



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	S. 0677	Signed by Governor on May 17, 2021
Author:	Davis	
Subject:	Tax Credits	
Requestor:	Senate	
RFA Analyst(s):	Jolliff	
Impact Date:	July 8, 2021	

Fiscal Impact Summary

This bill amends Section 12-2-100 regarding allocations of the Certified Historic Structure Credits, S.C. Housing Tax Credit, and Textiles Rehabilitation Credit. This bill is not expected to impact expenditures for the Department of Revenue (DOR). The agency will manage the changes with existing staff and resources.

This bill clarifies a potential issue by allowing an allocation of the credits to partners or members and also requires that the allocation must be allowed for those transactions that may be categorized by the Internal Revenue Code (IRC) as a disguised sale. We expect that the number of projects undertaken will not be affected by this bill, and therefore, we do not anticipate a significant change in total tax credits earned. However, based upon discussions with DOR, this bill may shift the timing of the usage of the credits forward by clearly specifying how credits may be allocated to other taxpayers. Claims for the Certified Historic Structures Credits and the Textiles Rehabilitation Credit are expected to total \$58,597,000 in FY 2021-22. The S.C. Housing Tax Credit was enacted by Act 137 of 2020 (H. 3998). We have not received data on actual claims for this tax credit currently. Further, we do not know how much taxpayers have earned for these tax credits and have carried forward due to not having a sufficient tax liability to claim the full amount earned. This bill may allow more of the credits to be used, particularly in earlier tax years, by allocating them to other taxpayers. The potential amount that may be affected is unknown, and therefore, the potential change in General Fund revenue is undetermined.

Explanation of Fiscal Impact

Signed by Governor on May 17, 2021

State Expenditure

This bill clarifies how a tax credit earned pursuant to §12-6-3535 (Certified Historic Structure Credit and Certified Historic Residential Structure Credit), §12-6-3795, (S.C. Housing Tax Credit), or §12-65-10 (Textiles Rehabilitation Credit) by a partnership or limited liability company (LLC) taxed as a partnership may be passed through to partners or members. This bill is not expected to impact expenditures for DOR. The agency will manage the changes with existing staff and resources.

State Revenue

This bill specifies that a tax credit earned by a partnership or LLC taxed as a partnership pursuant to §12-6-3535 (Certified Historic Structure Credit and Certified Historic Residential Structure Credit), §12-6-3795, (S.C. Housing Tax Credit), or §12-65-10 (Textiles Rehabilitation Credit), including any unused credit amount carried forward, may be passed through to the partners or members of the LLC on an annual basis. This bill allows an allocation of the entire credit to any partner or member who was a partner or member of the partnership or LLC at any time in the year in which the credit or unused carryforward was allocated. The bill also requires that the allocation must be allowed without regard to any provision of the IRC that may be interpreted as contrary to the allocation, including the treatment of the allocation as a disguised sale. The bill applies to projects placed in service after January 1, 2020, and before December 31, 2030, if the project is issued an eligibility statement after May 14, 2020.

The tables below show the total credits claimed in recent years for the Certified Historic Structures Credits and the Textiles Rehabilitation Credit.

Certified Historic Structure and Certified Historic Residential Structure Credits Actual and Estimates, Select Years

Fiscal Year	Amount
FY 2017-18	\$14,019,352
FY 2018-19	\$18,097,531
FY 2019-20 (estimate*)	\$24,751,000
FY 2020-21 (estimate)	\$25,165,000
FY 2021-22 (estimate)	\$25,350,000

Textiles Rehabilitation Credit Actual and Estimates, Select Years

Fiscal Year	Amount
FY 2017-18	\$30,190,222
FY 2018-19	\$30,808,169
FY 2019-20 (estimate*)	\$26,007,490
FY 2020-21 (estimate)	\$31,116,000
FY 2021-22 (estimate)	\$33,247,000

*estimate for Bank Tax only

Data Source: S.C. Department of Revenue, S.C. Department of Insurance; Estimates by Revenue and Fiscal Affairs

The S.C. Housing Tax Credit was enacted by Act 137 of 2020 (H. 3998). We have not received data on actual claims for this tax credit currently. In guidance issued by DOR for the new Housing Tax Credit in S.C. Revenue Ruling #21-5, the agency specified that a taxpayer cannot sell or transfer any portion of the credit allocation or carryforward. Further, in regard to a disguised sale, DOR determined that it is specifically not allowed for the S.C. Housing Tax

Credit. DOR has not issued any guidance related to disguised sales for the Certified Historic Structures Credits or the Textiles Rehabilitation Credit.


We expect that the number of projects undertaken will not be affected by this bill, and therefore, we do not anticipate a significant change in total tax credits earned. Based upon discussions with DOR, this bill may affect the timing of when credits are used. The bill may shift the usage of the credits forward by clearly specifying provisions for allocation of the credits. Based upon our estimates above, claims for the Certified Historic Structures Credits and the Textiles Rehabilitation Credit are expected to total \$58,597,000 in FY 2021-22. However, we do not know how much is earned for these tax credits but currently carried forward due to a taxpayer not having a sufficient tax liability to claim the full amount. This bill may allow taxpayers to use more of the credits, particularly in earlier tax years, by allocating them to other taxpayers. The potential amount that may be affected is unknown, and therefore, the potential change in General Fund revenue is undetermined.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director