**South Carolina General Assembly**

121st Session, 2015-2016

**H. 3906**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Toole, Anthony and Newton

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Introduced in the House on March 25, 2015

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

Summary: Four percent assessment ratio

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/25/2015 House Introduced and read first time ([House Journal‑page 4](file:///h:\HJ%20Archive\2015\03-25-15.docx))

3/25/2015 House Referred to Committee on **Ways and Means** ([House Journal‑page 4](file:///h:\HJ%20Archive\2015\03-25-15.docx))

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**VERSIONS OF THIS BILL**

[3/25/2015](file:///p:\pprever\2015-16\3906_20150325.docx)

**A** **BILL**

TO AMEND SECTION 12‑43‑220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FOUR PERCENT SPECIAL ASSESSMENT RATIO, SO AS TO PROVIDE THAT, IN CERTAIN SITUATIONS, IF A PERSON RECEIVES THE FOUR PERCENT ASSESSMENT RATIO WHEN THE PERSON WAS NOT ELIGIBLE, ANY PAYMENT IN ERROR IS CONSIDERED PARTIAL PAYMENT AND THE PERSON OWES THE BALANCE AT THE CORRECT ASSESSMENT RATIO PLUS A PENALTY ON THE BALANCE, AND TO PROVIDE THAT AFTER A PARCEL OF REAL PROPERTY HAS UNDERGONE AN ASSESSABLE TRANSFER OF INTEREST, DELINQUENT PROPERTY TAX AND PENALTIES ASSESSED BECAUSE THE PROPERTY WAS IMPROPERLY CLASSIFIED AS OWNER‑OCCUPIED RESIDENTIAL PROPERTY WHILE OWNED BY THE TRANSFEROR ARE SOLELY A PERSONAL LIABILITY OF THE TRANSFEROR AND DO NOT CONSTITUTE A LIEN ON THE PROPERTY AND ARE NOT ENFORCEABLE AGAINST THE PROPERTY AFTER THE ASSESSABLE TRANSFER OF INTEREST IF THE TRANSFEREE IS A BONA FIDE PURCHASER FOR VALUE WITHOUT NOTICE; AND TO AMEND SECTION 12‑54‑85, RELATING TO THE TIME LIMITATION ON THE ASSESSMENT OF TAXES AND FEES, SO AS TO DISALLOW ASSESSMENTS AFTER THIRTY‑SIX MONTHS, AND TO PROVIDE THAT A TAXPAYER MAY MAKE A CLAIM FOR A REFUND ON REAL PROPERTY WITHIN THIRTY‑SIX MONTHS OF PAYMENT INSTEAD OF TWENTY‑FOUR MONTHS.

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

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

“(vii) (A) ~~If~~ Notwithstanding any other provision of law, if a person signs the certification, obtains the four percent assessment ratio, and is thereafter found not eligible, or thereafter loses eligibility and fails to notify the assessor within six months, then any amount paid by the person is deemed to be a lawful partial payment, and the person owes the balance of the tax due at the appropriate assessment ratio for each year in which the property was ineligible for the four percent assessment ratio. Additionally, a penalty is imposed equal to ~~one hundred percent of the tax paid, plus interest on that amount at the rate of~~ one and one‑half ~~of one~~ percent a ~~month~~ year on the balance due, but in no case less than thirty dollars nor more than the ~~current year’s~~ taxes due for the property tax year ending on the most recent December thirty‑first. This penalty ~~and any interest are~~ is considered ad valorem taxes due on the property for purposes of collection and enforcement. For purposes of the penalty, any part of a year is deemed a whole year.

(B) If property has undergone an assessable transfer of interest as provided pursuant to Section 12‑37‑3150 and the transferee is a bona fide purchaser for value without notice, penalties assessed pursuant to subsubitem (A) and the additional property taxes and late payment penalties are solely the personal liability of the transferor and do not constitute a lien on and are not enforceable against the property in the hands of the transferee.”

B. The amendments to Section 12‑43‑220(c)(2)(vii)(A) as contained in this SECTION apply to penalties incurred for property taxes in property tax years beginning after 2014 and all property tax years within three years. The amendments to Section 12‑43‑220(c)(2)(vii)(B) as contained in this SECTION take effect upon approval by the Governor.

SECTION 2. Section 12‑54‑85(C) of the 1976 Code is amended to read:

“(C) ~~Taxes may be determined and assessed after the thirty‑six month limitation if:~~

~~(1)~~ ~~there is fraudulent intent to evade the taxes;~~

~~(2)~~ ~~the taxpayer failed to file a return or document as required by law;~~

~~(3)~~ ~~there is a twenty percent understatement of the total of all taxes required to be shown on the return or document. The taxes in this case may be assessed at any time within seventy‑two months from the date the return or document was filed or due to be filed, whichever is later. For the purpose of this item, the total of all taxes required to be shown on the return is the total of all taxes required to be shown on the return before any reduction for estimated payments, withholding payments, other prepayments, or discount allowed for timely filing of the return and payment of the tax due, but that amount must be reduced by another credit that may be claimed on the return;~~

~~(4)~~ ~~the person liable for any taxes consents in writing, before the expiration of the time prescribed in this section for assessing taxes due, to the assessment of the taxes after the time prescribed by this section; or~~

~~(5)~~ ~~the tax is a use tax imposed under Chapter 36 of this title, or a local use tax administered and collected by the department on behalf of a local jurisdiction, and the assessment of the use tax is the result of information received from, or as a result of exchange agreements with, other state or local taxing authorities, regional or national tax administration organizations, or the federal government. The use taxes in this case may be assessed at any time within twelve months after the department receives the information, but no later than seventy‑two months after the last day the use tax may be paid without penalty.~~ Reserved”

SECTION 3. Section 12‑54‑85(F) of the 1976 Code is amended by adding an appropriately numbered item to read:

“( ) Notwithstanding any other provision of this subsection, claims for credit or refund for real property must be filed within thirty‑six months from the date the tax was paid.”

SECTION 4. SECTION 2 takes effect upon approval by the Governor and applies to applicable penalties and assessments arising after property tax year 2014 and any open period in excess of three years. SECTION 3 takes effect upon approval by the Governor and applies to applicable credits and refunds arising after property tax year 2014 and any open period less than three years. However, no refund is allowed on account of the amendments contained in this act.

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