COMMITTEE REPORT

January 25, 2012

**S. 40**

Introduced by Senators McConnell, Campsen and Rankin

S. Printed 1/25/12--S.

Read the first time January 11, 2011.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 40) to amend Section 12‑43‑220, as amended, Code of Laws of South Carolina, 1976, relating to valuation and classification of property for purposes of the property tax, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 2, by striking lines 19 through 35 and inserting:

/ C. This section takes effect upon approval by the Governor and applies to property tax years beginning after December 31, 2011. /

Amend the bill further, as and if amended, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_\_\_. A. Section 12‑37‑3150(B) of the 1976 Code, as last amended by Act 275 of 2010, is further amended by adding an appropriately numbered item at the end to read:

“( ) a transfer of a fractional interest between family members for zero monetary consideration, or a de minimis monetary consideration, whereby both the grantor and the grantee owned an interest in the property prior to the transfer. For purposes of this item, a family member includes, a spouse, parent, brother, sister, child, grandparent, or grandchild.”

B. This act takes effect upon approval by the Governor, and applies for real property transfers after 2006. Property tax assessors shall conform the values of parcels of real property which underwent an assessable transfer of interest in 2007 through 2011, to the fair market value of these parcels as that value may have been adjusted to reflect the provisions of this act. No refund is allowed on account of values adjusted as provided in this section. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**A** **BILL**

TO AMEND SECTION 12‑43‑220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VALUATION AND CLASSIFICATION OF PROPERTY FOR PURPOSES OF THE PROPERTY TAX, SO AS TO PROVIDE THAT THE OWNER‑OCCUPANT OF RESIDENTIAL PROPERTY QUALIFIES FOR THE FOUR PERCENT ASSESSMENT RATIO ALLOWED OWNER‑OCCUPIED RESIDENTIAL PROPERTY, IF THE OWNER IS OTHERWISE QUALIFIED AND THE RESIDENCE IS NOT RENTED FOR MORE THAN NINETY DAYS A YEAR; TO ALLOW REFUNDS OR CREDITS TO OWNER‑OCCUPANTS WHO QUALIFY FOR THE FOUR PERCENT ASSESSMENT RATIO DUE TO THE AMENDMENTS CONTAINED HEREIN; TO DELETE OTHER REFERENCES TO RENTAL OF THESE RESIDENCES; AND TO AMEND SECTION 12‑54‑240 RELATING TO DISCLOSURE OF RECORDS, REPORTS, AND RETURNS WITH THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE THAT VERIFICATION THAT THE FEDERAL SCHEDULE E CONFORMS WITH THE SAME DOCUMENT REQUIRED BY A COUNTY ASSESSOR IS NOT PROHIBITED.

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

SECTION 1. A. Section 12‑43‑220(c)(2)(iv) of the 1976 Code is amended by adding a new paragraph before the last undesignated paragraph to read:

“If the owner or the owner’s agent has made a proper certificate as required pursuant to this subitem and the owner is otherwise eligible, the owner is deemed to have met the burden of proof and is allowed the four percent assessment ratio allowed by this item, if the residence that is the subject of the application is not rented for more than ninety days in a calendar year. The assessor may require a copy of Schedule E from the applicant’s federal return for the applicable tax year.”

B. Section 12‑43‑220(c) of the 1976 Code, as last amended by Act 145 of 2005, is further amended by deleting subitem (7) which reads:

“(7) Notwithstanding any other provision of law, the owner‑occupant of a legal residence is not disqualified from receiving the four percent assessment ratio allowed by this item, if the taxpayer’s residence meets the requirements of Internal Revenue Code Section 280A(g) as defined in Section 12‑6‑40(A) and the taxpayer otherwise is eligible to receive the four percent assessment ratio.”

C. The amendments to Section 12‑43‑220(c)(2) and (7) contained in this section apply for property tax years beginning after December 31, 2004.

D. A taxpayer allowed the four percent assessment ratio for property tax years subsequent to 2004 because of the amendments to Section 12‑43‑220(c) of the 1976 Code as contained in this section, instead of other provisions of law applicable for refunds of overpayments of property taxes, and upon application to the county assessor must either:

(1) receive a refund of the overpayment, together with applicable interest or, at the taxpayer’s election; or

(2) be allowed a credit in the same amount as the refund pursuant to item (1) against future property taxes due on the residence.

A claim for refund made pursuant to this subsection before July 1, 2012, is deemed timely filed.

SECTION 2. Section 12‑54‑240(B) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) verification that the federal Schedule E filed with the department is the same as the Schedule E required by the assessor pursuant to Section 12‑43‑220(c).”

SECTION 3. Except where otherwise stated, this act takes effect upon approval by the Governor.

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