

NEXT CHALLENGE. NEXT LEVEL.

NEXSEN | PRUET

**REALTORS' LEGISLATIVE AND
REGULATORY UPDATE**

2014-2015

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FAIRNESS IN LODGING ACT

Act 261 of 2014 is directed at persons who rent their primary residences for more than two weeks per year.

The Act allows counties to insert ATAX reporting responsibilities in property tax bills; allows the DOR and local government to share information; increases the penalties for failure to remit ATAX; and directs the DOR to contact “rent by owner” websites and notify them of reporting responsibilities.

RENTALS OF PRIMARY RESIDENCES

S.437 (Act 259) provides:

- (1) Individuals may rent their primary residence for up to 72 days a year (up from 14) and retain 4% assessment ratio
- (2) The Assessor may require a copy of state and federal income tax returns as well as Federal Schedule E
- (3) ATAX not imposed on income excluded by IRC section 280A(g) (14 days or less rentals)

PRIMARY RESIDENCES

Current law, section 12-43-220(c)(8), provides that when a person claiming the primary residence 4% assessment ratio has an ownership interest less than 50%, then the 4% ratio is only on the lesser ownership amount and the 6% is imposed on the remaining value.

S.437 (Act 259) exempts from this rule residences owned by a trust, family limited partnership or limited liability company if the beneficiaries of the trust or members of the LP and LLC are only the parent, spouse, children, grandchildren or siblings.

Refunds available for tax year 2012 or 2013!

MULTIPLE LOT DISCOUNT

Act 277 of 2014 provides:

- (1) For lots which received the discount for owners of a subdivision with at least ten building lots on December 31, there is granted an additional year of eligibility for that discount in property tax years 2012, 2013, 2014, and 2015 in addition to any remaining period.
- (2) For lots which received the above discount and sold the property to holders of a residential homebuilder's or general contractor's license after December 31, 2008, and before January 1, 2012, upon written application to the assessor no later than thirty days after mailing of the property tax bill, there is granted an additional year of eligibility for that discount in property tax years 2012, 2013, 2014 and 2015.

MILITARY HOUSING

The Military Family Quality of Life Enhancement Act of 2014, Act 289, provides that property on military base used for military housing is exempt from property tax

Section 3-1-40. There is exempt from ad valorem taxation any real property, and improvements thereon, located within a military base or installation that is used or owned by the United States Armed Forces and is used as military housing for military-affiliated personnel and their families. Military housing includes ancillary facilities that support the military housing. This exemption continues to apply if the real property is improved, maintained, or leased to a party that would otherwise subject the real property to tax, so long as there is a contractual agreement by and between a branch of the United States Armed Forces and the lessee which requires the lessee to use the property for military housing.

SOUTH CAROLINA REAL ESTATE COMMISSION

Criminal Background Checks

Act 258 of 2014 added Section 40-57-115. It states in addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure as a salesman, broker, broker-in-charge, property manager, and property manager-in-charge, the commission shall require initial applicants to submit to a state criminal records check, by a source approved by the commission, and a national criminal records check. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action.

SOUTH CAROLINA REAL ESTATE COMMISSION

Section 40-57-150. (A) Investigations must be conducted in accordance with Section 40-1-80 and must be performed by investigators who have completed one hundred hours of training in programs that are approved by the commission and provide instruction on real estate principles, state statutory and regulatory law, and investigative techniques.

LLR shall conclude its investigation within one hundred fifty days from receipt of the complaint or seek a waiver of this period from the commission upon a showing of due diligence and extenuating circumstances.

LLR shall annually post a report that provides the data for the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days.

SOUTH CAROLINA REAL ESTATE COMMISSION

A realtor who has been convicted of a violent crime as defined in Section 16-1-60, has been convicted during the previous five years of a felony directly related to the practice of the profession, or has been convicted during the previous seven years of a felony, an essential element of which is dishonesty, reasonably related to the practice of the profession, or pleading guilty or nolo contendere to any such offense in a court of competent jurisdiction of this State, any other state, or any federal court is subject to losing their license.

The Act struck pleadings guilty to or being convicted of any offense classified as a felony or involving moral turpitude.

BEACH RENOURISHMENT

S.294 (A.184) – A county or municipality which has a high concentration of tourism activity may use local ATAX revenue for control and repair of waterfront erosion including beach renourishment.

S.503 (A.188) – Beach Preservation Act. Municipalities, after passage of a referendum, may impose additional one cent ATAX for purposes of beach renourishment, erosion mitigation, dune restoration, including planting of grass and sea oats, and maintenance of public beach access.

PENDING LEGISLATION

H.3710, Multi-Lot Discounts

- ✓ Passed House by 94-0 vote on April 29, 2015;
In Senate Finance Committee
- ✓ For lots which received discount before January 1, 2012, there is granted an additional year of eligibility

DOR POLICY DOCUMENTS

In 2015, the DOR issued the following Policy Documents:

SC Info. Letter – Rent by Owner Vacation Rental Websites

DOR POLICY DOCUMENTS

The DOR recently issued the following draft Policy Documents for comment.

- ✓ SC Rev. Rul. #15-x (Draft) Retail Facilities Revitalization Credit
- ✓ SC Rev. Rul. #15-x (Draft) Textile Communities Revitalization Act
- ✓ SC Rev. Rul. #15-x (Draft) Abandoned Building Revitalization Act

DOR POLICY DOCUMENTS

- ✓ SC Rev. Rul. #15-x (Draft) Vacation Rentals of Residence
- ✓ SC Rev. Rul. #15-x (Draft) Deed Recording Fee
- ✓ SC Rev. Rul. #15-x (Draft) Deed Recording Fee - Refund Procedures