

REPORT OF THE PROPERTY TAX SUBCOMMITTEE

(G.R. Smith, Finlay, Hewitt, Herbkersman & Weeks - Staff Contact: Meredith Ross)

SENATE BILL 527

S. 527 -- Senator Alexander: A BILL TO AMEND SECTION 12-43-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CLASSIFICATION OF PROPERTY AND THE APPLICABLE ASSESSMENT RATIOS FOR THE VARIOUS CLASSES OF PROPERTY FOR PURPOSES OF IMPOSITION OF THE PROPERTY TAX, SO AS TO DEFINE "LEGALLY SEPARATED" FOR PURPOSES OF THE CERTIFICATE CONTAINED IN THE APPLICATION FOR THE SPECIAL FOUR PERCENT ASSESSMENT RATIO FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY AND TO REQUIRE ANNUAL REAPPLICATION AND RECERTIFICATION TO MAINTAIN THE SPECIAL FOUR PERCENT ASSESSMENT RATIO FOR CERTAIN SEPARATED SPOUSES.

Received by Ways and Means: April 7, 2021

Summary of Bill:

This bill defines "legally separated" for the purpose of determining who is a "member of a household" for the special four percent assessment ratio for owner-occupied property under 12-43-220(c).

Currently, the code includes language that says spouse unless the spouse is "legally separated from the owner-occupant," but gives no definition to "legal separation." The bill defines "legally separated" as a party that has filed a complaint for separate support and maintenance with the appropriate family court and are living separate and apart in different households.

Estimated Revenue Impact:

This bill will have no property tax revenue impact because it reflects the current application and removal process for the special four percent assessment for owner-occupied properties.

Subcommittee Action:

The Property Tax Subcommittee reported the bill favorable as is on 4/28.



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. 0527 | Introduced on February 4, 2021 |
| Author: | Alexander | |
| Subject: | Property Tax Assessment Ratio | |
| Requestor: | Senate Finance | |
| RFA Analyst(s): | Miller | |
| Impact Date: | February 19, 2021 | |

Fiscal Impact Summary

This bill will have no property tax revenue impact because it reflects the current application and removal process for the special four percent assessment for owner-occupied properties.

Explanation of Fiscal Impact

Introduced on February 4, 2021

State Expenditure

N/A

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

This bill defines legally separated for purposes of determining members of a household for a special four percent assessment ratio for owner-occupied property, pursuant to §12-43-220(c). This bill defines legally separated as a party that has filed a complaint for separate support and maintenance with the appropriate family court and are living separate and apart in different households.

Currently, the owner-occupant's spouse is considered a member of the household and would not be eligible to claim a four percent assessment on a different residence than that of the owner-occupant unless the couple is legally separated but legally separated is not specifically defined in §12-43-220(c). According to legal counsel within family court, a family court issued separation agreement is currently recognized by most counties as grounds to be classified as legally separated in order to allow each spouse the right to claim the four percent assessment for their separately owned residences. Therefore, the new definition of legally separated for purposes of allowing each member of a married and separated couple living in separately in owner-occupied property reflects current practices. However, there may be incidences where a county has not allowed two separate properties to receive the special four percent assessment for a legally

separated couple. Rather, one of the two properties would be assessed as commercial/rental property at six percent.

The average home value in the state is \$166,383. Changing a property classification from commercial/rental to owner-occupied based on the statewide average millage rate of 350.30 and statewide average millage rate without school operating millage of 156.15 results in a loss of property tax revenue of \$2,308 per property.

However, RFA assumes the incidences where the second property for a legally separated couple does not receive the special four percent assessment are isolated incidences and therefore this bill will not result in a reduction in property tax revenue for counties.

Additionally, this bill requires either party of a previously legally separated couple that has since reconciled and vacated a special four percent assessed property, to notify the county assessor that the four percent assessment ratio is no longer applicable for the vacated property. Currently, there is no requirement of notice. This bill may result in a county becoming aware that a property no longer qualifies for the special four percent assessment more quickly and thereby allowing the county to apply a six percent assessment and school operating millage to the property in more timely manner. However, as the property no longer qualifies for the special four percent assessment at the time it is no longer owner-occupied, RFA assumes this bill would not result in an increase in property tax revenues.



Frank A. Rainwater, Executive Director

South Carolina General Assembly
124th Session, 2021-2022

S. 527

STATUS INFORMATION

General Bill

Sponsors: Senator Alexander

Document Path: I:\council\bill\ncd\11167dg21.docx

Introduced in the Senate on February 4, 2021

Introduced in the House on April 7, 2021

Last Amended on April 6, 2021

Currently residing in the House Committee on **Ways and Means**

Summary: Legally separated

HISTORY OF LEGISLATIVE ACTIONS

| <u>Date</u> | <u>Body</u> | <u>Action Description with journal page number</u> |
|-------------|-------------|---|
| 2/4/2021 | Senate | Introduced and read first time (<u>Senate Journal-page 4</u>) |
| 2/4/2021 | Senate | Referred to Committee on Finance (<u>Senate Journal-page 4</u>) |
| 3/17/2021 | Senate | Committee report: Favorable Finance (<u>Senate Journal-page 10</u>) |
| 3/23/2021 | Senate | Read second time (<u>Senate Journal-page 26</u>) |
| 3/23/2021 | Senate | Roll call Ayes-38 Nays-8 (<u>Senate Journal-page 26</u>) |
| 3/24/2021 | | Scrivener's error corrected |
| 4/6/2021 | Senate | Amended (<u>Senate Journal-page 15</u>) |
| 4/6/2021 | Senate | Read third time and sent to House (<u>Senate Journal-page 15</u>) |
| 4/6/2021 | Senate | Roll call Ayes-38 Nays-0 (<u>Senate Journal-page 15</u>) |
| 4/7/2021 | House | Introduced and read first time (<u>House Journal-page 67</u>) |
| 4/7/2021 | House | Referred to Committee on Ways and Means (<u>House Journal-page 67</u>) |

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VERSIONS OF THIS BILL

2/4/2021

3/17/2021

3/24/2021

4/6/2021

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 AS PASSED BY THE SENATE

5 April 6, 2021

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S. 527

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Introduced by Senator Alexander

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11 S. Printed 4/6/21--S.

12 Read the first time February 4, 2021.

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A BILL

11 TO AMEND SECTION 12-43-220, AS AMENDED, CODE OF
12 LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE
13 CLASSIFICATION OF PROPERTY AND THE APPLICABLE
14 ASSESSMENT RATIOS FOR THE VARIOUS CLASSES OF
15 PROPERTY FOR PURPOSES OF IMPOSITION OF THE
16 PROPERTY TAX, SO AS TO DEFINE "LEGALLY
17 SEPARATED" FOR PURPOSES OF THE CERTIFICATE
18 CONTAINED IN THE APPLICATION FOR THE SPECIAL
19 FOUR PERCENT ASSESSMENT RATIO FOR
20 OWNER-OCCUPIED RESIDENTIAL PROPERTY AND TO
21 REQUIRE ANNUAL REAPPLICATION AND
22 RECERTIFICATION TO MAINTAIN THE SPECIAL FOUR
23 PERCENT ASSESSMENT RATIO FOR CERTAIN SEPARATED
24 SPOUSES.

25 Amend Title To Conform

26

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

29

30 SECTION 1. A. Section 12-43-220(c)(2)(iii) of the 1976 Code is
31 amended to read:

32

33 "(iii) For purposes of subitem (ii)(B) of this item, 'a member of
34 my household':

35 (A) 'Member of my household' means:

36 (A)(a) the owner-occupant's spouse, except when that
37 spouse is legally separated from has filed a complaint for separate
38 support and maintenance with the appropriate family court, lives
39 separate and apart in a different residence, and no longer cohabitates
40 as husband and wife with the owner-occupant; and

1 ~~(B)~~(b) any child under the age of eighteen years of the
2 owner-occupant claimed or eligible to be claimed as a dependent on
3 the owner-occupant's federal income tax return.

4 (B) Regarding the circumstances in which a spouse has filed
5 a complaint for separate support and maintenance with the
6 appropriate family court, lives separate and apart in a different
7 residence, and no longer cohabitates as husband and wife with the
8 owner-occupant:

9 (a) if either party to a complaint for separate support and
10 maintenance receives the special four-percent assessment ratio on a
11 residence while the couple lives separate and apart in different
12 residences and no longer cohabitates as husband and wife and the
13 couple subsequently reconciles, then the spouse vacating a residence
14 receiving the special four-percent assessment shall notify the county
15 assessor in writing within six months of vacating that residence that
16 the residence is no longer eligible for the special four-percent
17 assessment ratio. A failure to provide timely notice to the assessor
18 subjects the owner to the provisions of subitem (vii); and

19 (b) to prove that a person is divorced or has filed a
20 complaint for separate support and maintenance with the
21 appropriate family court and lives separate and apart in different
22 residences and no longer cohabitates as husband and wife, the
23 applicant shall provide a filed and stamped copy of the caption page
24 of the action, a filed and stamped copy of the first page of the
25 pleadings, or a filed and stamped copy of the order. The assessor
26 may not require the submission of a financial declaration. Language
27 in the order related to the disposition of the legal residence of the
28 couple, or other owner-occupied real property owned by either
29 party, whether independently or jointly, prior to any action must be
30 provided to the assessor in order to claim the special assessment
31 ratio allowed by subsection (c)."

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33 B. Section 12-43-220(c)(2) of the 1976 Code is amended by adding
34 at the end:

35
36 “(x) An applicant for the special four-percent assessment ratio
37 allowed pursuant to item (c) who has filed a complaint for separate
38 support and maintenance with the appropriate family court, who
39 lives separate and apart in different residences, and no longer
40 cohabitates as husband and wife with his spouse, and who is eligible
41 pursuant to subitem (iii) must reapply and recertify annually to
42 maintain the special four-percent assessment ratio on his
43 independent, owner-occupied property until the applicant has been

1 granted a divorce by a court of competent jurisdiction or the
2 applicant has reconciled with his spouse, and the applicant can
3 recover only one special four-percent ratio for his legal residence.”

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5 SECTION 2. This act takes effect upon approval by the Governor.

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