**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 May 7, 2024

Currently residing in conference committee

Summary: Property

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 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)

 4/25/2024 House Committee report: Favorable with amendment **Ways and Means** (House Journal‑page 20)

 5/2/2024 House Requests for debate-Rep(s). Sandifer, Bannister, Long, Bustos, Calhoon, Mitchell, Murphy, Brewer, Whitmire, Robbins, Yow (House Journal‑page 21)

 5/7/2024 House Amended (House Journal‑page 195)

 5/7/2024 House Read second time (House Journal‑page 195)

 5/7/2024 House Roll call Yeas-110 Nays-0 (House Journal‑page 197)

 5/8/2024 House Read third time and returned to Senate with amendments (House Journal‑page 120)

 5/8/2024 Senate Non-concurrence in House amendment

 5/9/2024 House House insists upon amendment and conference
 committee appointed Reps. Hewitt, Collins, Ott

 5/9/2024 Senate Conference committee appointed Setzler,
 M.Johnson, Verdin

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**VERSIONS OF THIS BILL**

[02/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1017_20240201.docx)

[02/28/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1017_20240228.docx)

[03/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1017_20240301.docx)

[03/20/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1017_20240320.docx)

[03/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1017_20240321.docx)

[04/25/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1017_20240425.docx)

[05/07/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1017_20240507.docx)

Indicates Matter Stricken

Indicates New Matter

Amended

May 07, 2024

S. 1017

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

S. Printed 05/07/24--H.

Read the first time March 26, 2024

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statement of estimated fiscal impact

Explanation of Fiscal Impact

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.

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. Additionally, this does not apply 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. Further, if the qualifying property is within a zip code in a metropolitan area that uses HUD’s SAFMR, low income is expanded to residents who do not exceed 130 percent of the very low-income limit. If these criteria are met, then the property tax exemption is 100 percent. The change applies beginning in tax year 2025. For information, DOR indicates that currently 2,393 exemptions are allowed pursuant to §12-37-220(B)(11)(e).

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 may have a greater impact on property tax in York County as it is the only county where a property is within a zip code in a metropolitan area that uses HUD’s SAFMR. As the requirement for the 100 percent property tax exemption is then based on 130 percent of the very low-income limit more properties in York may be granted the 100 percent property tax exemption relative to other areas within the state but the exemption will likely still apply to fewer properties than are currently exempt.

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.

**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.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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

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

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

 (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, then the exemption allowed by this subitem equals one hundred percent, unless, as determined by the Department of Housing and Urban Development, the property is located within a zip code in a metropolitan area which uses the Small Area Fair Market Rents, and such metropolitan area includes any municipality located in the State of North Carolina with a population of five hundred thousand or more residents in which case the phrase “residents who qualify as low income” shall be replaced with “residents who do not exceed 130% of the very-low income limit”;

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

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

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

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

 Section 12‑37‑160. Notwithstanding any other provision of law, any real property upon which farm buildings or agricultural structures exempt from taxation pursuant to Section 12-37-220(B)(14) are situated or any real property that is assessed pursuant to Section 12-43-220(d), or any real property under direct or indirect common ownership that is adjacent to the exempt property, may not be annexed by a municipality without the express written agreement of the owner of the real property to be annexed.

SECTION 3. Section 12‑37‑220(B)(53) of the S.C. Code is amended to read:

 (53) a renewable energy resource property having a nameplate capacity of and operating at no greater than twenty kilowatts, as measured in alternating current for a customer-generator. For purposes of this item, “renewable energy resource” and “customer-generator” means propertyas defined in Section 58‑40‑10 includes solar energy equipment, facilities, or devices that support, collect, generate, transfer, monitor, or store thermal or electric energy. This definition includes including, but is not limited to, all components that enhance the operational characteristics of the generating equipment, such as an advanced inverter or battery storage device, and equipment required to meet all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities.

SECTION 4. This act takes effect upon approval by the Governor.

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