

REPORT OF THE PROPERTY TAX SUBCOMMITTEE

(Hewitt, Clyburn, Collins, Murphy & Crawford - Staff Contact: Stephanie Meetze)

SENATE BILL 1017

S. 1017 -- Senators M. Johnson, Peeler, Climer, Setzler and Kimbrell: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-37-220, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE THAT THE EXEMPTION FOR CERTAIN PROPERTY OF A NONPROFIT HOUSING CORPORATION ONLY APPLIES TO THE PERCENTAGE OF PROPERTY THAT EQUALS THE CORPORATION'S OWNERSHIP INTEREST IN THE PROPERTY, TO PROVIDE AN EXCEPTION, AND TO PROVIDE CERTAIN CERTIFICATION AND NOTICE REQUIREMENTS; AND BY ADDING SECTION 12-37-160 SO AS TO PROVIDE THAT CERTAIN PROPERTY ASSESSED AS AGRICULTURAL OR RELATED THERETO MAY NOT BE ANNEXED BY A MUNICIPALITY.

Received by Ways and Means: 3/26/24

Summary of Bill:

Amends 12.37-220(B)(11) to specify that the property tax exemption for properties owned by nonprofit housing corporations or their instrumentalities that are devoted to providing housing to low or very low-income residents must be proportionate to the nonprofit housing corporation's percentage of direct or indirect economic ownership in the property.

The bill also specifies that agricultural property may not be annexed by a municipality without the express written consent of the owner of the property.

Estimated Revenue Impact:

No Fiscal Impact on the General Fund

Subcommittee Action/Explanation:

Favorable with Amendment

The amendment adds language to section e(ii)B pertaining to the property located within a zip code that is defined by HUD as Small Areas when using zip codes within a larger metropolitan area.

Full Committee Action/Explanation:

Other Notes/Comments:

SOUTH CAROLINA
HOUSE AMENDMENT

AMENDMENT NO. _____

David Good
April 23, 2024

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO
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Clerk of the House

ADOPTION NO. _____

BILL NO: S. 1017

(Reference is to the original version)

The Property Tax Subcommittee proposes the following amendment (LC-1017.DG0002H):

Amend the bill, as and if amended, SECTION 1.A., by striking Section 12-37-220(B)(11)(e)(ii)(B) and inserting:

(B) notwithstanding the unit mix prescribed by the safe harbor provisions of Revenue Procedure 96-32, all of the units in the property are devoted to providing housing to residents who qualify as low income under Revenue Procedure 96-32, unless the property is located within a zip code where HUD defines Small Areas by using zip codes within a larger metropolitan area under a Fair Market Rent designation in which case all of the units in the property must meet applicable Fair Market Rent guidelines in a given year, then the exemption allowed by this subitem equals one hundred percent;

Renumber sections to conform.

Amend title to conform.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	S. 1017	Introduced on February 1, 2024
Author:	M. Johnson	
Subject:	Property	
Requestor:	Senate Finance	
RFA Analyst(s):	Miller	
Impact Date:	February 23, 2024	

Fiscal Impact Summary

This bill amends §12-37-220(B)(11), which was last amended by Act 145 of 2020, to specify that the property tax exemption for properties owned by nonprofit housing corporations or their instrumentalities that are devoted to providing housing to low or very low-income residents must be proportionate to the nonprofit housing corporation's percentage of direct or indirect economic ownership in the property. This does not apply if the nonprofit housing corporation's ownership interest exceeds 50 percent or if all of the units in the qualifying property are devoted to providing housing to residents who qualify as low-income under Revenue Procedure 96-32. If either of these criteria are met, then the property tax exemption is 100 percent. A nonprofit housing corporation or its instrumentality must have certification of its percentage of ownership from the Department of Revenue (DOR) to receive this exemption. The change is applicable beginning in tax year 2025.

This bill will have no expenditure impact for DOR, as the agency anticipates the expense of the annual certification process will be minimal and can be managed within existing appropriations.

Based on the responses received from the counties of Charleston and Horry and the Municipal Association of South Carolina (MASC), the Revenue and Fiscal Affairs Office (RFA) anticipates this bill will result in an undetermined increase in property tax revenue, depending upon the number of properties that will see a smaller percentage of the property being exempt due to the ownership percentage of the nonprofit corporation. DOR indicates that currently 2,393 exemptions are allowed pursuant to §12-37-220(B)(11)(e) that may be impacted by the bill. While this bill may not reduce the number of exemptions allowed, it may decrease the percentage of the property that is exempt and, thereby, increase local property tax revenue beginning in FY 2025-26. *Please see the Local Revenue Section for details on the responses received.*

Additionally, this bill specifies that agricultural property may not be annexed by a municipality without the express written consent of the owner of the property. Municipalities' property taxes include only those properties within municipal boundaries. Based on a response provided by MASC, this provision will have a minimal impact for municipalities as the majority of annexations within the state are by the 100 percent method, requiring a petition signed by 100 percent of the property owners of the property to be annexed.

Explanation of Fiscal Impact

Introduced on February 1, 2024

State Expenditure

This bill requires a nonprofit housing corporation, or its instrumentality to have an annual certification of its percentage of ownership from DOR to receive the property tax exemption pursuant to §12-37-220(B)(11). DOR must prescribe the forms by which the nonprofit corporation or its instrumentality may provide the certification requirements. DOR anticipates being able to manage the responsibilities outlined in this bill with minimal expense that can be managed within existing appropriations.

State Revenue

N/A

Local Expenditure

N/A

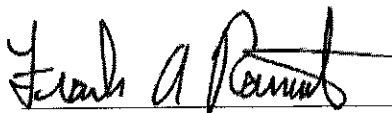
Local Revenue

This bill amends §12-37-220(B)(11), which was last amended by Act 145 of 2020, to specify that the property tax exemption for properties owned by nonprofit housing corporations or their instrumentalities that are devoted to providing housing to low or very low-income residents must be proportionate to the nonprofit housing corporation's percentage of direct or indirect economic ownership in the property. This does not apply if the nonprofit housing corporation's ownership interest exceeds 50 percent or all of the units in the qualifying property are devoted to providing housing to residents who qualify as low-income under Revenue Procedure 96-32. If either of these criteria are met, then the property tax exemption is 100 percent. The change applies beginning in tax year 2025. DOR indicates that currently 2,393 exemptions are allowed pursuant to §12-37-220(B)(11)(e) that may be impacted by the change.

We contacted the South Carolina Association of Counties, MASC, and all counties to determine the potential impact of this bill. The counties of Charleston and Horry provided a response as well as MASC. Charleston County estimates this bill will add \$748,000 in assessed value back to the assessment roll, assuming the owners do not change all their units to low-income housing units. Horry County expressed concern about establishing that the housing is used for low-income residents. Additionally, MASC anticipates this bill will significantly limit the number of housing developments that receive a 100 percent property tax exemption. The association relayed that the city of Rock Hill estimates that \$405,000 were not collected in property taxes due to this property tax exemption. Additionally, York County and York 3 school district property taxes were reduced by \$1,200,000 and \$322,000, respectively, for the exempt property in the city of Rock Hill.

Based on the responses received, RFA anticipates this bill will result in an undetermined increase in local property tax revenue statewide beginning in FY 2025-26, depending upon the number of properties that will see a smaller percentage of the property being exempt due to the ownership percentage of the nonprofit corporation.

Additionally, this bill specifies that agricultural property may not be annexed by a municipality without the express written consent of the owner of the property. Municipalities' property taxes include only those properties within municipal boundaries. Based on a response provided by MASC, this provision will have a minimal impact for municipalities as the majority of annexations within the state are by the 100 percent method, requiring a petition signed by 100 percent of the property owners of the property to be annexed.



Frank A. Rainwater, Executive Director

South Carolina General Assembly
125th Session, 2023-2024

S. 1017

STATUS INFORMATION

General Bill

Sponsors: Senators M. Johnson, Peeler, Climer, Setzler and Kimbrell

Companion/Similar bill(s): 907, 4936

Document Path: LC-0353DG24.docx

Introduced in the Senate on February 1, 2024

Introduced in the House on March 26, 2024

Last Amended on March 20, 2024

Currently residing in the House Committee on **Ways and Means**

Summary: Property

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/1/2024	Senate	Introduced and read first time (Senate Journal-page 6)
2/1/2024	Senate	Referred to Committee on Finance (Senate Journal-page 6)
2/28/2024	Senate	Committee report: Favorable Finance (Senate Journal-page 14)
3/1/2024		Scrivener's error corrected
3/20/2024	Senate	Amended (Senate Journal-page 18)
3/20/2024	Senate	Read second time (Senate Journal-page 18)
3/20/2024	Senate	Roll call Ayes-46 Nays-0 (Senate Journal-page 18)
3/21/2024		Scrivener's error corrected
3/21/2024	Senate	Read third time and sent to House (Senate Journal-page 11)
3/26/2024	House	Introduced and read first time (House Journal-page 24)
3/26/2024	House	Referred to Committee on Ways and Means (House Journal-page 24)

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VERSIONS OF THIS BILL

[02/01/2024](#)

[02/28/2024](#)

[03/01/2024](#)

[03/20/2024](#)

[03/21/2024](#)

1 ~~Indicates Matter Stricken~~
2 Indicates New Matter

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4 AMENDED
5 March 20, 2024
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S. 1017

8
9 Introduced by Senators M. Johnson, Peeler, Climer, Setzler and Kimbrell

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11 S. Printed 03/20/24--S.

[SEC 3/21/2024 11:14 AM]

12 Read the first time February 01, 2024
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A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-37-220, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE THAT THE EXEMPTION FOR CERTAIN PROPERTY OF A NONPROFIT HOUSING CORPORATION ONLY APPLIES TO THE PERCENTAGE OF PROPERTY THAT EQUALS THE CORPORATION'S OWNERSHIP INTEREST IN THE PROPERTY, TO PROVIDE AN EXCEPTION, AND TO PROVIDE CERTAIN CERTIFICATION AND NOTICE REQUIREMENTS; AND BY ADDING SECTION 12-37-160 SO AS TO PROVIDE THAT CERTAIN PROPERTY ASSESSED AS AGRICULTURAL OR RELATED THERETO MAY NOT BE ANNEXED BY A MUNICIPALITY.

Amend Title To Conform

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

SECTION 1. A. Section 12-37-220(B)(11) of the S.C. Code is amended to read:

(a) all property of nonprofit housing corporations devoted exclusively to providing below-cost housing for the aged or for handicapped persons or for both aged and handicapped persons as authorized by Section 202 of the Housing Act of 1959 and regulated in part by 24 CFR Part 885;

(b) all property of nonprofit housing corporations devoted exclusively to providing below-cost supportive housing for elderly persons or households as authorized by Section 202 of the Housing Act of 1959 as amended under Section 801 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 889;

(c) all property of nonprofit housing corporations devoted exclusively to providing below-cost supportive housing for persons with disabilities as authorized by Section 811 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 890;

(d) all property of nonprofit housing corporations devoted exclusively to providing rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income as authorized by Section 515 of Title V of the Housing Act of 1949;

(e)(i) all property of nonprofit housing corporations or instrumentalities of these corporations when the property is devoted to providing housing to low or very low income residents. ~~A-Except as~~ otherwise provided in this subitem, a nonprofit housing corporation or its instrumentality must satisfy the safe harbor provisions of Revenue Procedure 96-32 issued by the Internal Revenue Service for this exemption to apply. For purposes of this subitem, property of nonprofit housing corporations or

1 instrumentalities of these corporations includes all leasehold interests in property owned by an entity
2 that provides housing accommodations to persons of low or very low income, and in which a wholly
3 owned affiliate or wholly owned instrumentality of a nonprofit housing corporation is the general
4 partner, managing member, or the equivalent. However, except as otherwise provided in this subitem,
5 the exemption allowed by this subitem only applies if the property of nonprofit housing corporations
6 or instrumentalities of these corporations satisfies the safe harbor provisions of Revenue Procedure
7 96-32 issued by the Internal Revenue Service;

8 (ii) the exemption allowed by this subitem must be proportionate to the nonprofit housing
9 corporation's percentage of direct or indirect ownership in the qualifying property, except that if:

10 (A) the nonprofit housing corporation's percentage of direct or indirect ownership interest
11 in the qualifying property exceeds fifty percent; or

12 (B) notwithstanding the unit mix prescribed by the safe harbor provisions of Revenue
13 Procedure 96-32, all of the units in the property are devoted to providing housing to residents who
14 qualify as low income under Revenue Procedure 96-32, then the exemption allowed by this subitem
15 equals one hundred percent;

16 (iii) to claim the exemption allowed by this subitem, the nonprofit housing corporation or its
17 instrumentality must apply to the department and certify the nonprofit housing corporation's percentage
18 of direct or indirect ownership in the property and provide a rent roll or other suitable documentation
19 evidencing compliance with the requirements of Revenue Procedure 96-32, as applicable. Such initial
20 certification must be made by the first penalty date for the property tax year in which the exemption is
21 first claimed for the property. In each subsequent year in which the exemption allowed by this subitem
22 is claimed, the nonprofit housing corporation or its instrumentality must submit an annual certification
23 to the department by October first. The annual certification must provide the current percentage of the
24 nonprofit housing corporation's direct or indirect ownership in the property and current rent roll or
25 other suitable documentation evidencing compliance with the requirements of Revenue Procedure
26 96-32, as applicable. The department shall prescribe the form of the application and certification
27 required by this subitem as well as the penalties for noncompliance. The eligibility and transition rules
28 provided in the safe harbor provisions of Revenue Procedure 96-32 must be taken into account by the
29 department in determining compliance. Compliance with this subitem does not require displacement
30 of any tenant before the termination of the tenant's lease agreement;

31 (iv) no later than sixty calendar days following the notification to any nonprofit housing
32 corporation or its instrumentality of an approved exemption under this subitem, the department shall
33 also notify the chief administrative officer of any county and, as applicable, any municipality with
34 jurisdiction over property determined to be exempt under this subitem;

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36 B. This SECTION takes effect upon approval by the Governor and applies prospectively to property of

1 nonprofit housing corporations or their instrumentalities eligible and first making application for the
2 exemption for property tax years beginning after 2024. This SECTION shall not apply to any project
3 that, prior to approval by the Governor of this SECTION, had submitted an application or been
4 approved for an exemption under Section 12-37-220(B)(11)(e). Provided, however, all exempt projects
5 under Section 12-37-220(B)(11)(e) are required to submit the required annual certifications to the
6 department.

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8 SECTION 2. Article 1, Chapter 37, Title 12 of the S.C. Code is amended by adding:

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10 Section 12-37-160. Notwithstanding any other provision of law, any real property upon which
11 items exempt from taxation pursuant to Section 12-37-220(B)(14) are situated or any real property that
12 is assessed pursuant to Section 12-43-220(d), or any real property adjacent to either, may not be
13 annexed by a municipality without the express written agreement of the owner of the real property.

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15 SECTION 3. This act takes effect upon approval by the Governor.

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