

## Session 115 - (2003-2004)

### H 3919 General Bill, By Kirsh and Witherspoon

#### Similar (S 0274)

**Summary:** Tax credits issued by the Department of Revenue; Definitions of person, limited liability companies and single-member limited liability companies as relates to tax purposes

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-2-100 SO AS TO PROVIDE THAT A TAX CREDIT ADMINISTERED BY THE DEPARTMENT OF REVENUE IS USEABLE IN THE YEAR IT IS GENERATED AND IS NONREFUNDABLE; TO AMEND SECTION 12-2-20, RELATING TO THE DEFINITION OF "PERSON" FOR TAXATION PURPOSES, SO AS TO PROVIDE THAT THE DEFINITION APPLIES NOT ONLY IN TITLE 12, BUT ALSO IN OTHER TITLES WHICH PROVIDE FOR TAXES THAT ARE ADMINISTERED BY THE DEPARTMENT OF REVENUE; TO AMEND SECTION 12-2-25, AS AMENDED, RELATING TO DEFINITIONS PERTAINING TO LIMITED LIABILITY COMPANIES AND SINGLE-MEMBER LIMITED LIABILITY COMPANIES, SO AS TO PROVIDE THAT THE DEFINITIONS APPLY NOT ONLY IN TITLE 12, BUT ALSO IN OTHER TITLES WHICH PROVIDE FOR TAXES THAT ARE ADMINISTERED BY THE DEPARTMENT OF REVENUE; TO AMEND SECTION 12-6-40, AS AMENDED, RELATING TO ADOPTION OF THE INTERNAL REVENUE CODE, SO AS TO ADOPT IT TO STATE LAW AS AMENDED THROUGH 2002; TO AMEND SECTION 12-6-540, RELATING TO THE STATE INCOME TAX RATES APPLICABLE TO EXEMPT ORGANIZATIONS AND COOPERATIVES, SO AS TO PROVIDE A SPECIFIC REFERENCE TO THE TAX RATE APPLICABLE TO HOMEOWNERS' ASSOCIATIONS; TO AMEND SECTION 12-8-580, AS AMENDED, RELATING TO STATE INCOME TAX WITHHOLDING ON PROCEEDS OF THE SALE OF REAL PROPERTY BY NONRESIDENTS, SO AS TO CONFORM THE CALCULATION OF AMOUNTS SUBJECT TO WITHHOLDING TO THE PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986 ALLOWING THE EXCLUSION FROM TAXABLE INCOME OF A PORTION OF THE GAIN ON THE SALE OF A PRINCIPAL RESIDENCE AND TO ALLOW THE DEPARTMENT OF REVENUE TO REVOKE EXEMPTIONS FROM WITHHOLDING ALLOWED FOR CERTAIN TRANSACTIONS IF THE DEPARTMENT DETERMINES THE NONRESIDENT IS NOT COOPERATING IN THE DETERMINATION OF THE TAXPAYER'S SOUTH CAROLINA INCOME TAX LIABILITY; TO AMEND SECTION 12-13-50, RELATING TO EXCEPTIONS FROM THE BUILDING AND LOAN ASSOCIATION INCOME TAX, SO AS TO PROVIDE THAT PAYMENT OF THE INCOME TAX PROVIDED IN CHAPTER 13, TITLE 12 SHALL NOT BE IN LIEU OF DEED RECORDING FEES; TO AMEND SECTIONS 12-13-70, 12-20-150, 12-28-940, 12-43-210, AND 12-43-230, RELATING TO THE ADMINISTRATION OF THE DEPARTMENT OF REVENUE, THE COMPUTATION OF MOTOR FUEL TAXES, THE ESTABLISHMENT OF UNIFORM AND EQUITABLE TAX ASSESSMENTS, AND THE PROMULGATION OF DEFINITIONAL REGULATIONS TO FACILITATE THE ESTABLISHMENT OF UNIFORM TAX ASSESSMENTS, SO AS TO CHANGE THE DEPARTMENT'S DUTY TO PROMULGATE REGULATIONS FROM MANDATORY TO PERMISSIVE, TO CLARIFY THE DEPARTMENT'S AUTHORITY TO ISSUE ADVISORY OPINIONS, AND TO MAKE TECHNICAL CORRECTIONS; TO AMEND SECTION 12-54-110, RELATING TO THE POWER OF THE DEPARTMENT OF REVENUE TO SUMMON A TAXPAYER OR OTHERS, SO AS TO INCLUDE TAX MATTERS AND OTHER MATTERS ADMINISTERED BY THE DEPARTMENT; TO AMEND SECTION 12-6-3360, AS AMENDED, RELATING TO THE JOB TAX CREDIT, SO AS TO PROVIDE FOR COUNTY DESIGNATIONS TO BE EFFECTIVE FOR THE TAXABLE YEARS BEGINNING THE FOLLOWING CALENDAR YEAR; TO AMEND SECTION 12-6-3415, RELATING TO INCOME TAX CREDIT FOR RESEARCH AND DEVELOPMENT EXPENSES, SO AS TO MAKE IT APPLICABLE ONLY FOR RESEARCH EXPENSES; TO AMEND SECTION 12-6-3470, RELATING TO EMPLOYER TAX CREDIT, SO AS TO EXEMPT APPLICATION OF THE MAXIMUM AGGREGATE CREDIT FOR EMPLOYEES IN DISTRESSED COUNTIES; TO AMEND SECTION 12-6-3310, RELATING TO CREDITS AGAINST INCOME TAX, SO AS TO PROVIDE FOR PASS THROUGH OF A CREDIT TO A SHAREHOLDER, MEMBER, OR PARTNER OF AN "S" CORPORATION, LIMITED LIABILITY COMPANY TAXED LIKE A PARTNERSHIP, AND PARTNERSHIP; TO AMEND SECTION 12-6-3365, RELATING TO CORPORATE INCOME TAX MORATORIUM FOR JOB CREATION, SO AS TO REVISE THE DATA USED FOR COMPUTING A COUNTY'S UNEMPLOYMENT RATE AND TO PROVIDE THAT THE DEPARTMENT NAME THE MORATORIUM COUNTIES, EFFECTIVE FOR THE TAXABLE YEAR BEGINNING THE FOLLOWING CALENDAR YEAR; TO AMEND SECTION 12-44-30, AS AMENDED, AND SECTION 4-12-30, AS AMENDED, BOTH RELATING TO THE DEFINITION OF "MINIMUM INVESTMENT" FOR PURPOSES OF A FEE IN LIEU OF PROPERTY TAX, BOTH SO AS TO PROVIDE FOR EFFECTIVENESS OF COUNTY DESIGNATIONS IN THE FOLLOWING CALENDAR YEAR, AND TO PROVIDE THAT THE DEPARTMENT DESIGNATE REDUCED INVESTMENT COUNTIES, EFFECTIVE FOR A SPONSOR WHOSE FEE AGREEMENT IS SIGNED IN THE CALENDAR YEAR FOLLOWING THE DESIGNATION; TO REPEAL SECTION 12-10-35, RELATING TO A MORATORIUM ON STATE CORPORATE INCOME TAXES; BY ADDING SECTION 12-6-535 SO AS TO PROVIDE THAT FOR PURPOSES OF INTERNAL REVENUE CODE SECTION 641(c), AN ELECTING SMALL BUSINESS

TRUST IS TAXED AT THE HIGHEST RATE PROVIDED IN SECTION 12-6-510; TO AMEND SECTION 12-6-5020, RELATING TO ENTITIES AUTHORIZED TO FILE CONSOLIDATED CORPORATE INCOME TAX RETURNS, SO AS TO PROVIDE THAT A CORPORATION THAT HAS ELECTED TO BE TAXED UNDER SUBCHAPTER S OF THE INTERNAL REVENUE CODE MAY NOT JOIN IN THE FILING OF A CONSOLIDATED INCOME TAX RETURN; TO AMEND SECTION 12-21-1090, RELATING TO REGULATIONS FOR THE PAYMENT AND COLLECTION OF CERTAIN TAXES, SO AS TO ALLOW THE DEPARTMENT TO PROMULGATE REGULATIONS AND ISSUE ADVISORY OPINIONS FOR THE PAYMENT AND COLLECTION OF CERTAIN TAXES; TO AMEND SECTION 12-35-40, RELATING TO MULTISTATE DISCUSSIONS OF SIMPLIFICATION REQUIREMENTS IN CONNECTION WITH THE SIMPLIFIED SALES AND USE TAX ADMINISTRATION ACT, SO AS TO PROVIDE THAT THE DELEGATION TO THE MULTISTATE DISCUSSION MEETINGS MAY BE REIMBURSED FOR LODGING, AIR FARE, AND OTHER BUSINESS EXPENSES; TO AMEND SECTION 12-36-2510, RELATING TO THE PROCEDURE FOR SEGREGATING SALES AND USE TAX WHEN IT IS IMPRACTICAL, SO AS TO AUTHORIZE THE DEPARTMENT OF REVENUE TO ISSUE CERTIFICATES ALLOWING A TAXPAYER TO PURCHASE TANGIBLE PERSONAL PROPERTY TAX FREE, TO PROVIDE THAT THE TAXPAYER BE LIABLE FOR ANY TAXES, AND TO PROVIDE A PROCEDURE FOR THE EFFICIENT ADMINISTRATION OF THIS PROCEDURE; TO AMEND SECTION 12-36-1310, AS AMENDED, RELATING TO THE IMPOSITION OF A STATE USE TAX ON CERTAIN TANGIBLE PERSONAL PROPERTY AND PROVIDING A CREDIT FOR TAXES PAID IN ANOTHER STATE, SO AS TO REQUIRE PROOF THAT THE SALES OR USE TAX WAS DUE AND PAID IN THE OTHER STATE AND TO DELETE A RECIPROCITY REQUIREMENT; TO AMEND SECTION 12-53-40, RELATING TO COSTS AND EXPENSES OF TAX SALES AND COLLECTIONS, SO AS TO INCLUDE THE COST OF FILING, ENROLLING, AND SATISFACTION OF A STATE TAX LIEN; BY ADDING SECTION 12-54-124 SO AS TO PROVIDE THAT IN THE CASE OF THE TRANSFER OF A MAJORITY OF THE ASSETS OF A BUSINESS OTHER THAN CASH, ANY TAX GENERATED BY THE BUSINESS WHICH WAS DUE ON OR BEFORE THE DATE OF THE TRANSFER CONSTITUTES A LIEN AGAINST THE ASSETS IN THE HANDS OF THE TRANSFEREE UNTIL THE TAXES ARE PAID, TO PROVIDE THAT FAIR MARKET VALUE MUST BE USED TO DETERMINE WHETHER A MAJORITY OF THE ASSETS HAVE BEEN TRANSFERRED, TO PROVIDE THAT THE DEPARTMENT OF REVENUE MAY NOT ISSUE A LICENSE TO CONTINUE THE BUSINESS TO THE TRANSFEREE UNTIL ALL TAXES DUE TO THE STATE HAVE BEEN PAID AND MAY REVOKE A LICENSE ISSUED TO A BUSINESS THAT VIOLATES THIS PROVISION; TO AMEND SECTION 12-54-25, RELATING TO INTEREST THAT MUST BE PAID ON ANY TAX THAT IS NOT PAID WHEN DUE, SO AS TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 12-54-240, AS AMENDED, RELATING TO THE DISCLOSURE OF CERTAIN RECORDS OF AND REPORTS AND RETURNS FILED WITH THE DEPARTMENT OF REVENUE, SO AS TO INCLUDE AS AN EXCEPTION TO THE PROHIBITION OF DISCLOSURE INFORMATION PURSUANT TO A SUBPOENA ISSUED BY A FEDERAL OR THE STATE GRAND JURY; TO AMEND ARTICLE 1, CHAPTER 60 OF TITLE 12, RELATING TO SOUTH CAROLINA REVENUE PROCEDURES ACT, SO AS TO REVISE THE MANNER IN WHICH AND CONDITIONS UNDER WHICH DISPUTES OR CLAIMS WITH THE DEPARTMENT OF REVENUE ARE DETERMINED AND RESOLVED; TO AMEND ARTICLE 5, CHAPTER 60 OF TITLE 12, RELATING TO STATE REVENUE APPEALS PROCEDURES, SO AS TO REVISE THESE APPEAL PROCEDURES; TO AMEND SECTION 12-60-2110, RELATING TO PROPERTY TAX ASSESSMENT PROTESTS, SO AS TO REVISE THE TIME FOR FILING THESE PROTESTS; TO AMEND SECTION 12-60-2510, AS AMENDED, RELATING TO PROPERTY TAX ASSESSMENT NOTICES, SO AS TO CLARIFY CERTAIN REFERENCES IN THE SECTION; TO AMEND SECTION 12-60-2910, RELATING TO OBJECTIONS TO PERSONAL PROPERTY TAX ASSESSMENTS, SO AS TO REVISE THE TIME WITHIN WHICH A TAXPAYER MUST OBJECT TO THE ASSESSMENT; TO AMEND ARTICLE 13, CHAPTER 60 OF TITLE 12, RELATING TO PROCEDURES AND CONTESTED REVENUE CASES, SO AS TO REVISE THE DUTIES, FUNCTIONS, AND RESPONSIBILITIES OF THE ADMINISTRATIVE LAW JUDGE DIVISION AND DEPARTMENT HEARING OFFICERS; TO AMEND SECTION 30-2-30, RELATING TO DEFINITIONS USED IN THE FAMILY PRIVACY PROTECTION ACT OF 2002, SO AS TO PROVIDE THAT PERSONAL INFORMATION DOES NOT MEAN INFORMATION ABOUT THE NAMES AND ADDRESSES FROM REGISTRATION DOCUMENTS FILED WITH THE DEPARTMENT OF REVENUE AS A BUSINESS ADDRESS WHICH ALSO MAY BE A PERSONAL ADDRESS; AND TO REPEAL SECTION 6-4-30 RELATING TO THE DUTIES OF THE DEPARTMENT OF REVENUE IN CONNECTION WITH THE ACCOMMODATIONS TAX.

<b>04/02/03</b>	<b>House</b>	<b>Introduced and read first time HJ-9</b>
<b>04/02/03</b>	<b>House</b>	<b>Referred to Committee on Ways and Means HJ-14</b>
<b>04/23/03</b>	<b>House</b>	<b>Committee report: Favorable with amendment Ways and Means HJ-28</b>
<b>04/29/03</b>	<b>House</b>	<b>Amended HJ-22</b>
<b>04/29/03</b>	<b>House</b>	<b>Read second time HJ-67</b>
<b>04/30/03</b>	<b>House</b>	<b>Read third time and sent to Senate HJ-20</b>

05/01/03	Senate	Introduced and read first time SJ-5
05/01/03	Senate	Referred to Committee on Finance SJ-5
05/29/03	Senate	Committee report: Favorable with amendment Finance SJ-17
05/29/03	Senate	Read second time SJ-18
05/29/03	Senate	Ordered to third reading with notice of amendments SJ-18
01/21/04	Senate	Recommitted to Committee on Finance SJ-16