**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3481**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Edge

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Introduced in the House on February 10, 2009

Currently residing in the House Committee on **Judiciary**

Summary: Real property

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/10/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\02-10-09.docx)‑9

2/10/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\02-10-09.docx)‑9

**VERSIONS OF THIS BILL**

[2/10/2009](file:///p:\pprever\2009-10\3481_20090210.docx)

**A** **BILL**

TO AMEND SECTION 12‑37‑3150, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINING WHEN A PARCEL OF REAL PROPERTY MUST BE APPRAISED AND WHAT AN ASSESSABLE TRANSFER OF INTEREST IN REAL PROPERTY INCLUDES, SO AS TO DELETE CERTAIN CIRCUMSTANCES THAT CONSTITUTE ASSESSABLE TRANSFERS OF INTEREST AND TO ADD OTHER CIRCUMSTANCES.

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

SECTION 1. Section 12‑37‑3150 of the 1976 Code, as last amended by Act 57 of 2007, is further amended to read:

“Section 12‑37‑3150. (A) For purposes of determining when a parcel of real property must be appraised, an assessable transfer of interest in real property includes, but is not limited to, the following:

(1) a conveyance by deed;

(2) a conveyance by land contract;

(3) ~~a conveyance to a trust, except if the settlor or the settlor’s spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor’s spouse, or both;~~

~~(4)~~ a conveyance by distribution from a trust, except if the distributee is the sole present beneficiary or the spouse of the sole present beneficiary, or both;

~~(5)~~ ~~a change in the sole present beneficiary or beneficiaries of a trust, except a change that adds or substitutes the spouse of the sole present beneficiary;~~

~~(6)~~ ~~a conveyance by distribution under a will or by intestate succession, except if the distributee is the decedent’s spouse~~;

~~(7)~~(4) a conveyance by lease if the total duration of the lease, including the initial term and all options for renewal, is more than twenty years or the lease grants the lessee a bargain purchase option. As used in this item, “bargain purchase option” means the right to purchase the property at the termination of the lease for not more than eighty percent of the property’s true cash value at the termination of the lease. This item does not apply to personal property or that portion of the property not subject to the leasehold interest conveyed;

~~(8)~~(5) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty‑five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty‑five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item;

~~(9)~~(6) a change of use of agricultural real property which subjects it to the rollback tax; or

~~(10)~~ ~~a change of use of real property when classification of property changes as a result of a local zoning ordinance change; or~~

~~(11)~~(7) the passage of twenty years since the later of the base year or the last assessable transfer of interest for real property owned by a publicly‑held entity whose stock, shares, or other ownership interests are traded on a regulated exchange, a pension fund, or other similar entity.

An assessable transfer of interest resulting in the appraisal required pursuant to this article occurs at the time of execution of the instruments directly resulting in the transfer of interest and without regard as to whether or not the applicable instruments are recorded. Failure to record instruments resulting in a transfer of interest gives rise to no inference as to whether or not an assessable transfer of interest has occurred.

(B) An assessable transfer of interest does not include:

(1) transfers not subject to federal income tax in the following circumstances:

(a) 1033 (Conversions‑Fire and Insurance Proceeds to Rebuild);

(b) 1041 (Transfers of Property Between Spouses or Incident to Divorce);

(c) 351 (Transfer to a Corporation Controlled by Transferor);

(d) 355 (Distribution by a Controlled Corporation);

(e) 368 (Corporate Reorganizations); or

(f) 721 (Nonrecognition of Gain or Loss on a Contribution to a Partnership).

Number references in the above subitems are to sections of the Internal Revenue Code of 1986, as defined in Section 12‑6‑40;

(2) a transfer of that portion of property subject to a life estate or life lease retained by the transferor, until expiration or termination of the life estate or life lease;

(3) a transfer through foreclosure or forfeiture of a recorded instrument or through deed or conveyance in lieu of a foreclosure or forfeiture, until the redemption period has expired;

(4) a transfer by redemption by the person to whom taxes are assessed of property previously sold for delinquent taxes;

(5) a conveyance to a trust if the settlor or the settlor’s spouse, or both, convey the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor’s spouse, or both;

(6) a transfer for security or an assignment or discharge of a security interest;

(7) a transfer of real property or other ownership interests among members of an affiliated group. As used in this item, “affiliated group” is as defined in Section 1504 of the Internal Revenue Code as defined in Section 12‑6‑40. Upon request of the applicable property tax assessor, a corporation shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B);

(8) a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B); ~~or~~

(9) a transfer of an interest in a timeshare unit by deed or lease;~~.~~

(10) a conveyance to a trust;

(11) a change in the sole present beneficiary or beneficiaries of a trust;

(12) a conveyance by distribution under a will or by intestate succession; or

(13) a change of use of real property when classification of property changes as a result of a local zoning ordinance change.”

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

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