**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 27 TO CHAPTER 37, TITLE 12 SO AS TO ENACT THE “INCOME TAX CREDIT FOR PROPERTY TAX RELIEF ACT”, TO PROVIDE INCOME TAX CREDITS FOR TAXPAYERS AT LEAST SIXTY‑FIVE YEARS OF AGE IN AN AMOUNT BY WHICH THE PROPERTY TAX ON THE TAXPAYER’S PRINCIPAL RESIDENCE EXCEEDS THREE PERCENT OF THE TAXPAYER’S ADJUSTED GROSS INCOME, TO PROVIDE THAT THE PRINCIPAL RESIDENCE OF A TAXPAYER WHO QUALIFIES FOR AN INCOME TAX CREDIT AGAINST THE AD VALOREM PROPERTY TAX LIABILITY THEREON IS EXEMPT FROM ATTACHMENT, LEVY, AND SALE FOR NONPAYMENT OF COUNTY OR MUNICIPAL PROPERTY TAXES FOR A PERIOD OF TWO YEARS AFTER SUCH TAXES ON THIS PROPERTY HAVE BECOME DELINQUENT, AND TO PROVIDE THAT THE PRINCIPAL RESIDENCE OF A TAXPAYER WHO QUALIFIES FOR AN INCOME TAX CREDIT AGAINST THE AD VALOREM PROPERTY TAXES THEREON AND IS AT LEAST SEVENTY YEARS OF AGE MAY HAVE A LIEN FILED AGAINST IT FOR NONPAYMENT OF THESE TAXES, BUT IS EXEMPT FROM ATTACHMENT, LEVY, AND SALE FOR THE NONPAYMENT UNTIL SUCH TIME AS AN ASSESSABLE TRANSFER OF INTEREST OCCURS WITH REGARD TO THE PROPERTY.

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

SECTION 1. Chapter 37, Title 12 of the 1976 Code is amended by adding:

“Article 27

Income Tax Credit for

Property Tax Relief Act

Section 12‑37‑3310. As used in this article:

(1) ‘Adjusted gross income’ means the adjusted gross income of a taxpayer as shown on his federal income tax return filed individually or jointly with his spouse for a particular year or, for taxpayers who are not required to file a federal income tax return for that year, the adjusted gross income of the taxpayer as would have been shown on the taxpayer’s individual or joint federal income tax return had one been required.

(2) ‘Household’ means an individual or group of individuals living together in a room or group of rooms as a housing unit.

(3) ‘Claimant’ means a person at least sixty‑five years of age who files a claim for property tax relief under this article who is eligible to claim the homestead exemption allowed pursuant to Section 12‑37‑250 and who meets the other requirements of this article. (4) ‘Property taxes accrued’ means property taxes, exclusive of special assessments, penalties, and charges for services, levied on a claimant’s homestead in this State in a year.

Section 12‑37‑3320. The right to file a claim under this article is personal to the claimant and does not survive the claimant’s death, but the right may be exercised on behalf of a claimant by the claimant’s legal guardian or attorney‑in‑fact. If a claimant dies after having filed a timely claim, the amount of the claim must be disbursed to the claimant’s spouse or another member of the household as determined by the department. If the claimant was the only member of his household, the claim may be paid to the claimant’s personal representative.

Section 12‑37‑3330. Subject to limitations provided in this article, a claimant may claim in a year as a credit against South Carolina individual income taxes due on his income, a percentage of property taxes accrued in the preceding calendar year. If the allowable amount of the claim exceeds the income taxes due on claimant’s income, the amount of the claim not used as an offset against income taxes, after certification by the department, must be paid to the claimant. No interest is allowed on a payment made to a claimant pursuant to this article.

Section 12‑37‑3340. No claim with respect to property taxes accrued may be paid or is allowed, unless the claim is filed with the department on or before the due date, without regard to any extension, for filing the South Carolina individual income tax return for the year with respect to which the claim for credit is made. In case of sickness, absence, or other disability, or for other good cause shown, the department may extend for not more than six months the time for filing a claim.

Section 12‑37‑3350. The amount of a claim otherwise payable under this article may be applied by the department against a liability outstanding against the claimant, or against the claimant’s spouse who was a member of the claimant’s household in the year to which the claim relates.

Section 12‑37‑3360. Only one claimant in a household in a year is entitled to the credit allowed by this article.

Section 12‑37‑3370. (A) The amount of a claim made pursuant to this article is determined as provided in subsection (B) of this section.

(B) For a taxable year, a claimant is allowed a credit in the amount by which the property tax on the homestead exceeds three percent of the claimant’s adjusted gross income for the taxable year.

Section 12‑37‑3380. The department shall prescribe and make available suitable forms with instructions for claimants, including a form which may be included with or separate from the individual income tax return.

The claim must be in the form the department prescribes. Those claimants who certify on the prescribed form that there is no federal income tax liability are not required to file a state individual income tax return, but may be required by the department to provide sufficient information to determine what their federal adjusted gross income for tax year would have been.

Section 12‑37‑3390. Every claimant under this article shall supply the department, in support of the claim, a receipt of property taxes paid for purposes of this article and any changes of homestead.

Section 12‑37‑3400. If on the audit of a claim filed under this article the department determines the amount to have been incorrectly determined, the claim must be corrected. If the claim has been refunded or allowed as a credit against income taxes otherwise payable, the amount of the credit disallowed or refunded in error may be recovered by assessment as income taxes are assessed with applicable interest allowed by Section 12‑54‑20.

Section 12‑37‑3410. No claim for relief under this article is allowed to a person who is a recipient of public funds for the payment of the property taxes accrued during the period for which the claim is filed.

Section 12‑37‑3420. A claim must be disallowed if the department finds that the claimant received title to his homestead primarily for the purpose of receiving benefits under this article.

Section 12‑37‑3430. Notwithstanding any other provision of law, the principal residence of a taxpayer who qualifies for an income tax credit against the ad valorem property tax liability thereon is exempt from attachment, levy, and sale for nonpayment of county or municipal property taxes for a period of two years after such taxes on this property have become delinquent. In addition, the principal residence of a taxpayer who qualifies for an income tax credit against the ad valorem property taxes thereon and is at least seventy years of age may have a lien filed against it for nonpayment of these taxes, but is exempt from attachment, levy, and sale for the nonpayment until such time as an assessable transfer of interest occurs with regard to the property.”

SECTION 2. Upon approval by the Governor, this act takes effect for property tax years beginning after 2011.

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