**A** **BILL**

TO AMEND SECTIONS 12‑37‑3130, 12‑37‑3140, AND 12‑37‑3150, ALL AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS, VALUATION, AND ASSESSABLE TRANSFERS OF INTEREST, FOR PURPOSES OF THE “SOUTH CAROLINA REAL PROPERTY VALUATION REFORM ACT”, SO AS TO ELIMINATE THE “POINT OF SALE” VALUATION OF REAL PROPERTY FOR PURPOSES OF IMPOSITION OF THE PROPERTY TAX AND RETURN TO THE FORMER VALUATION SYSTEM IN WHICH REAL PROPERTY AND IMPROVEMENTS TO REAL PROPERTY ARE APPRAISED BY THE ASSESSOR AND PERIODICALLY ADJUSTED IN COUNTYWIDE REAPPRAISALS, TO PROVIDE THAT WHEN THE FIFTEEN PERCENT CAP OVER FIVE YEARS ON INCREASES IN FAIR MARKET VALUE OF REAL PROPERTY RESULTS IN A VALUE THAT IS LOWER THAN THE FAIR MARKET VALUE OF THE PROPERTY AS DETERMINED BY THE ASSESSOR THAT THE LOWER VALUE BECOMES THE PROPERTY TAX VALUE OF THE REAL PROPERTY AND IS DEEMED ITS FAIR MARKET VALUE FOR PURPOSES OF IMPOSITION OF PROPERTY TAX, TO PROVIDE THAT AN ASSESSABLE TRANSFER OF INTEREST IS A TRANSFER OF OWNERSHIP OR OTHER INSTANCE CAUSING A “STEPUP” IN THE PROPERTY TAX VALUE OF REAL PROPERTY TO ITS FAIR MARKET VALUE AS DETERMINED BY THE ASSESSOR, TO REQUIRE THE CAP ON INCREASES IN VALUE TO BE APPLIED SEPARATELY TO REAL PROPERTY AND THE IMPROVEMENTS THEREON, AND TO PROVIDE WHEN THE STEPPEDUP VALUE FIRST APPLIES; TO AMEND SECTION 12‑60‑30, AS AMENDED, RELATING TO THE DEFINITION OF “PROPERTY TAX ASSESSMENT” FOR PURPOSES OF THE SOUTH CAROLINA REVENUE PROCEDURES ACT, SO AS TO REQUIRE THE NOTICES TO INCLUDE PROPERTY TAX VALUE AND PROVIDE THAT THE APPLICABLE ASSESSMENT RATIO APPLIES TO THE LOWER OF FAIR MARKET VALUE, PROPERTY TAX VALUE, OR SPECIAL USE VALUE; AND TO AMEND SECTION 12‑60‑2510, AS AMENDED, RELATING TO THE FORM OF ASSESSMENT NOTICES ISSUED BY THE COUNTY ASSESSOR, SO AS TO PROVIDE THAT THESE NOTICES MUST CONTAIN THE PROPERTY TAX VALUE OF REAL PROPERTY AND IMPROVEMENTS IN ADDITION TO FAIR MARKET VALUE AND SPECIAL USE VALUE, AND TO MAKE THE PROVISIONS OF THIS ACT APPLICABLE FOR PROPERTY TAX YEARS BEGINNING AFTER 2006.

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

SECTION 1. The General Assembly finds that:

(1) implementation of “transfer value”, an element of the South Carolina Real Property Valuation Reform Act enacted by Act 388 of 2006, may have contributed to dislocations in the real estate market, particularly with respect to some commercial real estate transactions;

(2) fairness and predictability in the valuation of real property requires a return to the former method of valuation of real property in which the county assessor or the Department of Revenue, as applicable, appraised real property and improvements to real property by means of an initial appraisal of and periodic reappraisals thereafter without regard to changes in value manifested by a transfer of ownership occurring between periodic reappraisals;

(3) for the fifteen percent cap over five years on increases in value of real property to operate, it is necessary to establish for real property both a fair market value and, where the cap has operated to hold down value, a property tax value reflecting the value when it has been capped;

(4) it is necessary to provide that an “assessable transfer of interest” will no longer result in a change in fair market value of property but will instead operate only to “stepup” the property tax value of the real property to its fair market value as determined by the assessor if its fair market value exceeded the property tax value.

SECTION 2. Section 12‑37‑3130 of the 1976 Code, as last amended by Act 357 of 2008, is further amended to read:

“Section 12‑37‑3130. (1) ‘Additions’ or ‘improvements’ mean an increase in the value of an existing parcel of real property because of:

(a) new construction;

(b) reconstruction;

(c) major additions to the boundaries of the property or a structure on the property;

(d) remodeling; or

(e) renovation and rehabilitation, including installation.

Additions or improvements do not include minor construction or ongoing maintenance and repair of existing structures. The repair or reconstruction of a structure damaged or destroyed by a disaster, to include, but not limited to, construction defects, defective materials, fire, wind, hail, flood, and acts of God, is not an addition or improvement to the extent that the structure as repaired or reconstructed is similar in size, utility, and function of the structure damaged or destroyed, and the rebuilding or reconstruction is begun within eight years after determination of the damage or destruction. Construction of facilities in a home that make the home handicap accessible is not an addition or improvement if the utility and function of the structure remains unchanged. The installation of a fire sprinkler system in a commercial or residential structure when the installation is not required by law, regulation, or code is not an addition or improvement if the utility and function of the structure remains unchanged.

(2) ‘Adjustments’ mean changes in fair market value ~~as determined in~~ and property tax value resulting from periodic countywide appraisal and equalization programs conducted pursuant to Section 12‑43‑217 ~~as allowed pursuant to Section 6, Article X of the Constitution of this State, but adjustments are subject to the limits on increases provided in that Section 6 and as further provided in Section 12‑37‑3140(B)~~.

(3) ‘Appraisal’ or ‘appraised’ means the process provided by law for the property tax assessor to determine the fair market value of real property and additions and improvements to real property.

(4) ‘Assessable transfer of interest’ means a transfer of an existing interest in real property that ~~subjects the real property to appraisal~~ triggers a stepup. For purposes of this definition, an existing interest in real property includes life estate interests.

(5) ~~RESERVED~~

~~(6)~~ ‘Commonly controlled’ means persons having relationships as described in Section 267(b) of the Internal Revenue Code as defined in Section 12‑6‑40(A).

~~(7)~~(6) ‘Conveyance’ means the date of the transfer of an assessable transfer of interest in real property. Failure to record legal instruments evidencing a transfer of interest gives rise to no inference as to whether or not an assessable transfer of interest has occurred.

(7) ‘Fair market value’ means the fair market value of real property and improvements to real property determined by appraisals of the property tax assessor based on initial appraisals and periodic reappraisals conducted pursuant to Section 12‑43‑217.

(8) ‘Property tax assessor’ means the county assessor, an assessor appointed to handle multiple county assessments pursuant to an intergovernmental agreement, or the Department of Revenue, as applicable.

(9) ‘Property tax value’ means the value determined pursuant to item (7) of this section when the application of the limit imposed pursuant to Section 12‑37‑3140(B) results in an amount less than fair market value. For all purposes of property tax, property tax value is deemed fair market value when it is less than fair market value.

(10) ‘Stepup’ means the substitution of fair market value for property tax value triggered when a parcel of real property undergoes an assessable transfer of interest.”

SECTION 3. Section 12‑37‑3140 of the 1976 Code, as last amended by Act 57 of 2007, is further amended to read

“Section 12‑37‑3140. (A)(1) For property tax years beginning after 2006, the ~~fair market~~ value of real property is its fair market value applicable for the later of:

(a) the base year, as defined in subsection (C) of this section;

(b) December thirty‑first of the year in which an assessable transfer of interest ~~has occurred~~ triggers a stepup;

(c) as determined on appeal; or

(d) as it may be adjusted ~~as determined~~ in a countywide reassessment program conducted pursuant to Section 12‑43‑217, ~~but limited to increases in such value as provided in subsection (B) of this section~~ with any increase limited to property tax value.

(2) To the fair market value and property tax value of real property ~~as~~ determined at the time provided in item (1) of this subsection, there must be added the fair market value of subsequent improvements and additions to the property.

(B) ~~Any~~An increase in the fair market value of real property attributable to the periodic countywide appraisal and equalization program implemented pursuant to Section 12‑43‑217 is limited to fifteen percent within a five‑year period to the otherwise applicable fair market value. This limit must be calculated separately on land and improvements. However, this limit does not apply to the fair market value of additions or improvements to real property in the year those additions or improvements are first subject to property tax, nor ~~do they~~does it apply ~~to the fair market value of real property when an assessable transfer of interest occurred in the year that the transfer value is first subject to tax~~the year a stepup is implemented.

(C) For purposes of determining a ‘base year’ fair market value pursuant to this section, the fair market value of real property is its appraised value applicable for property tax year 2007.

(D) Real property valued by the unit valuation concept is excluded from the limits provided pursuant to subsection (B) of this section.

(E) Value attributable to additions and improvements, and ~~changes in value resulting from assessable transfers of interest occurring in a property tax year~~stepups are first subject to property tax in the following tax year except as provided pursuant to Section 12‑37‑670(B).”

SECTION 4. That portion of Section 12‑37‑3150(A) of the 1976 Code preceding item (1), as added by Act 388 of 2006, is amended to read:

“(A) An assessable transfer of interest triggers a stepup in value of a parcel of real property effective as provided in Section 12‑37‑3140(E). ~~For purposes of determining when a parcel of real property must be appraised, an~~An assessable transfer of interest in real property includes, but is not limited to, the following transactions or circumstances:”

SECTION 5. Section 12‑60‑30(19) of the 1976 Code is amended to read:

“(19) ‘Property tax assessment’ means any valuation or determination of property value for annual property tax purposes arrived at by multiplying the lower of fair market value, property tax value, as defined pursuant to Section 12‑37‑3130(9), or special use value of the property by the appropriate assessment ratio for the taxable property’s classification.”

SECTION 6. Section 12‑60‑2510(A)(1)(b) of the 1976 Code, as last amended by Act 57 of 2007, is further amended to read:

“(b) property tax value as ~~limited by Article 25, Chapter 37, Title 12~~defined pursuant to Section 12‑37‑3130(9);”

SECTION 7. This act takes effect upon approval by the Governor and applies for property tax years beginning after 2006. Property tax assessors shall conform the values of parcels of real property which underwent an assessable transfer of interest in 2007 and 2008, and in 2009 before the effective date of this act, to the fair market value and property tax value of these parcels as determined pursuant to Article 25, Chapter 37, Title 12 of the 1976 Code, the South Carolina Real Property Valuation Reform Act, as amended by this act. Tax payers may file for refunds resulting from the provisions of this section in the manner provided pursuant to Chapter 60, Title 12, of the 1976 Code, the South Carolina Revenue Procedures Act.

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