**South Carolina General Assembly**

124th Session, 2021-2022

**H. 4393**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Herbkersman and W. Newton

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Introduced in the House on May 13, 2021

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

Summary: Delinquent taxes

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/13/2021 House Introduced and read first time ([House Journal‑page 20](file:///h:\hj\20210513.docx))

5/13/2021 House Referred to Committee on **Ways and Means** ([House Journal‑page 20](file:///h:\hj\20210513.docx))

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**VERSIONS OF THIS BILL**

[5/13/2021](file:///p:\pprever\2021-22\4393_20210513.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑45‑440 SO AS TO PROVIDE THAT A COUNTY MAY ADOPT ALTERNATIVE DATES FOR THE APPLICATION OF PENALTIES ON DELINQUENT TAXES, THE ISSUANCE OF THE COUNTY TREASURER’S EXECUTION TO THE OFFICER AUTHORIZED TO COLLECT DELINQUENT TAXES, ASSESSMENTS, PENALTIES, AND COSTS, AND THE MAILING OF THE NOTICE OF DELINQUENT TAXES.

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

SECTION 1. Chapter 45, Title 12 of the 1976 Code is amended by adding:

“Section 12‑45‑440. (A)(1) As an alternative to the penalties and delinquent dates required by Sections 12‑45‑180 and 12‑51‑40, the governing body of a county may adopt by ordinance an alternate timeline of penalty imposition as provided in this section. However, if the officer authorized to collect delinquent taxes, assessments, penalties, and costs reports to the county treasurer, the county treasurer’s adoption of this section is sufficient.

(2) Adoption of this section must be communicated in writing to the county auditor and the taxing authorities within the county before the start of the tax year in which this section is applied.

(3) An ordinance adopted by this section goes into effect in the property tax year following the year in which the ordinance is adopted.

(B)(1) When the taxes and assessments or any portion of the taxes and assessments charged against any property or person on the duplicate for the current fiscal year are not paid before January sixteenth or thirty days after the mailing of tax notices, whichever occurs later, the county auditor shall add a penalty of three percent on the county duplicate and the county treasurer shall collect the penalty. If the taxes, assessments, penalties, and costs are not paid before February second, the county treasurer shall issue his tax execution to the officer authorized and directed to collect delinquent taxes, assessments, penalties, and costs for its collection as provided in Chapter 51, Title 12. The United States postmark is the determining date for mailed payments.

(2) On February second, or as soon after as practicable, the officer to which the execution is directed shall mail a notice of delinquent property taxes, assessments, penalties, and costs to the defaulting taxpayer and to a grantee of record of the property, whose value generated all or part of the tax. The notice must be mailed to the best address available, which is either the address shown on the deed conveying the property to him, the property address, or other corrected forwarding address of which the officer authorized to collect delinquent taxes, assessments, penalties, and costs has actual knowledge. The notice must specify if the taxes, assessments, penalties, and costs are not paid, the property will accrue additional penalties and must be advertised and sold to satisfy the delinquency. If the delinquent taxes, assessments, penalties, and costs are not paid before March seventeenth, an additional penalty of seven percent must be added by the county auditor on the county duplicate and collected by the officer to which the execution is directed. If the taxes, assessments, penalties, and costs are not paid before April first, an additional penalty of five percent must be added by the county auditor on the county duplicate and collected by the officer to which the execution is directed.

(3) If the taxes, assessments, penalties, and costs are not paid before May first, as soon as practicable, the officer to which the execution is directed shall take exclusive possession of the property necessary to satisfy the payment of the taxes, assessments, penalties, and costs. In the case of real property, exclusive possession is taken by mailing a notice of the delinquent property taxes, assessments, penalties, and costs to the defaulting taxpayer and any grantee of record of the property at the address shown on the tax receipt or to an address of which the officer has actual knowledge, by ‘certified mail, return receipt requested‑restricted delivery’ pursuant to the United State Postal Service ‘Domestic Mail Manual Section S912.’ If the addressee is an entity instead of an individual, the notice must be mailed to its last known post office address by ‘certified mail, return receipt requested’ as described in Section S912. In the case of personal property, exclusive possession is taken by mailing the notice of delinquent property taxes, assessments, penalties, and costs to the person at the address shown on the tax receipt or to an address of which the officer has actual knowledge. All delinquent notices must specify that if the taxes, assessments, penalties, and costs are not paid before a subsequent sales date, the property must be advertised and sold for delinquent property taxes, assessments, penalties, and costs. The return receipt of the ‘certified mail’ notice is equivalent to ‘levying by distress’.

(4) If the ‘certified mail’ notice has been returned, the officer to which the execution is directed shall take exclusive physical possession of the property against which the taxes, assessments, penalties, and costs were assessed by posting a notice at one or more conspicuous places on the premises, in the case of real estate, reading: ‘Seized by person officially charged with the collection of delinquent taxes of (name of political subdivision) to be sold for delinquent taxes’, the posting of the notice is equivalent to levying by distress, seizing, and taking exclusive possession of personalty. In the case of personal property, the person officially charged with the collection of delinquent taxes is not required to move the personal property from where situated at the time of seizure and further, the personal property may not be moved after seizure by anyone under penalty of conversion unless delinquent taxes, assessments, penalties, and costs have been paid. Mobile homes are considered to be personal property for the purposes of this section unless the owner has de‑titled the mobile home pursuant to Section 56‑19‑510.

(5) The property must be advertised for sale at public auction. The advertisement must be in a newspaper of general circulation within the county or municipality, if applicable, and must be entitled ‘Delinquent Tax Sale’. It must include the delinquent taxpayer’s name and the description of the property, a reference to the county auditor’s map‑block‑parcel number being sufficient for a description of realty. The advertising must be published once a week before the legal sales date for three consecutive weeks for the sale of real property, and two consecutive weeks for the sale of personal property. All expenses of the levy, seizure, and sale must be added and collected as additional costs, and must include, but are not limited to, the expenses of taking possession of real or personal property, advertising, storage, identifying the boundaries of the property, and mailing certified notices. When the real property is divisible, the tax assessor, county treasurer, and county auditor may ascertain that portion of the property that is sufficient to realize a sum upon sale sufficient to satisfy the payment of the taxes, assessment, penalties, and costs. In those cases, the officer may partition the property and furnish a legal description of it.

(C) If title to real property is transferred during a tax year and the records of the county indicate that the tax notice was mailed or otherwise forwarded to the previous owner and the current owner did not received a timely notice of the tax due on the property, the treasurer or the office authorized and directed to collect delinquent taxes shall waive any penalties imposed pursuant to this section. If the county treasurer or the officer authorized and directed to collect delinquent taxes determines by proper evidence that the mailing of a tax payment was improperly postmarked, and this error results in the imposition of a penalty provided in this section, then the penalty imposed may be waived by the county treasurer or the office authorized and directed to collect delinquent taxes.

(D) As an alternative, upon approval by the county governing body, a county may use the procedures provided in Chapter 56, Title 12 and Section 12‑4‑580 as the initial step in the collection of delinquent taxes on real and personal property.

(E) For the purpose of enforcing payment and collection of property taxes when the true owner is unknown because of the death of the owner of record and the absence of probate administration of the decedent’s estate, the property must be advertised and sold in the name of the deceased owner of record.

(F) The alternate timeline authorized by this section is in addition to any other requirements of the law.”

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

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