

## ARTICLE 25

### South Carolina Real Property Valuation Reform Act

#### **SECTION 12-37-3110.** Citation of article.

This article may be cited as the "South Carolina Real Property Valuation Reform Act".

**HISTORY:** 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007).

#### **SECTION 12-37-3120.** Interpretation with other laws

The value of real property for purposes of the imposition of the property tax is subject to the provisions of this article. Except where inconsistent, the provisions of this article are in addition to and not in lieu of other provisions of law applicable to the valuation of real property for purposes of the property tax. If the provisions of this article are inconsistent with other provisions of law, the provisions of this article apply.

**HISTORY:** 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007).

#### **SECTION 12-37-3130.** Definitions.

As used in this article:

(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 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. 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) "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.

(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.

**HISTORY:** 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007); 2007 Act No. 57, Section 7.A, eff April 26, 2007, applicable for property tax years beginning after 2006; 2008 Act No. 357, Section 3.A, eff June 25, 2008, applicable for taxable years beginning after 2007.

Editor's Note

2007 Act No. 57, Section 7.D, provides as follows:

"Notwithstanding the general effective date of this act [June 6, 2007], this section takes effect upon ratification of an amendment to the Constitution of this State proposed pursuant to Joint Resolution 402 of 2006 [ratified April 26, 2007] and applies for property tax years beginning after 2006."

**SECTION 12-37-3135.** ATI fair market value exemption from property tax; requirements.

(A) As used in this section:

(1) "ATI fair market value" means the fair market value of a parcel of real property and any improvements thereon as determined by appraisal at the time the parcel last underwent an assessable transfer of interest.

(2) "Current fair market value" means the fair market value of a parcel of real property as reflected on the books of the property tax assessor for the current property tax year.

(3) "Exemption value" means the ATI fair market value when reduced by the exemption allowed by this section.

(4) "Fair market value" means the fair market value of a parcel of real property and any improvements thereon as determined by the property tax assessor by an initial appraisal, by an appraisal at the time the parcel undergoes an assessable transfer of interest, and as periodically reappraised pursuant to Section 12-43-217.

(5) "Property tax value" means fair market value as it may be adjusted downward to reflect the limit imposed pursuant to Section 12-37-3140(B).

(B)(1) When a parcel of real property and any improvements thereon subject to the six percent assessment ratio provided pursuant to Section 12-43-220(e) and which is currently subject to property tax undergoes an assessable transfer of interest after 2010, there is allowed an exemption from property tax of an amount of the ATI fair market value of the parcel as determined in the manner provided in item (2) of this subsection. Calculation of property tax value for such parcels is based on exemption value. The exemption allowed by this section applies at the time the ATI fair market value first applies.

(2)(a) The exemption allowed by this section is an amount equal to twenty-five percent of ATI fair market value of the parcel. However, no exemption value calculated pursuant to this section may be less than current fair market value of the parcel.

(b) If the ATI fair market value of the parcel is less than the current fair market value, the exemption otherwise allowed pursuant to this section does not apply and the ATI fair market value applies as provided pursuant to Section 12-37-3140(A)(1)(b).

(C) The exemption allowed in this section does not apply unless the owner of the property, or the owner's agent, notifies the county assessor that the property will be subject to the six percent assessment ratio provided pursuant to Section 12-43-220(e) before January thirty-first for the tax year for which the owner first claims eligibility for the exemption. No further notifications are necessary from the current owner while the property remains subject to the six percent assessment ratio.

HISTORY: 2011 Act No. 57, Section 1, eff June 14, 2011.

**SECTION 12-37-3140.** Determining fair market value.

(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;

(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.

(2) To the fair market 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 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 on the land and improvements as a whole. 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 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.

(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 are first subject to property tax in the following tax year except as provided pursuant to Section 12-37-670(B).

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007); 2007 Act No. 57, Section 7.B, eff April 26, 2007, applicable for property tax years beginning after 2006; 2010 Act No. 275, Section 2, eff June 16, 2010.

Editor's Note

2007 Act No. 57, Section 7.D, provides as follows:

"Notwithstanding the general effective date of this act [June 6, 2007], this section takes effect upon ratification of an amendment to the Constitution of this State proposed pursuant to Joint Resolution 402 of 2006 [ratified April 26, 2007] and applies for property tax years beginning after 2006."

2010 Act No. 275, Section 3, provides as follows:

"This act takes effect upon approval by the Governor, and shall apply to real property transfers after 2009. No refund is allowed on account of values adjusted by the changes to the provisions of Section 12-37-3150."

**SECTION 12-37-3150.** Determining when to appraise parcel of real property.

(A) For purposes of determining when a parcel of real property must be appraised, an assessable transfer of interest in real property includes, but is not limited to, the following:

- (1) a conveyance by deed;
- (2) a conveyance by land contract;
- (3) a conveyance to a trust, except if:
  - (a) the settlor or the settlor's spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor's spouse, or both; or
  - (b) the settlor or the settlor's spouse, or both, conveys property subject to the special four percent assessment ratio pursuant to Section 12-43-220(c) and the sole present beneficiary or beneficiaries is the child or children of the settlor or the settlor's spouse, but a subsequent conveyance of this real property by the beneficiary child or children is not exempt from the provisions of this section;
- (4) a conveyance by distribution from a trust, except if the distributee is the sole present beneficiary or the spouse of the sole present beneficiary, or both;
- (5) a change in the sole present beneficiary or beneficiaries of a trust, except a change that adds or substitutes the spouse of the sole present beneficiary;
- (6) a conveyance by distribution under a will or by intestate succession, except if:
  - (a) the distributee is the decedent's spouse; or
  - (b) the distributee is the child or children of the decedent, the decedent did not have a spouse at the time of the decedent's death, and the property is subject to the special four percent assessment ratio pursuant to Section 12-43-220(c), but a subsequent conveyance of this real property by the distributee child or children is not exempt from the provisions of this section;
- (7) a conveyance by lease if the total duration of the lease, including the initial term and all options for renewal, is more than twenty years or the lease grants the lessee a bargain purchase option. As used in this item, "bargain purchase option" means the right to purchase the property at the termination of the lease for not more than eighty percent of the property's true cash value at the termination of the lease. This item does not apply to personal property or that portion of the property not subject to the leasehold interest conveyed;
- (8) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty-five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. This provision does not apply to transfers that are not subject to federal income tax, as provided in subsection (B)(1), including, but not limited to, transfers of interests to spouses. The corporation, partnership, sole

proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty-five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item. Failure to provide this notice or failure to provide accurate information of a transaction required to be reported by this subitem subjects the property to a civil penalty of not less than one hundred nor more than one thousand dollars as determined by the assessor. This penalty is enforceable and collectible as property tax and is in addition to any other penalties that may apply. Failure to provide this notice is a separate offense for each year after the notice was required;

(9) a change of use of agricultural real property which subjects it to the rollback tax;

(10) a change of use of real property when classification of property changes as a result of a local zoning ordinance change; or

(11) the passage of twenty years since the later of the base year or the last assessable transfer of interest for real property owned by a publicly-held entity whose stock, shares, or other ownership interests are traded on a regulated exchange, a pension fund, or other similar entity.

An assessable transfer of interest resulting in the appraisal required pursuant to this article occurs at the time of execution of the instruments directly resulting in the transfer of interest and without regard as to whether or not the applicable instruments are recorded. Failure to record instruments resulting in a transfer of interest gives rise to no inference as to whether or not an assessable transfer of interest has occurred.

(B) An assessable transfer of interest does not include:

(1) transfers not subject to federal income tax in the following circumstances:

(a) 1033 (Conversions-Fire and Insurance Proceeds to Rebuild);

(b) 1041 (Transfers of Property Between Spouses or Incident to Divorce);

(c) 351 (Transfer to a Corporation Controlled by Transferor);

(d) 355 (Distribution by a Controlled Corporation);

(e) 368 (Corporate Reorganizations); or

(f) 721 (Nonrecognition of Gain or Loss on a Contribution to a Partnership).

Number references in the above subitems are to sections of the Internal Revenue Code of 1986, as defined in Section 12-6-40;

(2) a transfer of that portion of property subject to a life estate or life lease retained by the transferor, until expiration or termination of the life estate or life lease;

(3) a transfer through foreclosure or forfeiture of a recorded instrument or through deed or conveyance in lieu of a foreclosure or forfeiture, until the redemption period has expired;

(4) a transfer by redemption by the person to whom taxes are assessed of property previously sold for delinquent taxes;

(5) a conveyance to a trust if the settlor or the settlor's spouse, or both, convey the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor's spouse, or both;

(6) a transfer for security or an assignment or discharge of a security interest;

(7) a transfer of real property or other ownership interests among members of an affiliated group. As used in this item, "affiliated group" is as defined in Section 1504 of the Internal Revenue Code as defined in Section 12-6-40. Upon request of the applicable property tax assessor, a corporation shall furnish proof within forty-five days that a transfer meets the requirements of this item. A corporation that fails to comply with this request is subject to a civil penalty as provided in Section 12-37-3160(B);

(8) a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty-five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12-37-3160(B);

(9) a transfer of an interest in a timeshare unit by deed or lease;

(10) a transfer of an undivided, fractional ownership interest in real estate in a single transaction or as a part of a series of related transactions, if the ownership interest or interests conveyed, or otherwise transferred, in the single transaction or series of related transactions within a twenty-five year period, is not more than fifty percent of the entire fee simple title to the real estate;

(11) a transfer to a single member limited liability company, not taxed separately as a corporation, by its single member or a transfer from a single member limited liability company, not taxed separately as a corporation, to its single member, as provided in Section 12-2-25(B)(1);

(12) a conveyance, assignment, release, or modification of an easement, including, but not limited to:

(a) a conservation easement, as defined in Chapter 8, Title 27;

(b) a utility easement; or

(c) an easement for ingress, egress, or regress;

(13) a transfer or renunciation by deed, release, or agreement of a claim of interest in real property for the purpose of quieting and confirming title to real property in the name of one or

more of the existing owners of the real property or for the purpose of confirming or establishing the location of an uncertain or disputed boundary line;

(14) the execution or recording of a deed to real property for the purpose of creating or terminating a joint tenancy with rights of survivorship, provided the grantors and grantees are the same; or

(15) a transfer of a fractional interest between family members for zero monetary consideration, or a de minimis monetary consideration, whereby both the grantor and the grantee owned an interest in the property prior to the transfer. For purposes of this item, a family member includes a spouse, parent, brother, sister, child, grandparent, or grandchild.

**HISTORY:** 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007); 2007 Act No. 57, Sections 7.C.1 and 7.C.2, eff April 26, 2007, applicable for property tax years beginning after 2006; 2010 Act No. 275, Sections 1.A, 1.B, 1.C, 1.D, eff June 16, 2010; 2012 Act No. 179, Section 4, eff May 25, 2012.

Editor's Note

2007 Act No. 57, Section 7.D, provides as follows:

"Notwithstanding the general effective date of this act [June 6, 2007], this section takes effect upon ratification of an amendment to the Constitution of this State proposed pursuant to Joint Resolution 402 of 2006 [ratified April 26, 2007] and applies for property tax years beginning after 2006."

2010 Act No. 275, Section 3, provides:

"This act takes effect upon approval by the Governor, and shall apply to real property transfers after 2009. No refund is allowed on account of values adjusted by the changes to the provisions of Section 12-37-3150."

2012 Act No. 179, Section 5, provides as follows:

"This act takes effect upon approval by the Governor and applies to property tax years beginning after 2011."

**SECTION 12-37-3160.** Promulgation of regulations; circumstances constituting change in beneficial ownership; certification of details of property ownership; penalties for falsification.

(A) The Department of Revenue may promulgate regulations to implement this article, including, without limitation, providing for those circumstances that constitute a change in the beneficial ownership of real property or an assessable transfer of interest not evidenced by transfer of fee simple title. The department shall examine the substance, rather than merely the form of the transfer, and related and surrounding transactions, and may use the step transaction, economic reality, quid pro quo, personal benefit, and other judicially developed doctrines in determining whether the requisite assessable transfer of interest has occurred.

(B)(1) Except as provided pursuant to item (2) of this subsection, the county assessor annually shall send to each real property owner of record, or the owner's agent of record, to the address of record, a certificate prescribed by the Department of Revenue which must be signed and returned by the property owner or the owner's agent certifying details of the ownership of the property. If the owner or owner's agent knowingly falsifies any detail on the certificate, then the owner or owner's agent is subject to a civil penalty imposed by the Department of Revenue, the county assessor, or an assessor appointed to handle multiple county assessments pursuant to an intergovernmental agreement, as applicable. The amount must not be less than twice the taxes lawfully due on the property or more than three times the taxes lawfully due on the property. This civil penalty is enforceable and collectable in the same manner as property tax.

(2) The annual certificate requirement provided pursuant to item (1) of this subsection does not apply to a real property owner who is a natural person. However, the assessor periodically may send certificates to natural persons subject to the same requirements provided pursuant to item (1) of this subsection.

(C) For purposes of this section, a "natural person" is an individual or group of individuals who directly owns real property outside of any legal entity. A natural person does not include a trustee, agent, officer, or member of a legal entity which has an ownership interest in real property. A legal entity includes, but is not limited to, a corporation, partnership, limited liability company, unincorporated association, or trust.

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007); 2007 Act No. 57, Section 8, eff June 6, 2007.

**SECTION 12-37-3170.** Effect on valuation of agricultural property.

(A) Nothing in this article affects the provisions of Section 12-43-220(d) that define and apply to "fair market value for agricultural purposes" for real property in agricultural use.

(B) Except as provided in Section 12-37-3150(9), this article does not affect the eligibility requirements for agricultural use or the imposition of rollback taxes when real property is changed from agricultural use.

(C) Nothing in this article affects the appropriate methods of appraising real property for purposes of the property tax by county assessors, assessors appointed to handle multiple county assessments pursuant to an intergovernmental agreement, and officials of the Department of Revenue, as applicable.

HISTORY: 2006 Act No. 388, Pt IV, Section 1, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007).