~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 24, 2022

**S. 233**

Introduced by Senator Turner

S. Printed 2/24/22--S. [SEC 2/28/22 12:05 PM]

Read the first time January 12, 2021.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 233) to amend Section 12-37-220(B)(1)(b) of the 1976 Code, relating to property exempted from ad valorem taxation, to provide that a, 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, by striking SECTION 1 and inserting:

/ SECTION 1. Section 12‑37‑220(B)(1) of the 1976 Code is amended to read:

“(1)(a) the house owned by an eligible owner in fee or jointly with a spouse;

(b) the house owned by a qualified surviving spouse ~~acquired from the deceased spouse~~ and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house;

(c) when a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemptions provided in subitems (a) and (b) and the beneficiary uses the dwelling as the beneficiary’s domicile, the dwelling is exempt from property taxation in the same amount and manner as dwellings are exempt pursuant to subitems (a) and (b);

(d) The Department of Revenue may require documentation it determines necessary to determine eligibility for the exemption allowed by this item.

(e) A person who owns an interest in a house and meets all other requirements of this item and is otherwise an eligible owner but for the ownership requirement is deemed to be an eligible owner and is eligible for the exemption allowed by this item so long as the county assessor certifies to the Department of Revenue that the house is located on heirs’ property and the person is the owner-occupied resident of the house. A person eligible pursuant to this subitem must not claim the special assessment rate allowed pursuant to Section 12-43-220(c) on any other property. For purposes of this item, heirs’ property has the same meaning as provided in Section 15-61-320.

(f) As used in this item:

(i) ‘eligible owner’ means:

(A) a veteran of the armed forces of the United States who is permanently and totally disabled as a result of a service‑connected disability and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability;

(B) a former law enforcement officer as further defined in Section 23‑23‑10, who is permanently and totally disabled as a result of a law enforcement service‑connected disability;

(C) a former firefighter, including a volunteer firefighter as further defined in Chapter 80, Title 40, who is permanently and totally disabled as a result of a firefighting service‑connected disability;

(ii) ‘permanently and totally disabled’ means the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, that has lasted or is expected to last for a continuous period of twelve months or more or result in death;

(iii) ‘qualified surviving spouse’ means the surviving spouse of an individual described in subsubitem (i) while remaining unmarried, who resides in the house, and who owns the house in fee or for life. Qualified surviving spouse also means the surviving spouse of a member of the armed forces of the United States who was killed in action, or the surviving spouse of a law enforcement officer or firefighter who died in the line of duty as a law enforcement officer or firefighter, as these terms are further defined in Section 23‑23‑10 and Chapter 80, Title 40 ~~who at the time of death owned the house in fee or jointly with the now surviving spouse,~~ if the surviving spouse remains unmarried, resides in the house, and has acquired ownership of the house in fee or for life;

(iv) ‘house’ means a dwelling and the lot on which it is situated classified in the hands of the current owner for property tax purposes pursuant to Section 12‑43‑220(c). However, for an eligible owner that qualifies pursuant to item (1)(e), ‘house’ means a dwelling that is eligible to be classified in the hands of the current owner for property tax purposes pursuant to Section 12‑43‑220(c) except for the ownership requirement.” /

Renumber sections to conform.

Amend title to conform.

HARVEY S. PEELER, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill eliminates the requirement that a qualifying surviving spouse must acquire the house from the deceased spouse in order to be eligible for the property tax exemption provided pursuant to §12-37-220(B). This bill takes effect upon the signing of the governor, and therefore, will impact property taxes beginning in tax year 2022.

Currently, §12-37-220(B)(1) grants a property tax exemption to a surviving spouse if the house was acquired from the deceased spouse, so long as all of the other requirements of §12-37-220(B) are met.

This bill will allow the surviving spouse of a deceased eligible owner to qualify for the exemption even if the decedent had no ownership interest in the house, so long as the property meets all of the other requirements of §12-37-220(B), including that the house qualifies as the surviving spouse’s legal residence. An eligible owner is defined as a veteran, a former law enforcement officer, or a former firefighter, who became permanently and totally disabled as a result of a service-connected disability. The definition of qualified surviving spouse also includes the spouse of a law enforcement officer, a firefighter, or a member of the armed forces of the United States who was killed in the line of duty who also owned the property in fee or jointly with the surviving spouse. Because of the definition of surviving spouse, this bill does not alter the specification that a surviving spouse of a decedent who died in the line of duty may claim the exemption only if the decedent had an ownership interest in the property.

Using data provided in the South Carolina Public Benefit Authority’s South Carolina Retirement Systems 2020 Actuarial Experience Study, data from the United States Census Bureau’s American Community Survey, and data published by the United States Department of Defense, we calculated approximately 212 persons die annually that may meet the definition of an eligible owner.

For this exemption to apply, there must be a surviving spouse. Based on the American Community Survey, approximately 47.2 percent of adult South Carolinians are married. Multiplying the number of decedents by the percentage of persons married results in an estimated 100 decedents with a surviving spouse.

Further, the bill only changes the exemption for instances when the decedent has no ownership interest in the property, but the surviving spouse must have at least a 50 percent interest and the property must be the surviving spouse’s legal residence. Any property that was owned by the decedent and passed to the surviving spouse is currently eligible for this property tax exemption. Using the average owner-occupancy rate from the American Community Survey, approximately 30.7 percent, or 31 decedents, did not have an ownership interest in their residence at the time of death. Therefore, this bill may result in approximately 31 additional homes becoming eligible for the property tax exemption annually. This may be an overstatement as the instances where one spouse has at least a 50 percent ownership interest in the property but the other spouse has no ownership interest are limited, however, there is insufficient data to estimate this effect.

The estimated average home fair market value is $197,551 in tax year 2022. Any qualifying property will already qualify for the owner-occupied exemption from school operating millage. Therefore, each property will receive an additional exemption from all other millage. The estimated statewide millage rate, excluding school operating millage, for tax year 2022 is 182.64. Therefore, each new exemption allowed under this proposal may result in an estimated reduction of property tax revenue of $1,443. Additionally, of those properties that will become eligible, some may already qualify for the homestead exemption, which exempts the first $50,000 of the property value from all property taxes for owners who are 65 and older or are totally disabled. This will result in an additional property tax reduction of $1,077 per property for those properties that currently qualify for the homestead exemption. For purposes of this analysis, we assume none of the 31 properties qualify for the homestead exemption, resulting in a property tax revenue reduction totaling $44,000.

To summarize, this bill may result in a reduction of property tax revenue statewide by as much as $44,000, which is less than 0.01 percent of the estimated total property tax revenue statewide. This estimate is likely an overstatement as it assumes that none of the 31 newly exempt properties currently qualify for the homestead exemption, and it is likely that some of the 31 properties may not qualify for this exemption due to lack of ownership interest by the surviving spouse. Also, RFA assumes local entities will increase millage rates, within the allowable millage rate increase limitations, to offset any reduction in property tax revenue.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 12-37-220(B)(1)(b) OF THE 1976 CODE, RELATING TO PROPERTY EXEMPTED FROM AD VALOREM TAXATION, TO PROVIDE THAT A QUALIFIED SURVIVING SPOUSE MAY QUALIFY FOR AN EXEMPTION IF THE QUALIFIED SURVIVING SPOUSE OWNS THE HOUSE.

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

SECTION 1. Section 12-37-220(B)(1)(b) of the 1976 Code is amended to read:

“(b) the house owned by a qualified surviving spouse ~~acquired from the deceased spouse~~ and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house;”

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

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