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ABANDONED BUILDING / TEXTILE REVITALIZATION CREDITS

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BACKGROUND

- Textile Facilities Revitalization Act – The General Assembly has passed several versions of the Textile Revitalization Act – <u>this presentation covers sites acquired after December 31, 2007</u>
- Abandoned Buildings Revitalization Act just enacted in June 2013
- Both targeted at bolstering redevelopment of abandoned buildings – Textile Facilities Act more narrowly targets abandoned textile facilities
- Retail Facilities Revitalization Act has sunsetted (*i.e.* still available but only for those propertied issued a building permit prior to 7/1/2016 – H.B. 5001, Part IB, Section 117, Proviso 117.128)
- Acts are similar but there are some very important differences – many can be pitfalls for the unwary

BASIC COMPARISON

	Abandoned Building	Textile Mill Revitalization
Form to Claim	TC-55	TC-23
Repeal Date	Dec. 31, 2019 (carryforward good)	None
Qualifying Taxpayer (TP)	TP who rehabilitates an abandoned bldg., incurs minimum rehab expenses, and places building site in service for income producing purposes	TP who rehabilitates a textile mill site and places site in service for its intended use
Taxes Credit Available Against	Income, Bank Franchise, Savings & Loan, Corp. License Fee, & Insurance Premium, & (potential property taxes)	Income, Bank Franchise, Savings & Loan, Corp. License Fee, & Insurance Premium, & (potential property taxes)
Notice of Intent to DOR	Before incurring 1st rehab expenses	Before receiving building permit
Credit Amount	25% of actual rehab expenses (if 80% estimated hit & at least $250k if in an area with 25,000 people or more)	25% of actual rehab expenses
Caps	$500k per each bldg. site for income credit	None
Abandonment Period	At least 66% closed to business for at least 5 years immediately prior to TP files Notice	At least 80% closed to business for at least 1 year immediately prior
Subdivision	Allowed to subdivide bldg. if each bldg. site meets all other requirements itself (**tricky**)	Can subdivide into separate parcels but unclear if can get more than 1 credit
Time to Take Credit	Equal installments over 3 year period (5 year carryforward for unused credit)	Equal installments over 5 year period (same 5 year carryforward)

TEXTILE AND ABANDONED BUILDINGS ACTS – CONDITION OF SITE

Both Acts - Condition of Site

- According to DOR policy documents, an abandoned building or textile mill that has fallen in but remains on the ground and whose walls are collapsing meets the definition of an eligible site
- If the facility has been cleared except for the concrete foundation, the facility will not meet the definition of an eligible site.

QUALIFYING REHABILITATION EXPENSES – TEXTILE FACILITIES ACT

- Expenses or capital expenditures incurred in the rehabilitation, renovation, or redevelopment of the eligible site, <u>excluding</u> the <u>cost of</u> acquiring the <u>textile mill site</u> or the <u>cost of personal property</u> maintained at the textile mill site
- Includes demolition, environmental remediation, site improvements and construction of new buildings

QUALIFYING REHABILITATION EXPENSES – TEXTILE FACILITIES ACT

Distinguishing Real Property Costs and Personal Property (*i.e.* those that do NOT qualify as rehabilitation expenses):

- DOR guidance "depends on fact and circumstances"
- Generally, personal property is a movable item of property not permanently affixed to, or part of, real estate
- DOR will consider:
  - Mode of attachment;
  - Character of structure or the article;
  - Intent of parties making the annexation; and
  - Relationships of parties.
- DOR ***may*** consider whether the removal of property in question would be costly, time-consuming, and/or destructive to the building

TRANSFERABILITY OF INCOME TAX CREDIT - BOTH ACTS

- Transfer of <u>only</u> income tax credit <u>specifically</u> allowed
  - Transfer to both a tenant <u>and</u> a purchaser of the site (or applicable portion)
  - Similar notice to SCDOR required but silent on whether SCDOR has approval rights
    - Notice to SCDOR within 30 days

LOCAL GOVERNMENT APPROVALS – PROPERTY TAX CREDIT – BOTH ACTS

- Initial Approval by Resolution – By governing body of municipality (or county if located in an unincorporated area) approving the eligibility of the site and the proposed rehabilitation expenses
    - Both require "positive" majority vote – approval by majority of all council members <u>whether present or not</u>
- Final approval by ordinance and public hearing required
    - Local governing body must provide notice to all affected local taxing entities where the eligible site is located of its intention to grant the credit and the amount of the credit proposed to be granted
    - Notice must be at least 45 days prior to public hearing
    - If a local taxing entity does not file an objection to the credit with the locality prior to the public hearing, it is deemed to have consented to the credit
- Locality also required to find that the credit will not violate any existing TIF or GO Bond covenant, representation, or warranty

CERTIFICATION BY COUNTY OR MUNICIPALITY– BOTH ACTS

- Taxpayer may now apply to the municipality or county for a certification of the textile mill or abandoned building site
- Made by ordinance or binding resolution of governing body
- Taxpayer to include copy of certification on first return for which credit is claimed

DEMOLITION OF THE BUILDING – BOTH ACTS

Demolish Building and New Construction by Same Taxpayer

- According to both DOR policy documents, a taxpayer demolishes (completely destroys) an abandoned textile mill or an abandoned building (as the case my be) and constructs a new building meeting all the applicable Act's requirements.
- The taxpayer is eligible for the credit.

DEMOLITION OF THE BUILDING – BOTH ACTS

<u>Demolish Building and New Construction by Different Owners</u>

- According to DOR Policy Document, a developer purchases an abandoned textile mill or building and demolishes it.
- The developer sells the land to a business owner who will construct a new building on the land.
- Since the developer did not redevelop the site with a new building and the business owner purchased vacant land and not an abandoned textile mill or building, neither meets the applicable Act's requirements.
- Accordingly, neither the developer nor the business owner is eligible for the credit.

KEY POINTS

- Abandoned Buildings Credit not limited to textile facilities
- Abandonment Requirement:
  - Textile Facilities Credit – At least 80% of Textile Mill closed 1 year prior to eligibility determination
  - Abandoned Buildings Credit – 66% of building closed 5 years prior to Notice of Intent to Rehabilitate
- Notice to Government Entities – Abandoned Buildings Credit requires earlier and more detailed notice for income tax credit
- Abandoned Buildings Income Tax Credit is the same as Textile Facilities Credit but allows benefits to be received quicker (3 years vs. 5 years)
  - <u>But</u> Abandoned Building total credit capped at $500,000
- Abandoned Buildings Credit has minimum rehabilitation expense requirements
- No minimum investment requirement for Textile Facilities Credit

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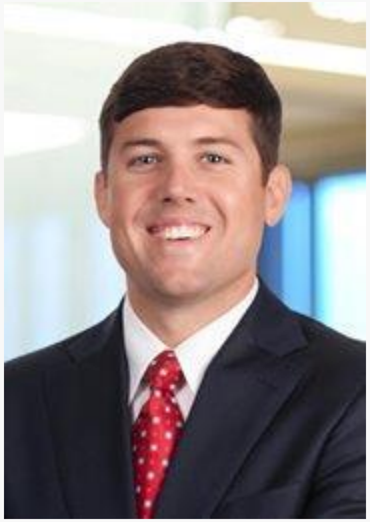

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