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Indicates New Matter

AMENDED--NOT PRINTED IN THE HOUSE

Amt. No. 1 (Doc. Path 3313c001.nl.sd15)

April 28, 2015

**H. 3313**

Introduced by Reps. Pope, Simrill, Ballentine, Felder, Atwater, Bedingfield, Spires, Clary, Collins, Delleney, Hamilton, Hiott, Hixon, V.S. Moss, Norman, Stringer and Toole

S. Printed 4/23/15--H.

Read the first time January 14, 2015.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

The impact of the bill as amended on local revenue will depend upon the percentage of property platted as open space and the value determination for the open space percentage of the property. If all of properties subject to roll-back taxes elected to include the minimum ten percent green space for conservation, local roll-back tax revenue may be reduced up to $1,070,000 annually statewide beginning with tax year 2015.

**Explanation of Fiscal Impact**

**Local Revenue**

**Explanation of Amendment (April 23, 2015) – by House Ways and Means**

The amendment to the bill adds an additional sentence to Section 4 of the bill to specify that the transferor of a property is the sole party responsible for tax penalties in the event that the property is transferred as a result of a property settlement pursuant to a divorce or the distribution of a trust. This further clarifies instances in which a county may not hold a transferee responsible for penalties incurred by the transferor. This section as amended is not expected to impact local revenues and does not alter the original impact of the bill.

**Explanation of the bill filed on January 14, 2015**

This bill amends Section 12-43-222 on the calculation of roll-back tax due on a parcel of real property changed from agricultural to commercial or residential use to specify that if at least ten percent of a parcel is platted for green space for conservation or open space, the open space portion of the property must be valued as such for calculation of the roll-back tax. Currently, property converted from agricultural use to commercial or residential property is assessed a penalty based upon the property taxes that would have been collected for the past five years if the property had been taxed under the new property assessment classification and value. Based upon information from county assessors, we estimate that roll-back taxes statewide total approximately $10,700,000 per year. If all of these properties elected to include the minimum ten percent green space for conservation, local roll-back tax revenue may be reduced up to $1,070,000 annually statewide beginning with tax year 2015. The reduction in local revenue will depend upon the percentage of property platted as open space and the value determination for the open space percentage of the property.

Additionally, the bill adds subitem B to Section 12-43-220(c)(2)(vii) to specify that when a property that has undergone an assessable transfer of interest and is also subject to penalties because the previous owner improperly received the reduced four percent assessment ratio, the responsibility for the penalties and additional property taxes due belongs with the original owner of the property and do not constitute a lien on the property. Based upon responses received from three county assessors, counties do not typically levy penalties on the original property owner after a sale has occurred since collecting these would be unenforceable. Therefore, this section of the bill is not expected to impact local revenues.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑43‑222 SO AS TO PROVIDE WHEN CALCULATING ROLL‑BACK TAX DUE ON A PARCEL OF REAL PROPERTY CHANGED FROM AGRICULTURAL TO COMMERCIAL OR RESIDENTIAL USE THE VALUE USED FOR PLATTED GREEN SPACE OR OPEN SPACE USE OF THE PARCEL, IF SUCH USE IS TEN PERCENT OR MORE OF THE PARCEL, MUST BE VALUED BASED ON THE GREEN SPACE OR OPEN SPACE USE; AND TO AMEND SECTION 12‑43‑220, AS AMENDED, RELATING TO CLASSES OF PROPERTY AND APPLICABLE ASSESSMENT RATIOS FOR PURPOSES OF IMPOSITION OF THE PROPERTY TAX, SO AS TO MAKE A CONFORMING AMENDMENT, AND TO PROVIDE THAT AFTER A PARCEL OF REAL PROPERTY HAS UNDERGONE AN ASSESSABLE TRANSFER OF INTEREST, DELINQUENT PROPERTY TAX AND PENALTIES ASSESSED BECAUSE THE PROPERTY WAS IMPROPERLY CLASSIFIED AS OWNER‑OCCUPIED RESIDENTIAL PROPERTY WHILE OWNED BY THE TRANSFEROR ARE SOLELY A PERSONAL LIABILITY OF THE TRANSFEROR AND DO NOT CONSTITUTE A LIEN ON THE PROPERTY AND ARE NOT ENFORCEABLE AGAINST THE PROPERTY AFTER THE ASSESSABLE TRANSFER OF INTEREST IF THE TRANSFEREE IS A BONA FIDE PURCHASER FOR VALUE WITHOUT NOTICE.

Amend Title To Conform

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

SECTION 1. Article 3, Chapter 43, Title 12 of the 1976 Code is amended by adding:

“Section 12‑43‑222. Notwithstanding the provisions of Section 12‑43‑220(d)(4), the property tax value, as defined in Section 12‑37‑3135, of that portion of a parcel of real property changed from agricultural use for purposes of residential or commercial development that is designated on the recorded development plat of the parcel as ‘green space’ or ‘open space’ if it equals ten percent or more of the area included within the outermost boundaries of the residential or commercial development must be valued according to its new ‘green space’ or ‘open space’ use for all purposes in calculating roll‑back tax due on the parcel. As used in this section only, and without regard to any other definitions for those terms in state law or regulations, ‘green space’ and ‘open space’ have the meaning provided for those terms by the United States Environmental Protection Agency. The county assessor shall value the designated ‘green space’ or ‘open space’ in the manner that other property dedicated to that use is valued and that value must be used in the calculation of roll‑back tax on the parcel pursuant to Section 12‑43‑220(d)(4). Appeals from the valuation of the ‘green space’ or ‘open space’ may be taken in the manner provided by law for appeals of value of real property appraised by county assessors.”

SECTION 2. Section 12‑43‑220(d)(4) of the 1976 Code is amended to read:

“(4) Except as provided pursuant to Section 12‑43‑222, when real property which is in agricultural use and is being valued, assessed, and taxed under the provisions of this article, is applied to a use other than agricultural, it is subject to additional taxes, hereinafter referred to as roll‑back taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the real property been valued, assessed, and taxed as other real property in the taxing district, in the current tax year (the year of change in use) and each of the five tax years immediately preceding in which the real property was valued, assessed, and taxed as herein provided. If in the tax year in which a change in use of the real property occurs the real property was not valued, assessed, and taxed under this article, then the real property is subject to roll‑back taxes for each of the five tax years immediately preceding in which the real property was valued, assessed, and taxed hereunder. In determining the amounts of the roll‑back taxes chargeable on real property which has undergone a change in use, the assessor shall for each of the roll‑back tax years involved ascertain:

(A) the fair market value without consideration of the standing timber of such real property under the valuation standard applicable to other real property in the same classification;

(B) the amount of the real property assessment for the particular tax year by multiplying such fair market value by the appropriate assessment ratio provided in this article;

(C) the amount of the additional assessment on the real property for the particular tax year by deducting the amount of the actual assessment on the real property for that year from the amount of the real property assessment determined under (B) of this section;

(D) the amount of the roll‑back for that tax year by multiplying the amount of the additional assessment determined under (C) of this section by the property tax rate of the taxing district applicable for that tax year.”

SECTION 3. The provisions of SECTIONS 1 and 2 of this act apply for eligible real property changed from agricultural use valuation after 2014.

SECTION 4. Section 12‑43‑220(c)(2)(vii) of the 1976 Code is amended to read:

“(vii)(A) If a person signs the certification, obtains the four percent assessment ratio, and is thereafter found not eligible, or thereafter loses eligibility and fails to notify the assessor within six months, a penalty is imposed equal to one hundred percent of the tax paid, plus interest on that amount at the rate of one‑half of one percent a month, but in no case less than thirty dollars nor more than the current year’s taxes. This penalty and any interest are considered ad valorem taxes due on the property for purposes of collection and enforcement.

(B) If property has undergone an assessable transfer of interest as provided pursuant to Section 12‑37‑3150 and the transferee is a bona fide purchaser for value without notice, penalties assessed pursuant to subsubitem (A) and the additional property taxes and late payment penalties are solely the personal liability of the transferor and do not constitute a lien on and are not enforceable against the property in the hands of the transferee. The provisions of this subitem making the additional taxes and penalties assessed pursuant to subitem (A) the sole personal liability of the transferor also apply to transfers required as a result of a property settlement pursuant to a divorce or other disputed marital matters where required by written agreement of the parties or a court order unless the agreement or court order requires otherwise, and additionally apply to trust distributions unless the trust instrument requires otherwise.”

SECTION 5. Section 12‑43‑220(c)(2)(vii) of the 1976 Code, as amended by this act, applies prospectively and also retroactively to all property tax years open for the assessment of delinquent property taxes and penalties, including penalties assessed pursuant to Section 12‑43‑220(c)(2)(vii) of the 1976 Code, as of that date. No interest is due on any refunds issued pursuant to the retroactive provisions of this section.

SECTION 6. This act takes effect upon approval by the Governor.

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