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Indicates New Matter

AMENDED

May 18, 2016

**H. 3313**

Introduced by Reps. Pope, Simrill, Ballentine, Felder, Atwater, Bedingfield, Spires, Clary, Collins, Delleney, Hamilton, Hiott, Hixon, V.S. Moss, Norman, Stringer, Toole, W.J. McLeod and Newton

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Read the first time May 4, 2015.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑43‑222 SO AS TO PROVIDE WHEN CALCULATING ROLL‑BACK TAX DUE ON A PARCEL OF REAL PROPERTY CHANGED FROM AGRICULTURAL TO COMMERCIAL OR RESIDENTIAL USE THE VALUE USED FOR PLATTED GREEN SPACE OR OPEN SPACE USE OF THE PARCEL, IF SUCH USE IS TEN PERCENT OR MORE OF THE PARCEL, MUST BE VALUED BASED ON THE GREEN SPACE OR OPEN SPACE USE; AND TO AMEND SECTION 12‑43‑220, AS AMENDED, RELATING TO CLASSES OF PROPERTY AND APPLICABLE ASSESSMENT RATIOS FOR PURPOSES OF IMPOSITION OF THE PROPERTY TAX, SO AS TO MAKE A CONFORMING AMENDMENT, 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.

Amend Title To Conform

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

SECTION 1. Article 3, Chapter 43, Title 12 of the 1976 Code is amended by adding:

“Section 12‑43‑222. (A) Notwithstanding the provisions of Section 12‑43‑220(d)(4), the property tax value, as defined in Section 12‑37‑3135, of that portion of a parcel of real property changed from agricultural use for purposes of residential or commercial development that is designated on the recorded development plat of the parcel as ‘green space for conservation’ or ‘open space’ if it equals ten percent or more of the area included within the outermost boundaries of the residential or commercial development must be valued according to its new ‘green space for conservation’ or ‘open space’ use for all purposes in calculating roll‑back tax due on the parcel. As used in this section only, and without regard to any other definitions for those terms in state law or regulations, ‘green space for conservation’ and ‘open space’ have the meaning provided for those terms by the United States Environmental Protection Agency. The county assessor shall value the designated ‘green space for conservation’ or ‘open space’ in the manner that other property dedicated to that use is valued and that value must be used in the calculation of roll‑back tax on the parcel pursuant to Section 12‑43‑220(d)(4). Appeals from the valuation of the ‘green space for conservation’ or ‘open space’ may be taken in the manner provided by law for appeals of value of real property appraised by county assessors.

(B) If the platted ‘green space for conservation’ or ‘open space’ is converted to another use in five property tax years or less since the provisions of this section were applied to the property, then the owner of property at the time of its conversion is liable for the roll‑back taxes as if this section was not effective. For purposes of this subsection, if the transfer of property causes the change in use, then the transferor is deemed to be the owner of the property at the time of the conversion, and the taxes must be paid at the time of the closing.

(C) This section only applies when the local jurisdiction requires the designation of ‘green space for conservation’ or ‘open space’ as a condition to develop residential or commercial property.”

SECTION 2. Section 12‑43‑220(d)(4) of the 1976 Code is amended to read:

“(4) Except as provided pursuant to Section 12‑43‑222, when real property which is in agricultural use and is being valued, assessed, and taxed under the provisions of this article, is applied to a use other than agricultural, it is subject to additional taxes, hereinafter referred to as roll‑back taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the real property been valued, assessed, and taxed as other real property in the taxing district, in the current tax year (the year of change in use) and each of the five tax years immediately preceding in which the real property was valued, assessed, and taxed as herein provided. If in the tax year in which a change in use of the real property occurs the real property was not valued, assessed, and taxed under this article, then the real property is subject to roll‑back taxes for each of the five tax years immediately preceding in which the real property was valued, assessed, and taxed hereunder. In determining the amounts of the roll‑back taxes chargeable on real property which has undergone a change in use, the assessor shall for each of the roll‑back tax years involved ascertain:

(A) the fair market value without consideration of the standing timber of such real property under the valuation standard applicable to other real property in the same classification;

(B) the amount of the real property assessment for the particular tax year by multiplying such fair market value by the appropriate assessment ratio provided in this article;

(C) the amount of the additional assessment on the real property for the particular tax year by deducting the amount of the actual assessment on the real property for that year from the amount of the real property assessment determined under (B) of this section;

(D) the amount of the roll‑back for that tax year by multiplying the amount of the additional assessment determined under (C) of this section by the property tax rate of the taxing district applicable for that tax year.”

SECTION 3. The provisions of SECTIONS 1 and 2 of this act apply for eligible real property changed from agricultural use valuation after 2015.

SECTION 4. Section 12‑43‑220(c)(2)(vii) of the 1976 Code is amended to read:

“(vii)(A) 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, a penalty is imposed equal to one hundred percent of the tax paid, plus interest on that amount at the rate of one‑half of one percent a month, but in no case less than thirty dollars nor more than the current year’s taxes. This penalty and any interest are considered ad valorem taxes due on the property for purposes of collection and enforcement.

(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. The provisions of this subitem making the additional taxes and penalties assessed pursuant to subitem (A) the sole personal liability of the transferor also apply to transfers required as a result of a property settlement pursuant to a divorce or other disputed marital matters where required by written agreement of the parties or a court order unless the agreement or court order requires otherwise, and additionally apply to trust distributions unless the trust instrument requires otherwise.”

SECTION 5. Article 3, Chapter 43, Title 12 of the 1976 Code is amended by adding:

“Section 12-43-370. (A) A county may allow a taxpayer to elect to receive his property tax bill and receipt in electronic form, and if the taxpayer makes the election, the county shall email the property tax bill and receipt each year unless the taxpayer elects to no longer obtain his bill and receipt electronically. The date the property tax bill or receipt is sent electronically is considered the date the bill or receipt is mailed. Each county may determine to which classes of property this section applies. The county shall maintain a record of the taxpayer’s election to participate and retain the date of the electronic transmission of the property tax bill or receipt as proof they were sent. This section does not apply to delinquent notices.

(B) Each county electing to utilize the provisions of this section shall create an application process to allow a taxpayer to submit his email address to the county. A county electing to utilize the provisions of this section shall advertise the application process for two weeks in a newspaper printed and circulated in the county and may publish the application process on the county’s website or on the property tax bill.”

SECTION 6. Section 12‑43‑220(d)(3) of the 1976 Code is amended to read:

“(3)(A) Agricultural real property does not come within the provisions of this section unless the owners of the real property or their agents make a written application therefor on or before the first penalty date for taxes due for the first tax year in which the special assessment is claimed. The application for the special assessment must be made to the assessor of the county in which the agricultural real property is located, on forms provided by the county and approved by the department and a failure to apply constitutes a waiver of the special assessment for that year. The governing body may extend the time for filing upon a showing satisfactory to it that the person had reasonable cause for not filing on or before the first penalty date. No additional annual filing is required while the use of the property remains bona fide agricultural and the ownership remains the same. The owner shall notify the assessor within six months of a change in use. For failure to notify the assessor of a change in use, in addition to any other penalties provided by law, a penalty of ten percent and interest at the rate of one‑half of one percent a month must be paid on the difference between the amount that was paid and the amount that should have been paid, but not less than thirty dollars nor more than the current year’s taxes.

(B) Roll‑back taxes authorized pursuant to subitem (d)(4) must not be applied solely because the owner of the property fails to make written application for an agricultural assessment so long as the actual use of the property remains agricultural. If the property assessment is changed from agricultural or the property is assessed roll‑back taxes, the owner may appeal, and if an appeal is made, the property must continue to be assessed as agricultural and the roll‑back taxes may not be applied until the final appeal date.”

SECTION 7. Section 12‑43‑220(c)(2)(vii) of the 1976 Code, as amended by this act, applies prospectively and also retroactively to all property tax years open for the assessment of delinquent property taxes and penalties, including penalties assessed pursuant to Section 12‑43‑220(c)(2)(vii) of the 1976 Code, as of that date. No interest is due on any refunds issued pursuant to the retroactive provisions of this section.

SECTION 8. This act takes effect upon approval by the Governor.

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