed by the chairman or vice chairman and secretary or assistant secretary of the authority must be held to have been properly executed for and on its behalf;

 (6) to cooperate with any government or municipality as defined in this title;

 (7) to act as agent of the state or federal government or its instrumentalities or agencies for the public purposes set out in this title;

 (8) to prepare or cause to be prepared and adopt redevelopment plans and to undertake and carry out redevelopment projects within its area of operation;

 (9) to arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a redevelopment project; provided, however, this power does not alter or amend the rights, responsibilities, or powers of electrical utilities, electric cooperatives, electric suppliers, municipal electric systems, or the Public Service Authority as provided in Chapters 27 and 31 of Title 58 and Section 5‑7‑60;

 (10) within its area of operation, to purchase, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise, real or personal property or any interest in it, together with any improvements on it, necessary or incidental to a redevelopment project, to hold, improve, clear, or prepare for redevelopment of the property, and sell, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, or otherwise encumber or dispose of real or personal property or any interest in it, either as an entirety to a single redeveloper or in parts to several redevelopers, to enter into contracts, either before or after the real property that is the subject of the contract is acquired by the authority, with redevelopers of property containing covenants, restrictions, and conditions regarding the use of the property for residential, commercial, industrial, or recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions, and conditions as the authority may consider necessary to effectuate the purposes of this chapter; and to provide appropriate remedies for any breach of covenants or conditions, including the right to terminate the contracts and any interest in the property created pursuant to them; to borrow money and issue bonds and provide security for bonds, provided that the authority may not pledge the full faith and credit of the State or of any of its political subdivisions for the repayment of the bonds; to insure or provide for the insurance of real or personal property or operations of the authority against any risks or hazards, including the power to pay premiums on the insurance; and to enter into contracts necessary to effectuate the purposes of this chapter;

 (11) to invest funds held in reserves or sinking funds or funds not required for immediate disbursements, in the investments as may be lawful for guardians, executors, administrators, or other fiduciaries under the laws of this State; and to redeem its bonds at the redemption price established therein or to purchase its bonds at less than redemption price, all bonds so redeemed or purchased to be canceled;

 (12) to borrow money and to apply for and accept advances, loans evidenced by bonds, grants, contributions, and any other form of financial assistance from the federal government, the State, county, municipality, or other public body or from any sources, public or private, for the purposes of this chapter, to give this security as may be required, and to enter into and carry out contracts in connection with it;

 (13) within its area of operation, to make or have made all surveys, studies, and plans necessary to the carrying out of the purposes of this chapter and in connection with it to enter into or upon any land, building, or improvement on it and to make soundings, test borings, surveys, appraisals, and other preliminary studies and investigations necessary to carry out its powers and to contract or cooperate with persons or agencies, public or private, in the making and carrying out the surveys, appraisals, studies, and plans. An authority is specifically authorized to make:

 (a) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and

 (b) plans for the enforcement of laws, codes, and regulations relating to the use of land, the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, subject to the approval of the municipality, or county if not within a municipality, within which the properties lie;

 (14) to make expenditures as may be necessary to carry out the purposes of this chapter and to make expenditures from funds obtained from the federal government;

 (15) to perform redevelopment project undertakings and activities in one or more contiguous or noncontiguous redevelopment areas that are planned and carried out on the basis of annual tax increments in accordance with the remaining provisions of this chapter.

 (B) In carrying out a redevelopment project, an authority may:

 (1) with or without consideration and at private sale, in accordance with the redevelopment plan, convey real property to the municipality, county, or other appropriate public body to be laid out for streets, alleys, and public ways;

 (2) with or without consideration convey at private sale, in accordance with the redevelopment plan, grant, or dedicate easements and rights‑of‑way for public utilities, sewers, streets, and other similar facilities;

 (3) with or without consideration and at private sale, in accordance with the redevelopment plan, convey to a municipality, county, or other appropriate public body, real property to be used for parks, schools, public buildings, facilities, or other public purposes; and

 (4) temporarily rent or lease, operate, or maintain real property in a redevelopment area, whether or not in accordance with the redevelopment plan and pending the disposition of the property for redevelopment, as may be deemed appropriate.

 (C) In developing its redevelopment plans, an authority must:

 (1) take into account the needs of the surrounding community;

 (2) attempt to integrate the redevelopment of the properties scheduled for disposition with any adjacent areas; and

 (3) consider the extent to which the plan compliments the existing development of the community, the competitive effect on existing businesses in the community, and the compatibility of the redevelopment with the community. To that end, and with the consent and concurrence of the local governing body having planning and zoning authority over the surrounding areas, the authority may prepare and implement plans for public infrastructure or other improvements which would be authorized under the Community Development Law for a municipality in those areas.

 (D) In furtherance of its purposes, an authority may issue revenue bonds, the interest on which may or may not be excludable from gross income for federal income tax purposes, for the purpose of raising funds needed from time to time for the financing or refinancing, in whole or in part, of the acquisition, construction, equipping, maintenance, and operation of any facility, building, structure, or any other matter or thing which the authority is authorized to acquire, construct, equip, maintain, or operate.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑80.** Powers of public body acting in cooperation with redevelopment authority.

 (A) A public body, including the State and any political subdivision or any public or quasi‑public entity or affiliated corporate entity by whatever name whose board is appointed pursuant to an act of the General Assembly, upon such terms, with or without consideration, for the purpose of aiding and cooperating in the planning, undertaking, or carrying out of a redevelopment project located within the area in which it is authorized to act, may:

 (a) dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or any other rights or privileges to an authority;

 (b) cause parks, playgrounds, recreational, community, education, water, sewer, or drainage facilities, or any other works that it is otherwise empowered to undertake, to be furnished in connection with a redevelopment project;

 (c) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways, or other places that it is otherwise empowered to undertake;

 (d) plan or replan any part of the redevelopment;

 (e) cause administrative and other services to be furnished to the authority of the character which the public body is otherwise empowered to undertake or furnish for the same or other purposes;

 (f) enter into an agreement to pay fees in lieu of taxes as to any properties it might use, own, or acquire located within the redevelopment project area, not to exceed amounts which would otherwise be paid if the properties were not tax exempt, and upon approval of the municipal governing body, the fees may be pledged for the repayment of tax increment finance obligations issued pursuant to this chapter;

 (g) enter into an agreement to fund public infrastructure improvements as a part of redevelopment project in amounts as may represent anticipated savings in capital or operating expenditures of the public body due to its acquisition of properties scheduled for disposition as a part of the redevelopment project; and

 (h) do any and all things necessary or convenient to aid and cooperate in the planning or carrying out of a redevelopment plan.

 (B) A sale, conveyance, or agreement provided for in this section may be made by a public body without public notice, advertisement, or public bidding.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑90.** Profits prohibited.

 Notwithstanding any provision of law, neither the State nor any political subdivision or any public or quasi‑public entity or affiliated corporate entity by whatever name whose board is appointed pursuant to an act of the General Assembly or any nonprofit public or nonprofit private corporation chartered for the purpose of furthering economic development may make a profit on the sale of real or personal property to a redevelopment authority created pursuant to this chapter; nor may any monies from the authority’s assets developed through the sale, lease, or fees generated from the profits be transferred to any government entity above, beyond, or outside of the authority itself, except as may be required or permitted by applicable provisions of the Defense Base Closure Realignment Act, 10 U.S.C. 2901, et seq., as it may be amended from time to time.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑100.** Dissolution of redevelopment authority; tax increment finance districts.

 (A) An authority created pursuant to this chapter may dissolve the authority by a two‑thirds vote of the entire number of authorized members if no property remains for redevelopment or if the authority decides to transfer the remaining redevelopment properties to another public body or successor entity created by statute.

 (B) Final dissolution may occur only upon sale of all properties to the private sector or conveyance to another public entity described in subsection (A) with the lawful power to receive real and personal property held by the authority and the satisfaction of all outstanding obligations of the authority or their lawful assumption by another public entity described in subsection (A).

 (C) Upon a determination to dissolve, the authority may dispose of any tangible or intangible property remaining after transfer of any remaining redevelopment properties as provided by law or in the following manner:

 (1) tangible personal property and cash or similar instruments held by the authority must be distributed to the local governmental entities which nominated members to the authority; and

 (2) disbursement of assets must be based on the cash value of all assets and must be distributed in reimbursement to local government entities which have contributed cash funds or capital assets in proportion to the dollar value of contributions made by the government entities that have not been otherwise recovered by the contributing governmental entity through direct revenues.

 (D) The authority must keep annual and permanent records of cash contributions and the value of in‑kind donations of the governmental entities, and the records must be used to determine the distribution of assets of the authority based on the net present value of the contributions at the time it is dissolved.

 (E) If tax increment finance obligations have been issued previously by a municipality upon request of an authority, the authority’s tax increment finance district continues in existence upon dissolution of the authority pursuant to this section until the adoption by the municipality of the ordinance required by Section 31‑12‑270(C) finally dissolving the tax allocation fund and terminating the designation of the redevelopment project area for all tax increment finance obligations that may be issued by the municipality during the period for issuance described in Section 31‑12‑210(F). That period for issuance of obligations is not affected by the dissolution of the authority and, until the adoption of the ordinance required by Section 31‑12‑270(C), the municipality shall hold and exercise all powers with regard to adoption, amendment, implementation, and administration of redevelopment plans and the tax increment finance district, and issuance, amendment, implementation, and administration of tax increment finance obligations that might have been held and exercised by the dissolved authority.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1; 2004 Act No. 316, Section 1.

**SECTION 31‑12‑110.** Authority is an “agency”.

 Notwithstanding any provision of law or regulation, an authority is an “agency” for purposes of Chapter 78 of Title 15.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑120.** Compliance with Consolidated Procurement Code.

 Notwithstanding any provision of law or regulation, an authority must comply with the provisions of Chapter 35 of Title 11, South Carolina Consolidated Procurement Code, and the related regulations issued by the State Fiscal Accountability Authority. If a provision of this chapter is inconsistent with a provision of the Procurement Code or regulation, the Procurement Code and regulation control.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 31‑12‑200.** Property scheduled for disposal to constitute a tax increment finance district.

 Upon creation of a redevelopment authority by the Governor, properties scheduled for disposal within a particular municipality, whether contiguous or not, including to the extent that the State may then or afterwards have or acquire jurisdiction, all properties over which the State has ceded jurisdiction in whole or in part to the United States of America, and including both the real property to be disposed of by an authority as well as any other properties disposed of directly by the federal government to public or private persons or entities, other than disposal to the federal government for other federal defense uses, in connection with military installation closure and realignment or other federal defense site closure, realignment, or drastic downsizing, without further action being necessary, constitute a tax increment finance district in accordance with the remaining provisions of this chapter.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑210.** Issuance of obligations for redevelopment project by municipality.

 (A) Obligations secured by the special tax allocation fund set forth in Section 31‑12‑270 for the redevelopment project area may be issued by the municipality upon the request of the authority to provide for redevelopment project costs. The obligations must be retired in the manner provided in the ordinance authorizing the issuance of the obligations by the receipts of taxes levied as specified in Section 31‑12‑270 against the taxable property included in the area and other revenue as specified in Section 31‑12‑310 designated by the municipality or by the authority, which source does not involve revenues from any tax or license.

 (B) In the ordinance authorizing the issuance of the obligations the municipality may pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 31‑12‑270 to the payment of the redevelopment project costs and obligations. A pledge of funds in the special tax allocation fund must provide for distribution to the taxing districts of monies not required for payment and securing of the obligations and the excess funds are surplus funds. In the event a municipality pledges only a portion of the monies in the special tax allocation fund for the payment of redevelopment project costs or obligations, any funds remaining in the special tax allocation fund after complying with the requirements of the pledge also are considered surplus funds. All surplus funds must be distributed annually to the taxing districts in the redevelopment project area by being paid by the municipality to the county treasurer of the county in which the municipality is located. The county treasurer immediately shall make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county treasurer to the affected districts of real property taxes from real property in the redevelopment project area.

 (C) In addition to obligations secured by the special tax allocation fund, the municipality, with the concurrence of the authority evidenced by its resolution, may pledge for a period not greater than the term of the obligations toward payment of the obligations any part of the revenues remaining after payment of operation and maintenance, of all or part of any redevelopment project.

 (D) The governing body of the municipality may provide that the obligations may:

 (1) be issued in one or more series;

 (2) bear a date or dates;

 (3) mature at a time or times not exceeding thirty years from their respective dates;

 (4) bear a rate or rates of interest as the governing body shall determine;

 (5) be in a denomination or denominations;

 (6) be in either coupon or registered form;

 (7) carry registration and conversion privileges;

 (8) be executed;

 (9) be payable in a medium of payment, at a place or places;

 (10) be subject to terms of redemption, with or without premium;

 (11) be declared or become due before the maturity date;

 (12) provide for the replacement of mutilated, destroyed, stolen, or lost bonds;

 (13) be authenticated in a manner and upon compliance with conditions and

 (14) contain other terms and covenants.

 (E) If the governing body determines to sell obligations, the obligations must be sold at public or private sale in a manner and upon terms as the governing body considers best for the interests of the municipality.

 (F) The obligations must be issued not later than fifteen years after the adoption of an ordinance by the municipality pursuant to Section 31‑12‑280 concurring in an authority’s redevelopment plan.

 (G) A certified copy of the ordinance authorizing the issuance of the obligations must be filed with the clerk of the governing body of each county and treasurer of each county in which any portion of the tax municipality is situated and constitutes the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

 (H) A municipality also may issue its obligations to refund in whole or in part obligations previously issued by the municipality under the authority of this chapter, whether at or before maturity, and all references in this chapter to “obligations” include these refunding obligations.

 (I) The debt incurred by a municipality pursuant to this chapter is exclusive of any statutory limitation upon the indebtedness a taxing district may incur. All obligations issued pursuant to this chapter must contain a statement on the face of the obligation specifying the sources from which payment is to be made and must state that the full faith, credit, and taxing powers are not pledged for the obligations.

 (J) The trustee or depositary under any indenture may be persons or corporations as the governing body designates, and may be nonresidents of South Carolina or incorporated under the laws of the United States or the laws of other states of the United States.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1; 2004 Act No. 316, Section 2.

**SECTION 31‑12‑250.** Disposition of proceeds of obligations.

 The proceeds from obligations issued under authority of Sections 31‑12‑200 through 31‑12‑320 of this chapter must be applied only for the purpose for which they were issued. Any premium and accrued interest received in a sale must be applied to the payment of the principal of or the interest on the obligations sold. A portion of the proceeds not needed for redevelopment project costs must be applied to the payment of the principal of or the interest on the obligations.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑260.** Obligations exempt from taxation.

 The obligations authorized by this chapter and the income from the obligations and all security agreements and indentures executed as security for the obligations made pursuant to the provisions of this chapter and the revenue derived from the obligations are exempt from all taxation in the State of South Carolina except for inheritance, estate, or transfer taxes, and all security agreements and indentures made pursuant to the provisions of this chapter are exempt from all state stamp and transfer taxes.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑270.** Adoption of ordinance concurring in redevelopment plan; issuance of obligations; retirement of obligations; disposition of funds.

 (A) A municipality, after the adoption of an ordinance pursuant to Section 31‑12‑280 concurring in an authority’s redevelopment plan, may issue obligations under this chapter upon the request of the redevelopment authority to finance the redevelopment project upon adoption of an ordinance requiring that:

 (1) after the issuance of the obligations; and

 (2) after the total equalized assessed valuation of the taxable real property in a redevelopment project area exceeds the certified “total initial equalized assessed value” established in accordance with Section 31‑12‑300(B) of all taxable real property in the project area, the ad valorem taxes, if any, arising from the levies upon taxable real property in the project area by taxing districts and tax rates determined in the manner provided in Section 31‑12‑300(B) each year after the obligations have been issued until obligations issued under this chapter have been retired and redevelopment project costs have been paid must be divided as follows:

 (a) that portion of taxes levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the total initial equalized assessed value of all taxable real property in the redevelopment project area must be allocated to, and when collected must be paid by the county treasurer to, the respective affected taxing districts in the manner required by law in the absence of the adoption of the redevelopment plan; and

 (b) that portion, if any, of taxes which is attributable to the increase in the current total equalized assessed valuation of all taxable real property in the redevelopment project area above the total initial equalized assessed value of taxable real property in the redevelopment project area must be allocated to, and when collected must be paid to, the municipality which must deposit the taxes into a special fund called the special tax allocation fund of the municipality for the purpose of paying redevelopment project costs and obligations incurred in the payment of the costs and obligations. The municipality may pledge in the ordinance the funds in and to be deposited in the special tax allocation fund for the payment of the costs and obligations.

 (B) When obligations issued under this chapter have been retired and redevelopment project costs incurred under this chapter have been paid or budgeted pursuant to the redevelopment plan, as evidenced by resolution of the governing body of the municipality, concurred in by resolution of the authority, all surplus funds remaining in the special tax allocation fund must be paid by the municipal treasurer to the county treasurer. Immediately after receiving the payment, the treasurer shall pay the funds to the taxing districts in the redevelopment project area in the same manner and proportion as the most recent distribution by the treasurer to the affected districts of real property taxes from real property in the redevelopment project area.

 (C) Upon the payment of all redevelopment project costs, retirement of all obligations of a municipality issued pursuant to this chapter, and the distribution of surplus monies pursuant to this section, with the fifteen‑year period for issuance of obligations as provided in Section 31‑12‑210(F) having passed, the municipality shall adopt an ordinance dissolving the tax allocation fund for the project redevelopment area and terminating the designation of the redevelopment project area as a redevelopment project area for purposes of this chapter. After that, the rates of the taxing districts must be extended and taxes levied, collected, and distributed in the manner applicable in the absence of the adoption of a redevelopment plan and the issuance of obligations pursuant to this chapter.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1; 2004 Act No. 316, Section 3.

**SECTION 31‑12‑280.** Prerequisites to issuance of obligations.

 (A) Before the issuance of obligations under this chapter, the municipality must set forth by way of ordinance the following:

 (1) a copy of the redevelopment plan of the authority;

 (2) a statement indicating the need for and proposed use of the proceeds of the obligations in relationship to the redevelopment plan;

 (3) a list of all real property in the redevelopment project area; and

 (4) a statement of the estimated impact of the redevelopment plan upon the revenues of all taxing districts in which a redevelopment project area is located.

 (B) Before approving the issuance of obligations under this chapter, the governing body of the municipality must hold a public hearing on the redevelopment plan after published notice in a newspaper of general circulation in the county in which the tax increment finance district is located not less than fifteen days and not more than thirty days before the hearing. The notice must include:

 (1) the time and place of the public hearing;

 (2) a notification that all interested persons will be given an opportunity to be heard at the public hearing;

 (3) a description of the redevelopment project area, the redevelopment plan, and the redevelopment project; and

 (4) the maximum estimated term of obligations to be issued at that time.

 (C) Not less than forty‑five days before the date set for the public hearing, the municipality must give the same notice to all taxing districts of which taxable property is included in the redevelopment project area.

 (D) Adoption of an ordinance approving the issuance of obligations under this chapter does not preclude amendments to the redevelopment plan of the authority and the proceeds of obligations issued may be applied to the implementation of the amended redevelopment plan.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑290.** Special tax allocation fund; carrying forward of unexpended funds.

 During the existence of the special tax allocation fund created pursuant to this chapter, funds not otherwise expended may be carried forward from year to year to be applied to future years’ obligations and redevelopment costs and are not surplus funds subject to distribution pursuant to the provisions of Sections 31‑12‑200 through 31‑12‑320 unless determined otherwise by resolution of the authority.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1; 2004 Act No. 316, Section 4.

**SECTION 31‑12‑300.** Certification by county auditor; determination of value taxable property in project area.

 (A) If a municipality authorizes by ordinance the issuance of obligations pursuant to Section 31‑12‑210, the auditor of the county in which the municipality is situated, immediately after adoption of the ordinance pursuant to Section 31‑12‑210 and upon request of the municipality, shall determine and certify:

 (1) the most recently ascertained equalized assessed value of all taxable real property within the redevelopment project area, as of the date of creation of the authority pursuant to Section 31‑12‑200 or the date the properties were scheduled for disposal by final action of the federal government in the case of properties added after the date of creation of the authority, which value is the “initial equalized assessed value” of the property; and

 (2) the total equalized assessed value of all taxable real property within the redevelopment project area as of the date of the creation of the authority pursuant to Section 31‑12‑200, or the date the properties were scheduled for disposal by final action of the federal government in the case of properties added after the date of creation of the authority, and certifying the amount as the “total initial equalized assessed value” of the taxable real property within the redevelopment project area. Another official required by law to ascertain the amount of the equalized assessed value of all taxable property within the district shall cooperate and assist the county auditor in making this determination.

 (B)(1) After the county auditor has certified the total initial equalized assessed value of the taxable real property in the area, then in respect to every taxing district containing a redevelopment project area, the county auditor or any other official required by law to ascertain the amount of the equalized assessed value of all taxable property within the district for the purpose of computing the rate percent of tax to be extended upon taxable property within the district, shall ascertain, in every year that obligations are outstanding for redevelopment projects in the redevelopment area, the amount of value of taxable property in a project redevelopment area by including in the amount the certified total initial equalized assessed value of all taxable real property in the area instead of the equalized assessed value of all taxable real property in the area.

 (2) The rate percent of tax determined must be extended to the current equalized assessed value of all property in the redevelopment project area in the same manner as the rate percent of tax is extended to all other taxable property in the taxing district. The method of extending taxes established under this section terminates when the municipality adopts an ordinance dissolving the special tax allocation fund for the redevelopment project.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1; 2004 Act No. 316, Section 5.

**SECTION 31‑12‑310.** Disposition of revenues.

 (A) Revenues received by the municipality or authority from any property, building, or facility owned by the municipality or authority, or any agency or authority established by the municipality, in the redevelopment project area may be used to pay redevelopment project costs or reduce outstanding obligations of the municipality incurred under this chapter for redevelopment project costs. If the obligations are used to finance the extension or expansion of a system as defined in Section 6‑21‑40 in the redevelopment project area, all or a portion of the revenues of the system, whether or not located entirely within the redevelopment project area, including the revenues of the redevelopment project, may be pledged to secure the obligations issued under this chapter.

 (B) The municipality is fully empowered to use any of the powers granted by either or both of the provisions of Chapter 17 of Title 6, The Revenue Bond Refinancing Act of 1937, or the provisions of Chapter 21 of Title 6, Revenue Bond Act for Utilities. In exercising the powers conferred by the provisions, the municipality may make any pledges and covenants authorized by the provisions of those chapters. The municipality may place the revenues in the special tax allocation fund or a separate fund which must be held by the municipality or financial institution designated by the municipality.

 (C) Revenue received by the municipality or authority from the sale or other disposition of real property acquired by the municipality or authority with the proceeds of obligations issued under the provisions of this chapter must be deposited by the municipality or authority in the special tax allocation fund of the municipality or a separate fund which must be held by the municipality or authority or a financial institution designated by the municipality or authority, with the proceeds used to discharge the obligations issued pursuant to this chapter, or otherwise, to further the purposes of the redevelopment project.

 (D) Proceeds of grants may be pledged by the municipality and deposited in the special tax allocation fund or a separate fund.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.

**SECTION 31‑12‑320.** Joint approval of redevelopment plan covering more than one municipality.

 If the redevelopment project area is located within more than one municipality, the municipalities may approve jointly a redevelopment plan and authorize obligations as provided under the provisions of this chapter.

HISTORY: 1994 Act No. 462, Section 1; 1998 Act No. 421, Section 1.