

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 HOUSE AMENDMENTS AMENDED

5 June 7, 2012

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## S. 1167

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9 Introduced by Senator Lourie

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11 S. Printed 6/7/12--S.

12 Read the first time February 1, 2012.

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9 **A BILL**

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11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,  
12 1976, BY ADDING SECTION 31685 SO AS TO ALLOW A  
13 MUNICIPALITY AND ONE OR MORE TAXING DISTRICTS  
14 TO PROVIDE BY INTERGOVERNMENTAL AGREEMENT  
15 FOR PARTIAL OR MODIFIED PARTICIPATION IN A  
16 REDEVELOPMENT PROJECT; AND TO AMEND SECTION  
17 31680, SO AS TO CLARIFY AN AMENDMENT TO THE TAX  
18 INCREMENT FINANCING LAW; AND TO AMEND SECTION  
19 410310, AS AMENDED, RELATING TO THE IMPOSITION OF  
20 THE CAPITAL PROJECTS SALES TAX ACT, SO AS TO  
21 PROVIDE THAT THE LIMITATION APPLICABLE TO THE  
22 NUMBER OF CERTAIN LOCAL SALES AND USE TAXES  
23 THAT MAY BE IMPOSED IN A COUNTY AREA DOES NOT  
24 APPLY IN A COUNTY AREA IN WHICH, AS OF JULY 1, 2012,  
25 THERE WAS IMPOSED PURSUANT TO A LOCAL ACT OF  
26 THE GENERAL ASSEMBLY A LOCAL SALES AND USE TAX,  
27 THE REVENUES OF WHICH MUST BE USED TO OFFSET  
28 THE COSTS OF SCHOOL CONSTRUCTION, OTHER  
29 SCHOOL PURPOSES, OR OTHER GOVERNMENTAL  
30 EXPENSES, OR ANY COMBINATION OF THESE USES.

31 Amend Title To Conform

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33 Be it enacted by the General Assembly of the State of South  
34 Carolina:

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36 SECTION 1. The General Assembly finds and determines that the  
37 legislative findings contained in Section 31620 of the 1976 Code  
38 remain true and correct as of the effective date of this act. The  
39 General Assembly further finds and determines that it would  
40 further the purposes of the Tax Increment Financing Law, Sections  
41 31610, et seq. of the 1976 Code, and would be in the public  
42 interest, to explicitly confirm the ability of municipalities and one

1 or more taxing districts to provide by intergovernmental agreement  
2 for partial or modified participation in a redevelopment project.  
3 The General Assembly further finds that such intergovernmental  
4 agreements are consistent with and permissible under existing law,  
5 and accordingly the purpose of this act is to explicitly confirm the  
6 validity and enforceability of such intergovernmental agreements,  
7 whether entered into prior or subsequent to the effective date of  
8 this act. This act may not be construed to create a negative  
9 implication that any such intergovernmental agreement entered  
10 into prior to the effective date of this act is not valid or  
11 enforceable.

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13 SECTION 2. Chapter 6, Title 31 of the 1976 Code is amended by  
14 adding:

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16 “Section 31685. The municipality and one or more taxing  
17 districts may at any time provide by intergovernmental agreement  
18 that such taxing district or taxing districts will participate in a  
19 redevelopment project on a partial or modified basis. Such  
20 intergovernmental agreement shall become effective, and shall be  
21 valid and enforceable for the entire duration thereof, upon its  
22 approval by ordinance enacted by the municipality and by  
23 ordinance or resolution, whichever is applicable, enacted or  
24 approved by the affected taxing district or taxing districts.”

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26 SECTION 3. Section 31680 of the 1976 Code, as last amended by  
27 Act 109 of 2005, is further amended to read:

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29 “Section 31680. (A) Prior to the issuance of any obligations  
30 under this chapter, the municipality shall set forth by way of  
31 ordinance the following:

32 ~~(a)~~(1) a copy of the redevelopment plan containing a  
33 statement of the objectives of a municipality with regard to the  
34 plan;

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

38 ~~(c)~~(3) a statement containing the cost estimates of the  
39 redevelopment plan and redevelopment project and the projected  
40 sources of revenue to be used to meet the costs including estimates  
41 of tax increments and the total amount of indebtedness to be  
42 incurred;

1       ~~(d)~~(4) a list of all real property in the redevelopment project  
2 area;

3       ~~(e)~~(5) the duration of the redevelopment plan;

4       ~~(f)~~(6) a statement of the estimated impact of the  
5 redevelopment plan upon the revenues of all taxing districts in  
6 which a redevelopment project area is located;

7       ~~(g)~~(7) findings that:

8       ~~(i)~~(a) the redevelopment project area is an agricultural,  
9 blighted, or conservation area and that private initiatives are  
10 unlikely to alleviate these conditions without substantial public  
11 assistance;

12       ~~(ii)~~(b) property values in the area would remain static or  
13 decline without public intervention; and

14       ~~(iii)~~(c) redevelopment is in the interest of the health, safety,  
15 and general welfare of the citizens of the municipality.

16       (B) Before approving any redevelopment plan under this  
17 chapter, the governing body of the municipality must hold a public  
18 hearing on the redevelopment plan after published notice in a  
19 newspaper of general circulation in the county in which the  
20 municipality and any taxing district affected by the redevelopment  
21 plan is located not less than fifteen days and not more than thirty  
22 days prior to the hearing. The notice shall include:

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

24       (2) the boundaries of the proposed redevelopment project  
25 area;

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

28       (4) a description of the redevelopment plan and  
29 redevelopment project; and

30       (5) the maximum estimated term of obligations to be issued  
31 under the redevelopment plan.

32       (C) Not less than fortyfive days prior to the date set for the  
33 public hearing, the municipality shall give notice to all taxing  
34 districts of which taxable property is included in the  
35 redevelopment project area, and in addition to the other  
36 requirements of the notice set forth in the section, the notice shall  
37 request each taxing district to submit comments to the municipality  
38 concerning the subject matter of the hearing prior to the date of the  
39 public hearing.

40       (D) If a taxing district does not file an objection to the  
41 redevelopment plan at or prior to the date of the public hearing, the  
42 taxing district is considered to have consented to the  
43 redevelopment plan and the issuance of obligations under this

1 chapter to finance the redevelopment project, provided that the  
2 actual term of obligations issued is equal to or less than the term  
3 stated in the notice of public hearing. The municipality may issue  
4 obligations to finance the redevelopment project to the extent that  
5 each affected taxing district consents to the redevelopment plan.  
6 The tax increment for a taxing district that does not consent to the  
7 redevelopment plan must not be included in the special tax  
8 allocation fund.

9 (E) Prior to the adoption of an ordinance approving a  
10 redevelopment plan pursuant to Section 31680, changes may be  
11 made in the redevelopment plan ~~which do not alter the exterior~~  
12 ~~boundaries or do not substantially affect the general land use~~  
13 ~~established in the plan or substantially change the nature of the~~  
14 ~~redevelopment project, that do not add parcels to or expand the~~  
15 exterior boundaries of the redevelopment project area, change  
16 general land uses established pursuant to the redevelopment plan  
17 or the proposed use of the proceeds of the obligations in  
18 relationship to the redevelopment plan, or extend the maximum  
19 amount or term of obligations to be issued under the  
20 redevelopment plan, without further hearing or notice, provided  
21 that notice of the changes is given by mail to each affected taxing  
22 district and by publication in a newspaper or newspapers of  
23 general circulation within the taxing districts not less than ten days  
24 prior to the adoption of the changes by ordinance. Notice of the  
25 adoption of the ordinance must be published by the municipality in  
26 a newspaper having general circulation in the affected taxing  
27 districts. Any interested party may, within twenty days after the  
28 date of publication of the notice of adoption of the redevelopment  
29 plan, but not afterwards, challenge the validity of such adoption by  
30 action de novo in the court of common pleas in the county in  
31 which the redevelopment plan is located.

32 ~~After adoption of an ordinance approving a redevelopment plan,~~  
33 ~~any alteration in the exterior boundaries, general land uses~~  
34 ~~established pursuant to the redevelopment plan, maximum term of~~  
35 ~~maturity of obligations to be issued under the plan, the~~  
36 ~~redevelopment project must be approved by resolution of each~~  
37 ~~affected taxing district in accordance with the procedures provided~~  
38 ~~in this chapter for the initial approval of a redevelopment project~~  
39 ~~and designation of a redevelopment project area. If the~~  
40 ~~redevelopment project or portion of it is to be located outside of~~  
41 ~~the redevelopment project area, the municipality shall by~~  
42 ~~resolution make a specific finding of benefit to the redevelopment~~

1 ~~project area and provide written notice to the affected taxing~~  
2 ~~district. No further action is required of the municipality.~~

3 (F)(1) Subsequent to the adoption of an ordinance approving a  
4 redemption plan pursuant to Section 31680, the municipality  
5 may by ordinance make changes to the redemption plan that do  
6 not add parcels to or expand the exterior boundaries of the  
7 redemption project area, change general land uses established  
8 pursuant to the redemption plan, change the proposed use of  
9 the proceeds of the obligations in relationship to the  
10 redemption plan, or extend the maximum amount or term of  
11 obligations to be issued under the redemption plan, in  
12 accordance with the following procedures:

13 (a) The municipality must provide notice of the proposed  
14 changes by mail to each affected taxing district. The proposed  
15 changes shall become effective only with respect to affected taxing  
16 districts that consent to the proposed changes by resolution of the  
17 governing body of the taxing districts.

18 (b) The municipality must publish notice of the adoption  
19 of the ordinance in a newspaper having general circulation in the  
20 affected taxing districts. Any interested party may, within twenty  
21 days after the date of publication of the notice of adoption of the  
22 redemption plan, but not afterwards, challenge the validity of  
23 the adoption by action de novo in the court of common pleas in the  
24 county in which the redemption plan is located.

25 (2) Subsequent to the adoption of an ordinance approving a  
26 redemption plan pursuant to Section 31680, the municipality  
27 may by ordinance make changes to the redemption plan that  
28 adds parcels to or expands the exterior boundaries of the  
29 redemption project area, to general land uses established  
30 pursuant to the redemption plan, to the proposed use of the  
31 proceeds of the obligations in relationship to the redemption  
32 plan, or to extend the maximum amount or term of obligations to  
33 be issued under the redemption plan, in accordance with the  
34 procedures provided in this chapter for the initial approval of a  
35 redemption project and designation of a redemption project  
36 area.

37 (3) If the redemption project or portion of it is to be  
38 located outside of the redemption project area, the municipality  
39 shall by resolution make a specific finding of benefit to the  
40 redemption project area and provide written notice to the  
41 affected taxing district. No further action is required of the  
42 municipality.”

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2 SECTION 4. Section 410310 of the 1976 Code, as last amended  
3 by Act 49 of 2009, is further amended to read:  
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5 “Section 410310. Subject to the requirements of this article,  
6 the county governing body may impose a one percent sales and use  
7 tax by ordinance, subject to a referendum, within the county area  
8 for a specific purpose or purposes and for a limited amount of  
9 time. The revenues collected pursuant to this article may be used  
10 to defray debt service on bonds issued to pay for projects  
11 authorized in this article. However, at no time may any portion of  
12 the county area be subject to more than one percent sales tax levied  
13 pursuant to this article, pursuant to Chapter 37, Title 4, or pursuant  
14 to any local law enacted by the General Assembly. This limitation  
15 does not apply in a county area in which, as of July 1, 2012, a local  
16 sales and use tax WAs imposed pursuant to a local act of the  
17 General Assembly, the revenues of which are used to offset the  
18 costs of school construction, or other school purposes, or other  
19 government expenses, or for any combination of these uses.”  
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21 SECTION 5. This act takes effect upon approval by the Governor.  
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