COMMITTEE REPORT

May 15, 2014

**H. 4520**

Introduced by Reps. Herbkersman and Bowers

S. Printed 5/15/14--H.

Read the first time January 21, 2014.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 4520) to amend Section 12‑43‑220, as amended, Code of Laws of South Carolina, 1976, so as to enact “Uncle Preston’s Law” to allow a taxpayer, 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, SECTION 2, page 1, by striking lines 29‑38 and inserting:

/ “( )(i) Notwithstanding any other provision of law, a taxpayer meeting all the other requirements of this subsection may claim the four percent assessment ratio on a residential property other than their legal residence if the additional residence is used as a residence by a family member who is over the age of sixty‑five or is permanently and totally disabled. This subitem does not apply if the family member pays rent. For purposes of this subitem, ‘family member’ means a parent, sibling, child, aunt, uncle, mother‑in‑law, father‑in‑law, son‑in‑law, daughter‑in‑law, brother‑in‑law, sister‑in‑law, grandparent, or grandchild. For purposes of this subitem, ‘permanently and totally disabled’ has the same meaning as provided in Section 12‑37‑250. /

Renumber sections to conform.

Amend title to conform.

W. BRIAN WHITE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill is not expected to impact state revenues. We estimate that the bill may lower property tax revenues by up to $14,442,000 in FY 2014-15. To the extent possible given the millage rate increase limitations, we anticipate that local jurisdictions would increase millage rates to offset the revenue reduction.

**Explanation**

This bill would amend Section 12-43-220(c) to allow a taxpayer to claim the four percent assessment ratio on a second property other than his/her legal residence so long as the second property is used as a residence by a family member who is over the age of sixty-five. The section defines family member as a parent, sibling, child, aunt, uncle, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild. The reduced assessment ratio does not apply if family member pays rent. We estimate that this change would impact properties that are currently classified as second homes. We do not anticipate that taxpayers would elect the reduced assessment ratio for properties that are currently rental properties because the section specifies that the family member may not pay rent, and the property tax reduction is unlikely to exceed the rental income. The section is effective for tax years after 2013.

Based upon Census data for housing property, we estimate that there are approximately 257,968 second home properties in SC that are rented less than 14 days per year. An April 2014 report by the National Association of Realtors determined that 22% of vacation properties are purchased for a family member, friend, or relative. Based upon this, an estimated 56,753 second homes are potentially used as a residence by a family member without paying rent. Using the current percentage of people over the age of sixty-five in SC, we further estimate that 14.7% of these properties, or 8,343 homes, are used by a family member over sixty-five.

At an average value of $140,427, the bill would impact an estimated $1,171,582,000 in property value for the 8,343 potentially qualifying properties. The assessment ratio reduction from 6% to 4% at an average statewide millage rate of 317.7 would potentially lower property tax revenue by an estimated $7,444,000 in tax year 2014.

Additionally, the section designates that the property receives all exemptions allowed applicable to property that qualifies for the special assessment ratio. This would extend the school operating property tax exemptions to these properties, potentially reducing property tax revenue to school districts an additional $6,998,000 in tax year 2014. We do not, however, anticipate that taxpayers over sixty-five would be allowed to take an additional homestead exemption on a second home since only one is allowed under the Constitution, and therefore we have not included this in our revenue estimate.

The total potential local property tax revenue reduction for both the reduced assessment ratio and the school operating exemption is estimated to be $14,442,000 in FY 2014-15 or approximately $1,731 per taxpayer. To the extent possible given the millage rate increase limitations, we anticipate that local jurisdictions would increase millage rates to offset the revenue reduction.

*Approved By:*

Frank A. Rainwater

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND SECTION 12‑43‑220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT “UNCLE PRESTON’S LAW” TO ALLOW A TAXPAYER TO CLAIM THE FOUR PERCENT ASSESSMENT RATIO ON A RESIDENTIAL PROPERTY OTHER THAN THEIR LEGAL RESIDENCE IF THE ADDITIONAL RESIDENCE IS USED AS A RESIDENCE BY A FAMILY MEMBER WHO IS OVER THE AGE OF SIXTY‑FIVE.

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

SECTION 1. This act may be cited as “Uncle Preston’s Law”.

SECTION 2. Section 12‑43‑220(c) of the 1976 Code, as last amended by Act 179 of 2012, is further amended by adding an appropriately numbered subitem at the end to read:

“( )(i) Notwithstanding any other provision of law, a taxpayer meeting all the other requirements of this subsection may claim the four percent assessment ratio on a residential property other than their legal residence if the additional residence is used as a residence by a family member who is over the age of sixty‑five. This subitem does not apply if the family member pays rent. For purposes of this subitem, ‘family member’ means a parent, sibling, child, aunt, uncle, mother‑in‑law, father‑in‑law, son‑in‑law, daughter‑in‑law, brother‑in‑law, sister‑in‑law, grandparent, or grandchild.

(ii) This subitem does not apply unless the owner of the properties or the owner’s agent applies for the four percent assessment ratio on both residences before the first penalty date for the payment of taxes for the tax year for which the owner first claims eligibility for this assessment ratio. The burden of proof for eligibility for the four percent assessment ratio on both residences is on the taxpayer. The taxpayer must provide the proof the assessor requires, including, but not limited to, a copy of the owner’s most recently filed South Carolina individual income tax return, copies of South Carolina motor vehicle registrations for all motor vehicles registered in the name of the owner, and other proof required by the assessor necessary to determine eligibility for the assessment ratio allowed by this subitem.

(iii) The special four percent assessment ratio allowed by this subitem must be construed as a property tax exemption for an amount of the fair market value of the residence sufficient to equal a four percent assessment ratio and other exemptions allowed applicable to property qualifying for the special assessment ratio.”

SECTION 3. This act takes effect upon approval by the Governor and applies for property tax years beginning after 2013.

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