

REPORT OF THE PROPERTY TAX SUBCOMMITTEE

(G.R. Smith, Clyburn, Merrill, Bales & Clemmons - Staff Contact: Kenzie Riddle)

HOUSE BILL 3313

H. 3313 -- Reps. Pope, Simrill, Ballentine, Felder, Atwater, Bedingfield, Spires, Clary, Collins, Delleney, Hamilton, Hiott, Hixon, V.S. Moss, Norman, Stringer and Toole: 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.

Summary of Bill:

The legislation provides that if a parcel of property classified as agricultural has at least 10% or more of the area classified as green or open space and is then reclassified for commercial or residential use for development, that property must then be valued according to the green/open space for purposes of calculating roll-back tax due on the property. The bill also provides that once the property has undergone assessable transfer of interest, any delinquent property tax and/or penalties assessed because the property was improperly classified while owned by the transferor are solely personal liabilities 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.

Estimated Revenue Impact:

The impact 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 are subject to roll-back taxes elected to include the minimum ten percent green space for conservation, local roll-back tax revenue may be

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reduced up to \$1,070,000 annually statewide beginning with tax year 2015

Subcommittee Recommendation: Favorable

Full Committee Recommendation: Pending



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3313
 Author: Pope
 Requestor: House Ways and Means
 Date: April 21, 2015
 Subject: Roll-back tax due on a parcel
 RFA Analyst(s): Jolliff

Estimate of Fiscal Impact

	FY 2015-16	FY 2016-17
State Expenditure		
General Fund	N/A	N/A
Other and Federal	N/A	N/A
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	N/A	N/A
Other and Federal	N/A	N/A
Local Expenditure	N/A	N/A
Local Revenue	Up to (\$1,070,000)	N/A

Fiscal Impact Summary

The impact 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

State Expenditure and State Revenue

N/A

Local Expenditure

N/A

Local Revenue

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

South Carolina General Assembly
121st Session, 2015-2016

H. 3313

STATUS INFORMATION

General Bill

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

Document Path: I:\council\bill\26175dg15.docx

Companion/Similar bill(s): 401

Introduced in the House on January 14, 2015

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

Summary: Roll- back tax due on a parcel

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/14/2015	House	Introduced and read first time (<u>House Journal-page 77</u>)
1/14/2015	House	Referred to Committee on Ways and Means (<u>House Journal-page 77</u>)

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VERSIONS OF THIS BILL

1/14/2015

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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.

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:

1 “Section 12-43-222. Notwithstanding the provisions of Section
2 12-43-220(d)(4), the property tax value, as defined in Section
3 12-37-3135, of that portion of a parcel of real property changed from
4 agricultural use for purposes of residential or commercial
5 development that is designated on the recorded development plat of
6 the parcel as ‘green space’ or ‘open space’ if it equals ten percent or
7 more of the area included within the outermost boundaries of the
8 residential or commercial development must be valued according to
9 its new green space or open space use for all purposes in calculating
10 roll-back tax due on the parcel. As used in this section only, and
11 without regard to any other definitions for those terms in state law
12 or regulations, ‘green space’ and ‘open space’ have the meaning
13 provided for those terms by the United States Environmental
14 Protection Agency. The county assessor shall value the designated
15 green space or open space in the manner that other property
16 dedicated to that use is valued and that value must be used in the
17 calculation of roll-back tax on the parcel pursuant to Section
18 12-43-220(d)(4). Appeals from the valuation of the ‘green space’
19 or ‘open space’ may be taken in the manner provided by law for
20 appeals of value of real property appraised by county assessors.”

21
22 SECTION 2. Section 12-43-220(d)(4) of the 1976 Code is
23 amended to read:

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25 “(4) Except as provided pursuant to Section 12-43-222, when real
26 property which is in agricultural use and is being valued, assessed,
27 and taxed under the provisions of this article, is applied to a use other
28 than agricultural, it is subject to additional taxes, hereinafter referred
29 to as roll-back taxes, in an amount equal to the difference, if any,
30 between the taxes paid or payable on the basis of the valuation and
31 the assessment authorized hereunder and the taxes that would have
32 been paid or payable had the real property been valued, assessed,
33 and taxed as other real property in the taxing district, in the current
34 tax year (the year of change in use) and each of the five tax years
35 immediately preceding in which the real property was valued,
36 assessed, and taxed as herein provided. If in the tax year in which a
37 change in use of the real property occurs the real property was not
38 valued, assessed, and taxed under this article, then the real property
39 is subject to roll-back taxes for each of the five tax years
40 immediately preceding in which the real property was valued,
41 assessed, and taxed hereunder. In determining the amounts of the
42 roll-back taxes chargeable on real property which has undergone a

1 change in use, the assessor shall for each of the roll-back tax years
2 involved ascertain:

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

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

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

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

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

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

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

34 (B) If property has undergone an assessable transfer of interest
35 as provided pursuant to Section 12-37-3150 and the transferee is a
36 bona fide purchaser for value without notice, penalties assessed
37 pursuant to subsubitem (A) and the additional property taxes and
38 late payment penalties are solely the personal liability of the
39 transferor and do not constitute a lien on and are not enforceable
40 against the property in the hands of the transferee.”

41

42 SECTION 5. Section 12-43-220(c)(2)(vii) of the 1976 Code, as
43 amended by this act, applies prospectively and also retroactively to

1 all property tax years open for the assessment of delinquent property
2 taxes and penalties, including penalties assessed pursuant to Section
3 12-43-220(c)(2)(vii) of the 1976 Code, as of that date. No interest
4 is due on any refunds issued pursuant to the retroactive provisions
5 of this section.

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

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