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**S. 229**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Cromer, Rose and Knotts

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Summary: Property Owner Protection Act

**HISTORY OF LEGISLATIVE ACTIONS**

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12/8/2010 Senate Referred to Committee on **Finance**

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1/11/2011 Senate Referred to Committee on **Finance** ([Senate Journal‑page 106](file:///h:\sj%20archive\2011\01-11-11.docx))

**VERSIONS OF THIS BILL**

[12/8/2010](file:///p:\pprever\2011-12\229_20101208.docx)

**A** **BILL**

TO ENACT THE PROPERTY OWNER PROTECTION ACT OF 2011, BY AMENDING ARTICLE 25, CHAPTER 37, TITLE 12, BY ADDING SECTION 12‑37‑3135, TO PROVIDE THAT WHEN A PARCEL OF REAL PROPERTY UNDERGOES AN ASSESSABLE TRANSFER OF INTEREST AFTER PROPERTY TAX YEAR 2010, THE PROPERTY TAX VALUE SHALL NOT EXCEED ONE HUNDRED AND FIFTEEN PERCENT OF THE PROPERTY TAX VALUE AS PREVIOUSLY CARRIED ON THE BOOKS OF THE ASSESSOR; TO AMEND SECTION 6‑1‑320, RELATING TO THE LIMITATION ON MILLAGE RATE INCREASES, TO PROVIDE THAT ANY MILLAGE INCREASE ALLOWED BUT NOT LEVIED FOR THE THREE PRECEDING PROPERTY TAX YEARS MAY BE LEVIED IN THE YEAR IN WHICH THE LIMIT APPLIES; TO AMEND SECTION 12‑37‑251, RELATING TO ROLLBACK MILLAGE, TO PROVIDE THAT THE FORMULA SHALL BE BASED ON PROPERTY TAXES LEVIED INSTEAD OF PROPERTY TAX REVENUES AND TO PROVIDE THAT ASSESSMENTS ATTRIBUTABLE TO ASSESSABLE TRANSFERS OF INTEREST MAY BE DEDUCTED; TO AMEND SECTION 12‑37‑3130, RELATING TO THE DEFINITION OF ‘ADDITIONS’ AND ‘IMPROVEMENTS’, TO PROVIDE THAT THE ISSUANCE OF A PERMIT IS NOT DE FACTO PROOF OF AN ADDITION OR IMPROVEMENT; AND BY ADDING SECTION 12‑60‑2570, TO PROVIDE THAT IF AN APPRAISAL RESULTING FROM AN ASSESSABLE TRANSFER OF INTEREST DETERMINES THE FAIR MARKET VALUE OF A PARCEL OF REAL PROPERTY IS HIGHER THAN THE CONSIDERATION GIVEN FOR THE INTEREST IN THE PARCEL, THE COUNTY ASSESSOR SHALL HAVE THE BURDEN OF PROOF OF SHOWING THAT THE HIGHER FAIR MARKET VALUE IS APPROPRIATE.

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

SECTION 1. This act may be cited as the “Property Owner Protection Act of 2011.”

SECTION 2. A. Article 25, Chapter 37, Title 12 of the 1976 Code is amended by adding:

“Section 12‑37‑3135. (A) Notwithstanding any other provision of law, when a parcel of real property and improvements thereon currently subject to property tax undergoes an assessable transfer of interest after property tax year 2010, the property tax value shall not exceed one hundred and fifteen percent of the property tax value as previously carried on the books of the property tax assessor. The fair market value to which the cap on increases in fair market value imposed pursuant to Section 12‑37‑3140(B) applies is the property tax value as determined by this section. This section applies at the time the value as determined by an assessable transfer of interest first applies.

(B) The property tax value determined by this section shall continue to apply until the parcel next undergoes an assessable transfer of interest. However, the parcel remains subject to changes in value as determined in a periodic countywide appraisal and equalization program and the limit on the increases in such values pursuant to Section 12‑37‑3140(B). The parcel also remains subject to changes in value due to additions or improvements made to the parcel.

(C) For purposes of this section, ‘property tax value’ means the fair market value as it may be adjusted pursuant to Section 12‑37‑3140(B).”

B. Section 12‑37‑3140(A)(1)(b) of the 1976 Code is amended to read:

“(b) subject to Section 12‑37‑3135, December thirty‑first of the year in which an assessable transfer of interest has occurred;”

C. This section takes effect upon approval by the Governor and applies for property tax years beginning after 2010. Property tax assessors shall conform the values of parcels of real property which underwent an assessable transfer of interest in 2011 before the effective date of this act, to the fair market value of these parcels as that value may have been adjusted to reflect the provisions of Section 12‑37‑3135 of the 1976 Code, as added by this act. No refund is allowed on account of values adjusted as provided in this section.

SECTION 3. A. Section 6‑1‑320(A) of the 1976 Code is amended to read:

“(A)(1) Notwithstanding Section 12‑37‑251(E), a local governing body may increase the millage rate imposed for general operating purposes above the rate imposed for such purposes for the preceding tax year only to the extent of the increase in the average of the twelve monthly consumer price indices for the most recent twelve‑month period consisting of January through December of the preceding calendar year, plus, beginning in 2007, the percentage increase in the previous year in the population of the entity as determined by the Office of Research and Statistics of the State Budget and Control Board. If the average of the twelve monthly consumer price indices experiences a negative percentage, the average is deemed to be zero. If an entity experiences a reduction in population, the percentage change in population is deemed to be zero. However, in the year in which a reassessment program is implemented, the rollback millage, as calculated pursuant to Section 12‑37‑251(E), must be used in lieu of the previous year’s millage rate.

(2) There may be added to the operating millage increase allowed pursuant to item (1) of this section any such increase, allowed but not previously imposed, for the three property tax years preceding the year to which the current limit applies.”

B. This section takes effect for millage rates calculated for property tax years beginning after 2010.

SECTION 4. A. Section 12‑37‑251(E) of the 1976 Code is amended to read:

“(E) Rollback millage is calculated by dividing the prior year property ~~tax revenues~~ taxes levied as adjusted by abatements and additions by the adjusted total assessed value applicable in the year the values derived from a countywide equalization and reassessment program are implemented. This amount of assessed value must be adjusted by deducting assessments added for property or improvements not previously taxed, for new construction, ~~and~~ for renovation of existing structures, and assessments attributable to increases in value due to an assessable transfer of interest.”

B. This section takes effect for rollback millage calculated for property tax years beginning after 2010.

SECTION 5. Section 12‑37‑3130(1) of the 1976 Code is amended to read:

“(1) ‘Additions’ or ‘improvements’ mean an increase in the value of an existing parcel of real property because of:

(a) new construction;

(b) reconstruction;

(c) major additions to the boundaries of the property or a structure on the property;

(d) remodeling; or

(e) renovation and rehabilitation, including installation.

Additions or improvements do not include minor construction or ongoing maintenance and repair of existing structures. The issuance of a permit is not de facto proof of an addition or improvement and is not conclusive evidence of the need for an appraisal. The repair or reconstruction of a structure damaged or destroyed by a disaster, to include, but not limited to, construction defects, defective materials, fire, wind, hail, flood, and acts of God, is not an addition or improvement to the extent that the structure as repaired or reconstructed is similar in size, utility, and function of the structure damaged or destroyed, and the rebuilding or reconstruction is begun within eight years after determination of the damage or destruction. Construction of facilities in a home that make the home handicap accessible is not an addition or improvement if the utility and function of the structure remains unchanged. The installation of a fire sprinkler system in a commercial or residential structure when the installation is not required by law, regulation, or code is not an addition or improvement if the utility and function of the structure remains unchanged.”

SECTION 6. Subarticle 9, Article 9, Chapter 60, Title 12 of the 1976 Code is amended by adding:

“Section 12‑60‑2570. For any appeal or protest brought pursuant to this subarticle for an appraisal resulting from an assessable transfer of interest due to a conveyance by deed, if the county assessor determines the fair market value of a parcel of real property and improvements thereon is higher than the consideration given for the interest in the parcel, the county assessor shall have the burden of proof of showing that the higher fair market value is appropriate. This section only applies when the assessable transfer of interest was an arms‑length transaction. In determining whether a transaction is an arms‑length transaction, it should be considered whether both the seller and the buyer are willing, are not acting under compulsion, are reasonably well informed of the uses and purposes for which the property is adapted and for which the property is capable of being used, or any other factor.”

SECTION 7. Unless stated otherwise, this act takes effect upon approval by the Governor.

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