~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 6, 2014

**S. 511**

Introduced by Senator Campsen

S. Printed 3/6/14--S.

Read the first time March 12, 2013.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 511) to amend Section 12‑43‑220, as amended, Code of Laws of South Carolina, 1976, relating to the four percent special assessment ratio, so as to provide, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. A. Section 12‑43‑220(c)(8) of the 1976 Code, as added by Act 179 of 2012, is amended to read:

“(8)(i) For ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, when the individual claiming the special four percent assessment ratio allowed by this item has an ownership interest in the residence that is less than fifty percent ownership in fee simple, then the value of the residence allowed the special four percent assessment ratio is a percentage of that value equal to the individual’s ownership interest in the residence, but not less than the amount provided pursuant to subitem (4) of this item. This subitem (8) does not apply in the case of a residence otherwise eligible for the special four percent assessment ratio when occupied jointly by a married couple or which remains occupied by a spouse legally separated from a spouse who has abandoned the residence. If the special four percent assessment ratio allowed by this item applies to only a fraction of the value of residence, then the exemption allowed pursuant to Section 12‑37‑220(B)(47) applies only to value attributable to the taxpayer’s ownership interest.

(ii) Notwithstanding ~~subitem~~ subsubitem (i), for ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, an applicant may qualify for the four percent assessment ratio on the entire value of the property if the applicant:

(A) owns at least a twenty‑five percent interest in the subject property with immediate family members;

(B) is not a member of a household currently receiving the four percent assessment ratio on another property; and

(C) otherwise qualifies for the four percent assessment ratio.

(iii) This subitem (8) does not apply to property held exclusively:

(A) by an applicant, or the applicant and the applicant’s spouse;

(B) by a trust if the person claiming the special four percent assessment ratio is the grantor or settlor of the trust, and the only beneficiaries of the trust are the grantor or settlor and any parent, spouse, child, grandchild, or sibling of the grantor or settlor;

(C) by a family limited partnership if the person claiming the special four percent assessment ratio transferred the subject property to the partnership, and the only members of the partnership are the person and the person’s parents, spouse, children, grandchildren, or siblings;

(D) by a limited liability company if the person claiming the special four percent assessment ratio transferred the subject property to the limited liability company, and the only members of the limited liability company are the person and the person’s parents, spouse, children, grandchildren, or siblings; or

(E) by any combination thereof.

The exception contained in this subsubitem (iii) does not apply if the applicant does not otherwise qualify for the four percent assessment ratio, including the requirement that the applicant, nor any member of the applicant’s household, claim the four percent assessment ratio on another residence.

For purposes of this subitem, ‘immediate family member’ means a parent, child, or sibling.”

B. This SECTION takes effect upon approval by the Governor and applies to property tax years beginning after 2011. If the property tax assessor determines that a person denied the four percent special assessment ratio in property tax year 2012 now qualifies for in property tax year 2012 pursuant to this act, the person must be refunded any property taxes paid in excess of the amount owed.

SECTION 2. Section 12‑43‑220(c)(1) of the 1976 Code is amended to read:

“(c)(1) The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property. If residential real property is held in trust and the income beneficiary of the trust occupies the property as a residence, then the assessment ratio allowed by this item applies if the trustee certifies to the assessor that the property is occupied as a residence by the income beneficiary of the trust. When the legal residence is located on leased or rented property and the residence is owned and occupied by the owner of a residence on leased property, even though at the end of the lease period the lessor becomes the owner of the residence, the assessment for the residence is at the same ratio as provided in this item. If the lessee of property upon which he has located his legal residence is liable for taxes on the leased property, then the property upon which he is liable for taxes, not to exceed five acres contiguous to his legal residence, must be assessed at the same ratio provided in this item. If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties. However, if the person claiming the four percent assessment ratio resides in the mobile home or single family residence and only rents a portion of the mobile home or single family residence to another individual as a residence, the foregoing provision does not apply and the four percent assessment ratio must be applied to the entire mobile home or single family residence. For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner‑applicant.”

SECTION 3. Except where provided otherwise, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill as amended is not expected to impact state revenues. The impact on local property tax revenue is expected to be minimal.

**Explanation of the Bill**

This bill allows for property held by immediate family members in an irrevocable trust, limited partnership, limited liability company, or any combination thereof to qualify for the special assessment ratio for owner occupied property. The bill requires that the applicant must otherwise qualify for the four percent assessment ratio and no member of the applicant’s household may claim the four percent assessment ratio on another residence. Currently, if a claimant owns less than 50% of a property, he/she may only claim the four percent assessment ratio on the portion of the property owned. This would exempt properties held by immediate family members in a trust, partnership, and/or limited liability company from the percentage reduction. Based upon discussions with county assessors, we expect very few properties to be impacted by this change due to the limited scope and the requirements included. The impact on local property tax revenue is expected to be minimal.

*Approved By:*

Frank A. Rainwater

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND SECTION 12‑43‑220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FOUR PERCENT SPECIAL ASSESSMENT RATIO, SO AS TO PROVIDE THAT AN ELIGIBILITY PROVISION REQUIRING A CERTAIN OWNERSHIP PERCENTAGE DOES NOT APPLY IF THE PROPERTY IS HELD BY A TRUST, FAMILY LIMITED PARTNERSHIP, OR LIMITED LIABILITY COMPANY UNDER CERTAIN SITUATIONS.

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

SECTION 1. Section 12‑43‑220(c)(8) of the 1976 Code, as added by Act 179 of 2012, is amended to read:

“(8)(i) For ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, when the individual claiming the special four percent assessment ratio allowed by this item has an ownership interest in the residence that is less than fifty percent ownership in fee simple, then the value of the residence allowed the special four percent assessment ratio is a percentage of that value equal to the individual’s ownership interest in the residence, but not less than the amount provided pursuant to subitem (4) of this item. This subitem (8) does not apply in the case of a residence otherwise eligible for the special four percent assessment ratio when occupied jointly by a married couple or which remains occupied by a spouse legally separated from a spouse who has abandoned the residence. If the special four percent assessment ratio allowed by this item applies to only a fraction of the value of residence, then the exemption allowed pursuant to Section 12‑37‑220(B)(47) applies only to value attributable to the taxpayer’s ownership interest.

(ii) Notwithstanding ~~subitem~~ subsubitem (i), for ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, an applicant may qualify for the four percent assessment ratio on the entire value of the property if the applicant:

(A) owns at least a twenty‑five percent interest in the subject property with immediate family members;

(B) is not a member of a household currently receiving the four percent assessment ratio on another property; and

(C) otherwise qualifies for the four percent assessment ratio.

(iii) This subitem (8) does not apply to property held exclusively:

(A) by an applicant, or the applicant and the applicant’s spouse;

(B) by an irrevocable trust if the person claiming the special four percent assessment ratio is the grantor or settlor of the irrevocable trust, and the only beneficiaries of the trust are the grantor or settlor and immediate family members;

(C) by a family limited partnership if the person claiming the special four percent assessment ratio transferred the subject property to the partnership, and the only members of the partnership are the person and the person’s immediate family members;

(D) by a limited liability company if the person claiming the special four percent assessment ratio transferred the subject property to the limited liability company, and the only members of the limited liability company are the person and the person’s immediate family members; or

(E) by any combination thereof.

The exception contained in this subsubitem (iii) does not apply if the applicant does not otherwise qualify for the four percent assessment ratio, including the requirement that the applicant, nor any member of the applicant’s household, claim the four percent assessment ratio on another residence.

For purposes of this subitem, ‘immediate family member’ means a parent, spouse, child, or sibling.”

SECTION 2. This act takes effect upon approval by the Governor and applies to property tax years beginning after 2011. If the property tax assessor determines that a person denied the four percent special assessment ratio in property tax year 2012, now qualifies for in property tax year 2012 pursuant to this act, the person must be refunded any property taxes paid in excess of the amount owed.

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