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Indicates New Matter

COMMITTEE REPORT

March 17, 2021

**S. 527**

Introduced by Senator Alexander

S. Printed 3/17/21--S.

Read the first time February 4, 2021.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 527) to amend Section 12‑43‑220, as amended, Code of Laws of South Carolina, 1976, relating to the classification of property and the applicable assessment ratios, etc., respectfully

**REPORT:**

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

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Local Revenue**

This bill defines legally separated for purposes of determining members of a household for a special four percent assessment ratio for owner-occupied property, pursuant to §12-43-220(c). This bill defines legally separated as a party that has filed a complaint for separate support and maintenance with the appropriate family court and are living separate and apart in difference households.

Currently, the owner-occupant’s spouse is considered a member of the household and would not be eligible to claim a four percent assessment on a different residence than that of the owner-occupant unless the couple is legally separated but legally separated is not specifically defined in §12-43-220(c). According to legal counsel within family court, a family court issued separation agreement is currently recognized by most counties as grounds to be classified as legally separated in order to allow each spouse the right to claim the four percent assessment for their separately owned residences. Therefore, the new definition of legally separated for purposes of allowing each member of a married and separated couple living in separately in owner-occupied property reflects current practices. However, there may be incidences where a county has not allowed two separate properties to receive the special four percent assessment for a legally separated couple. Rather, one of the two properties would be assessed as commercial/rental property at six percent.

The average home value in the state is $166,383. Changing a property classification from commercial/rental to owner-occupied based on the statewide average millage rate of 350.30 and statewide average millage rate without school operating millage of 156.15 results in a loss of property tax revenue of $2,308 per property.

However, RFA assumes the incidences where the second property for a legally separated couple does not receive the special four percent assessment are isolated incidences and therefore this bill will not result in a reduction in property tax revenue for counties.

Additionally, this bill requires either party of a previously legally separated couple that has since reconciled and vacated a special four percent assessed property, to notify the county assessor that the four percent assessment ratio is no longer applicable for the vacated property. Currently, there is no requirement of notice. This bill may result in a county becoming aware that a property no longer qualifies for the special four percent assessment more quickly and thereby allowing the county to apply a six percent assessment and school operating millage to the property in more timely manner. However, as the property no longer qualifies for the special four percent assessment at the time it is no longer owner-occupied, RFA assumes this bill would not result in an increase in property tax revenues.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 12‑43‑220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CLASSIFICATION OF PROPERTY AND THE APPLICABLE ASSESSMENT RATIOS FOR THE VARIOUS CLASSES OF PROPERTY FOR PURPOSES OF IMPOSITION OF THE PROPERTY TAX, SO AS TO DEFINE “LEGALLY SEPARATED” FOR PURPOSES OF THE CERTIFICATE CONTAINED IN THE APPLICATION FOR THE SPECIAL FOUR PERCENT ASSESSMENT RATIO FOR OWNER‑OCCUPIED RESIDENTIAL PROPERTY AND TO REQUIRE ANNUAL REAPPLICATION AND RECERTIFICATION TO MAINTAIN THE SPECIAL FOUR PERCENT ASSESSMENT RATIO FOR CERTAIN SEPARATED SPOUSES.

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

SECTION 1. A. Section 12‑43‑220(c)(2)(iii) of the 1976 Code is amended to read:

“(iii) For purposes of subitem (ii)~~(B) of this item,~~:

(A) ‘Member of my household’ means:

~~(A)~~(1) the owner‑occupant’s spouse, except when that spouse is legally separated from the owner‑occupant; and

~~(B)~~(2) any child under the age of eighteen years of the owner‑occupant claimed or eligible to be claimed as a dependent on the owner‑occupant’s federal income tax return.

(B) ‘Legally separated’ means the parties have filed a complaint for separate support and maintenance with the appropriate family court and live separate and apart in different residences and no longer cohabitate as husband and wife.

If either party of a separated couple receives the special four percent assessment ratio on a residence while the couple is separated and the couple subsequently reconciles, the spouse vacating a residence receiving the special four percent assessment shall notify the county assessor in writing within six months of vacating that residence that the residence is no longer eligible for the special four percent assessment ratio. Failure to provide timely notice to the assessor subjects the owner to the provisions of subsubitem (vii) of this item.

To prove that a person is divorced or legally separated, the applicant shall provide a filed and stamped copy of the caption page of the action, a filed and stamped copy of the first page of the pleadings, or a filed and stamped copy of the order. To maintain the privacy of the applicant, the assessor may not require the submission of any pages or documents that are related to the cause of the action or the property or custody settlement, other than the property distribution related to any real property claimed, or to be claimed, as the legal residence. Language in the order related to the disposition of the legal residence of the couple, or either party, prior to any action must be provided to the assessor in order to claim the special assessment ratio allowed by this item (c).”

B. Section 12‑43‑220(c)(2) of the 1976 Code, as last amended by Act 145 of 2020, is further amended by adding at the end:

“(x) An applicant for the special four percent assessment ratio allowed pursuant to this item (c) who is both separated from his spouse and eligible, pursuant to subsubitem (iii) of this item, must reapply and recertify annually to maintain the special four percent assessment ratio until the applicant has been granted a divorce by a court of competent jurisdiction or the applicant has reconciled with the spouse from whom he separated.”

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

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