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**CAPITAL IMPROVEMENT PLANNING  
AND FINANCING  
INSTITUTE OF GOVERNMENT  
FOR COUNTY OFFICIALS  
*Hilton Head Island, SC***

**July 30, 2011**

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## Legal Structure

- The County forms a non-profit corporation (“NPC”);
- Then simultaneously (or nearly so):
  - NPC issues Installment Purchase Revenue Bonds (“IPRBs”);
  - The County enters into a ground lease with NPC, leasing the project area (unimproved) to the NPC for nominal consideration;
  - NPC enters into a project lease with the County, leasing the project area back to the County (as improved) for a term of years less than the ground lease; lease payments are structured to equal the debt service due and owing by the NPC on the IPRBs; upon the payment of each lease payment,



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## Legal Structure (Cont'd.)

the County acquires a corresponding pro-rata interest in the asset financed (the project); and

- the NPC enters into an agreement assigning all of its rights to the lease rentals under the project lease to the lender (or a trustee acting on the lender's behalf).
- The lease payments made by the County are secured by a pledge of revenues (i.e. hospitality fees) or some other source of revenues; in the event such source is insufficient to make the required lease payments, then the County may, but is not required to, issue general obligation bonds and use the proceeds therefrom to make the lease payments.



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## Legal Structure (Cont'd.)

In such event, the general obligation bonds are issued only for a very short term and only in an amount equal to such discrepancy. Thus, only a minimal amount of the County's debt limit is used. If no revenue sources exist, the County may elect to issue "rolling" one-year general obligation bonds in an amount equal to the lease payments under the project lease to retire its leasing obligation.



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## Reasons for using this Structure

- There is a project that the County wants to undertake, but does not have sufficient debt limit to finance the project;
- The County has available debt limit for the project, but does not want to exhaust all of its available debt limit for this project; or
- The County plans to issue a revenue bond, but the coverage requirements imposed by the lending institution limit the amount of principal the County may borrow.

# Hospitality/Accommodations Financings



Act No. 284 of 2010 (S. 304) became law without the Governor's signature on June 28, 2010. The Act authorizes cities and counties to pledge locally imposed accommodations and hospitality fees in order to finance capital projects that promote tourism. It also allows a pledge of a specified portion of the accommodations fees received from the State for those purposes. This act also adds a definition of "tourist" to the Code as Section 6-1-760(A).

## Hospitality/Accommodations Financings (Cont'd.)



By the enactment of Act No. 284, the General Assembly has now provided a mechanism for pledging these fees so long as the specific purposes of Articles 5 and 7 of Chapter 1 of Title 6 of the Code are accomplished.

Specifically, Act No. 284 allows the tourism promotion purposes contained in Section 6-1-530 of the Code to be accomplished by the issuance of bonds under Article X, Section 14(10) of the Constitution by the:

## Hospitality/Accommodations Financings (Cont'd.)



- A. Use of the Special Source Revenue Bond procedures normally associated with Industrial Development Projects, as set forth in Section 4-29-68 of the Code;
- B. Use of the procedures in the Revenue Bond Act for Utilities, found in Section 6-21-10 of the Code, *et seq.*; and
- C. Use of the procedures in the Revenue Bond Refinancing Act of 1937, found in Section 6-17-10 of the Code, *et seq.*



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## Tax Incremental Financings

Tax Incremental Financing, as authorized by S.C. Code Ann. § § 31-7-10 *et seq.*, provides for the capture of that portion of *ad valorem* property tax revenues attributable to growth in real property values within a defined area. Typically, those revenues are pledged to secure bonds issued to make improvements in the defined area.





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## Key Definitions

### § 31-7-30. Definitions.

(1) “Blighted area” means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of a county where:

if improved, industrial, commercial, and residential buildings or improvements, because of a combination of five or more of the following factors: age; dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; excessive vacancies; overcrowding of structures and community facilities; presence of or potential environmental hazard; lack of ventilation, light, storm drainage, or sanitary facilities; inadequate utilities; inadequate transportation infrastructure; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; lack of community planning, are detrimental to the public safety, health, morals, or welfare; or



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## Key Definitions (Cont'd.)

(2) “Conservation area” means any vacant or improved area within the boundaries of a redevelopment project area located within the territorial limits of a county that is not yet a blighted area but, because of a combination of three or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; presence of or potential environmental hazard; lack of ventilation, light, storm drainage, or sanitary facilities; inadequate utilities; inadequate transportation infrastructure; excessive land coverage; depreciation of physical maintenance; lack of community planning; agricultural foreclosures; static or declining agricultural land rental rates;



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## Key Definitions (Cont'd.)

depopulation; area-wide economic decline; or static per capita income, is detrimental to the public safety, health, morals, or welfare and may become a blighted area.

(3) “Sprawl area” means a vacant or improved area within the boundaries of a redevelopment project area located within the territorial limits of the unincorporated area of a county that is not yet a blighted area nor a conservation area but, because of the existence of one or more of the following conditions, has the potential to become blighted or in need of conservation:

(a) The sprawl area is an unincorporated urban zone, UUZ, which is an area within the unincorporated portion of the county issuing the finding and has a population density equal to or greater than the average population density of the incorporated municipalities within the territorial limits of the county issuing the finding.



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## Key Definitions (Cont'd.)

(b) The sprawl area is a linear service zone, LSZ, which is an area within the unincorporated portion of the county issuing the finding which is or is likely to become an area no more than two miles wide at its widest point and no less than three miles in length and which, due to development within the zone, represents an impediment to vehicular and pedestrian traffic so that the county finds its existence a detriment to the:

- (i) economic health and well-being of the county;
- (ii) health or safety of the persons living, working, or traveling through the zone; or
- (iii) efficient provision of governmental services both within and without the zone.



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## Key Definitions (Cont'd.)

(c) The sprawl area is a rural redevelopment zone, RRZ, which is an area within the unincorporated portion of the county issuing the finding which consists primarily of vacant land which, if provided with certain environmental, energy, transportation, or communications infrastructure, could be developed as a planned community consisting of a minimum of one thousand contiguous acres of land, inclusive of flooded land or other forms of redevelopment, without regard to minimum acreage requirements, suitable for planned communities, other residential clusters, light industry, tourism and recreation facilities, retail centers, and locations suitable for manufacturing facilities.



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## Key Definitions (Cont'd.)

(4) “Redevelopment project” means any buildings, improvements, including street, road, and highway improvements, water, sewer and storm drainage facilities, parking facilities, tourism and recreation-related facilities, energy production or transmission infrastructure, communications technology, and public transportation infrastructure including, but not limited to, rail and airport facilities. Any project or undertaking authorized under Section 6-21-50 also may qualify as a redevelopment project under this chapter. All the projects are to be publicly owned. A redevelopment project for purposes of this chapter also includes affordable housing projects where all or a part of new property tax revenues generated in the tax increment financing district are used to provide or support publicly owned affordable housing in the district or is used to provide infrastructure projects to support privately owned affordable housing in the district.



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## **Key Definitions (Cont'd.)**

The term “affordable housing” as used herein means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed eighty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).



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## Key Definitions (Cont'd.)

(5) “Redevelopment project area” means an area designated by the county, which is not less in the aggregate than one and one-half acres and in respect to which the county has made a finding that there exist conditions that cause the area to be classified as a blighted area, a conservation area, or a sprawl area, or a combination of two or three of them. The total aggregate amount of all redevelopment project areas of any one county may not exceed five percent of the total acreage of the county but this limit does not apply with respect to these parts of a redevelopment project area comprised of a conservation area or a RRZ sprawl area.



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## Key Definitions (Cont'd.)

(6) “Redevelopment project costs” means and includes the sum 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 interest therein, demolition of buildings, and the clearing and grading of land;

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



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## Key Definitions (Cont'd.)

- (d) costs of the construction and long-term maintenance 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 any 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 thereto;
- (f) relocation costs, including relocation or removal costs of federal, state, or local government facilities or activities, to the extent that a county determines that relocation costs must be paid or required by federal or state law.



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## Key Definitions (Cont'd.)

(7) “Taxing districts” means counties, incorporated municipalities, schools, special purpose districts, and public and any other municipal corporations or districts with the power to levy taxes. Taxing districts include school districts which have taxes levied on their behalf.



## Procedure

- County Council adopts an ordinance establishing a Redevelopment Project Area
  - must include the Redevelopment Plan
  - must include statement of the need and use of obligations
  - must include statement estimating costs and sources of moneys
  - must include list of real property in Redevelopment Project Area
  - must include duration of Redevelopment Plan
  - must include statement of estimated impact of Redevelopment Plan upon revenues of other taxing districts and increases of school enrollment, if applicable



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## Procedure (Cont'd.)

- Prior to third reading, public hearing, duly noticed, must be held
- Not less than 45 days prior to public hearing, all taxing districts must be given notice and requested to comment
  - taxing districts must object to being included at or prior to date of public hearing or their incremental taxes are included
- School district receives an amount if enrollment increases
- Any subsequent changes to Redevelopment Plan must be approved by affected taxing districts



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## Important Points

- Generally limited to areas in aggregate not less than 1.5 acres and not greater than 5% of acreage of County
- Surplus moneys must be distributed to taxing districts
- Maturity of bonds may not exceed 30 years
- Bonds must be issued within 5 years of date of ordinance approving Redevelopment Plan
- Taxing districts must file an objection to opt out
- Only applies to taxes imposed on real property



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## Abbeville County, South Carolina

- On December 31, 2010, the Abbeville Public Facilities Corporation (the “Corporation”) issued its \$4,250,000 Taxable Installment Purchase Revenue Bond (County Administration Building Project), Series 2010 (Recovery Zone Economic Development Bond) (the “Bond”).
- This Bond was issued as a Recovery Zone Economic Development Bond under the American Recovery and Reinvestment Act (ARRA) and therefore, an interest payment subsidy equal to 45% of the interest due and payable on the Bond is received prior to each interest payment date.



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## Abbeville County, South Carolina

Unfortunately, this program has expired, so any future installment purchase financing (“IPF”) will likely be done on a tax-exempt basis.

- According to South Carolina jurisprudence, IPF is not debt (*see* Caddell v. Lexington County Sch. District 1; Redmond v. Lexington County Sch. District 4; Colleton County Taxpayers Ass’n v. Sch. Dist of Colleton County).
- Structured to maintain millage at uniform rate.
- Principal and interest (net of subsidy) paid from property taxes.



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*Thank You*

**Margaret C. Pope**  
**mpope@popezeigler.com**  
**803.354.4901**

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