**South Carolina General Assembly**

118th Session, 2009-2010

**A279, R299, S405**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Cleary

Document Path: l:\s-financ\drafting\rec\002boat.dag.rec.docx

Companion/Similar bill(s): 3993

Introduced in the Senate on February 11, 2009

Introduced in the House on May 14, 2009

Last Amended on May 26, 2010

Passed by the General Assembly on June 1, 2010

Governor's Action: June 11, 2010, Vetoed

Legislative veto action(s): Veto overridden

Summary: Property tax exemptions

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/11/2009 Senate Introduced and read first time [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C02-11-09.docx)‑18

 2/11/2009 Senate Referred to Committee on **Finance** [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C02-11-09.docx)‑18

 2/12/2009 Senate Referred to Subcommittee: Hayes (ch), Land, Courson, Matthews, Grooms

 5/6/2009 Senate Committee report: Favorable with amendment **Finance** [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C05-06-09.docx)‑9

 5/12/2009 Senate Committee Amendment Adopted

 5/12/2009 Senate Read second time

 5/13/2009 Senate Read third time and sent to House [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C05-13-09.docx)‑19

 5/14/2009 House Introduced and read first time [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C05-14-09.docx)‑15

 5/14/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C05-14-09.docx)‑15

 4/29/2010 House Recalled from Committee on **Ways and Means** [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-29-10.docx)‑57

 5/12/2010 House Debate adjourned until Thursday, May 13, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-12-10.docx)‑101

 5/13/2010 House Debate adjourned until Tuesday, May 18, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-13-10.docx)‑13

 5/18/2010 House Amended [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-18-10.docx)‑33

 5/18/2010 House Read second time [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-18-10.docx)‑33

 5/18/2010 House Roll call Yeas‑103 Nays‑0 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-18-10.docx)‑42

 5/19/2010 House Read third time and returned to Senate with amendments [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-19-10.docx)‑8

 5/26/2010 Senate House amendment amended [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-26-10.docx)‑111

 5/26/2010 Senate Returned to House with amendments [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-26-10.docx)‑111

 5/27/2010 Scrivener's error corrected

 6/1/2010 House Concurred in Senate amendment and enrolled [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C06-01-10.docx)‑93

 6/1/2010 House Roll call Yeas‑94 Nays‑0 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C06-01-10.docx)‑93

 6/7/2010 Ratified R 299

 6/11/2010 Vetoed by Governor

 6/16/2010 Senate Veto overridden by originating body Yeas‑39 Nays‑1 [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C06-16-10.docx)‑27

 6/16/2010 House Veto overridden Yeas‑103 Nays‑2 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C06-16-10.docx)‑409

 7/13/2010 Effective date 06/16/10

 7/14/2010 Act No. 279

**VERSIONS OF THIS BILL**

[2/11/2009](file:///p%3A%5Cpprever%5C2009-10%5C405_20090211.docx)

[5/6/2009](file:///p%3A%5Cpprever%5C2009-10%5C405_20090506.docx)

[5/12/2009](file:///p%3A%5Cpprever%5C2009-10%5C405_20090512.docx)

[4/29/2010](file:///p%3A%5Cpprever%5C2009-10%5C405_20100429.docx)

[5/18/2010](file:///p%3A%5Cpprever%5C2009-10%5C405_20100518.docx)

[5/26/2010](file:///p%3A%5Cpprever%5C2009-10%5C405_20100526.docx)

[5/27/2010](file:///p%3A%5Cpprever%5C2009-10%5C405_20100527.docx)

(A279, R299, S405)

**AN ACT TO AMEND SECTION 12‑37‑220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO CLARIFY THAT A WATERCRAFT AND ITS MOTOR MAY NOT RECEIVE A FORTY‑TWO AND 75/100 PERCENT EXEMPTION IF THE BOAT OR WATERCRAFT IS CLASSIFIED FOR PROPERTY TAX PURPOSES AS A PRIMARY OR SECONDARY RESIDENCE; TO AMEND SECTION 12‑37‑714, AS AMENDED, RELATING TO BOATS WITH A SITUS IN THIS STATE FOR PURPOSES OF PROPERTY TAX, SO AS TO ALLOW A COUNTY, BY ORDINANCE TO REVISE WITHIN SPECIFIED LIMITS SITUS REQUIREMENTS BASED ON PRESENCE; TO AMEND SECTION 12‑37‑224, AS AMENDED, RELATING TO WATERCRAFT, CAMPER TRAILERS, AND RECREATIONAL VEHICLES ELIGIBLE TO BE A PRIMARY OR SECONDARY RESIDENCE FOR PURPOSES OF PROPERTY TAX, SO AS TO PROVIDE THAT A BOAT OR WATERCRAFT THAT CONTAINS A COOKING AREA WITH AN ONBOARD POWER SOURCE, A TOILET WITH EXTERIOR EVACUATION, AND A SLEEPING QUARTER, IS CONSIDERED A PRIMARY OR SECONDARY RESIDENCE FOR PURPOSES OF PROPERTY TAX, TO PROVIDE THOSE ELIGIBLE TO APPLY FOR THIS CLASSIFICATION AND THE NUMBER OF SUCH APPLICATIONS ALLOWED; AND TO AMEND SECTION 50‑23‑295, AS AMENDED, RELATING TO RESTRICTIONS ON THE TRANSFER OF A CERTIFICATE OF TITLE TO A WATERCRAFT OR OUTBOARD MOTOR SUBJECT TO DELINQUENT PROPERTY TAXES AND ENFORCEMENT OF THESE RESTRICTIONS, SO AS TO MAKE IT UNLAWFUL KNOWINGLY TO SELL A WATERCRAFT SUBJECT TO DELINQUENT PROPERTY TAXES, PROVIDE A PENALTY FOR VIOLATIONS, AND PROVIDE A CIVIL REMEDY WITH TREBLE DAMAGES TO A WATERCRAFT BUYER AGAINST A SELLER WHO FALSELY SIGNED THE REQUIRED CERTIFICATE THAT PROPERTY TAXES ON THE WATERCRAFT ARE CURRENT.**

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

**Watercraft property tax exemption, eligibility**

SECTION 1. Section 12‑37‑220(B)(38)(b) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

 “(b) By ordinance, a governing body of a county may exempt from the property tax, forty‑two and 75/100 percent of the fair market value of a watercraft and its motor. This exemption for a watercraft motor applies whether the motor is located in, attached to, or detached from the watercraft. This exemption does not apply to a boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to Section 12‑37‑224.”

**Situs of watercraft for property tax**

SECTION 2. Section 12‑37‑714(2) of the 1976 Code, as last amended by Act 313 of 2008, is further amended to read:

 “(2) A boat, including its motor if the motor is separately taxed, which is not currently taxed in this State and is not used exclusively in interstate commerce, is subject to property tax in this State if it is present within this State for sixty consecutive days or for ninety days in the aggregate in a property tax year. Upon an ordinance passed by the local governing body, a county may subject a boat, including its motor if the motor is separately taxed, to property tax if it is within this State for ninety days in the aggregate, regardless of the number of consecutive days. Also, upon an ordinance passed by the local governing body, a county may increase the number of days in the aggregate a boat, including its motor if the motor is taxed separately, must be in this State to be subject to property tax to one hundred eighty days in a property tax year, regardless of the number of consecutive days. Upon written request by a tax official, the owner must provide documentation or logs relating to the whereabouts of the boat in question. Failure to produce requested documents creates a rebuttable presumption that the boat in question is taxable within this State.”

**Boats and watercraft, classification as primary or secondary residence for property tax**

SECTION 3. Section 12‑37‑224 of the 1976 Code, as last amended by Act 66 of 2007, is further amended to read:

 “Section 12‑37‑224. (A) A motor home or trailer used for camping and recreational travel that is pulled by a motor vehicle on which the interest portion of indebtedness is deductible pursuant to the Internal Revenue Code as an interest expense on a qualified primary or secondary residence also is a primary or secondary residence for purposes of ad valorem property taxation in this State. The fair market value of a motor home or trailer used for camping and recreational travel that is pulled by a motor vehicle classified for property tax purposes as a primary or secondary residence pursuant to this section must be determined in the manner that motor vehicles are valued for property tax purposes.

 (B)(1) A person who owns a boat or watercraft that contains a cooking area with an onboard power source, a toilet with exterior evacuation, and a sleeping quarter, may claim one boat or watercraft as a primary residence and one boat or watercraft as a secondary residence for purposes of ad valorem property taxation in this State. The fair market value of the boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to this section must be determined in the manner that motor vehicles are valued for property tax purposes. A boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to this section is not a watercraft or motor for purposes of Section 12‑37‑220(B)(38).

 (2) Only an individual may claim a qualifying boat or watercraft as his primary residence for purposes of ad valorem property taxation. The individual or his agent must certify the qualifying boat or watercraft as his primary residence pursuant to Section 12‑43‑220(c)(2)(ii). Additionally, the individual or his agent must provide any proof the assessor requires pursuant to Section 12‑43‑220(c)(2)(iv). One other qualifying boat or watercraft owned by an individual that cannot be considered a primary residence, or one other qualifying boat or watercraft owned by another person shall be considered a secondary residence for purposes of ad valorem property taxation.

 (3) For purposes of this subsection a person includes an individual, a sole proprietorship, partnership, and an ‘S’ corporation, including a limited liability company taxed as sole proprietorship, partnership, or ‘S’ corporation.”

**Transfer of title to watercraft subject to delinquent property tax, criminal penalty, civil remedy**

SECTION 4. Section 50‑23‑295 of the 1976 Code, as last amended by Act 91 of 2007, is further amended to read:

 “Section 50‑23‑295. (A) A certificate of title to watercraft or an outboard motor may not be transferred if the department has notice that property taxes for property tax years beginning after 1999, are owed on the watercraft or outboard motor. If transfer of title has been denied pursuant to this section, a tax receipt on the watercraft or outboard motor from the person officially charged with the collection of ad valorem taxes in the county where the taxes are due must be accepted as proof that the taxes have been paid. The bill of sale or title to watercraft or an outboard motor must require certification that property taxes that are due and payable for property tax years beginning after 1999, have been paid and are current as of the date of sale.

 (B) A person who knowingly sells a watercraft for which he owes unpaid and outstanding property taxes, or on which he knows there is a property tax lien, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days. In addition to all applicable criminal penalties, a seller who falsely signs the certification required by subsection (A), that property taxes are current and paid on a watercraft transferred to the buyer, is liable to the buyer for three times the amount of damages directly associated with the false certification, as well as applicable costs and reasonable attorney’s fees.

 (C) The county treasurer or other appropriate official annually, or more frequently as the county considers appropriate, shall transmit a list of delinquent taxes due on watercraft and outboard motors to the department. The list may be transmitted in any electronic format considered acceptable by the department.”

**Time effective**

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

Ratified the 7th day of June, 2010.

Vetoed by the Governor -- 6/11/2010.

Veto overridden by Senate -- 6/16/2010.

Veto overridden by House -- 6/16/2010.

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