

JUNE 2, 2011

Point of Sale Reform

After four years of efforts to reverse the negative effects of Act 388 in South Carolina, the Legislature has passed Point of Sale legislation that will have a positive impact on commercial properties in South Carolina.



Act 388 became law in 2007 and altered the method of taxing all non primary residential properties in South Carolina. An unintended consequence of the Act was a much higher property tax on properties that were sold after the legislation was enacted. Property taxes on properties that sold increased dramatically over identical properties which did not sell, creating an unfair advantage for properties which had not sold. In each of the last four years, legislation has been introduced in the South Carolina General Assembly to correct the unintended consequences of Act 388. Each year, Point of Sale legislation has been a key debate in both the House and Senate chambers, and each year, the legislation died due to strong positions by various entities impacted by any change in property taxation.

Finally, on June 2, 2011, The South Carolina Senate and the House of Representatives passed Point of Sale legislation that will positively impact the commercial real estate market in South Carolina. The Bill is now set to be signed by Governor Nikki Haley in the coming days.

The approved Point of Sale legislation is applicable to all non-primary residential properties which are assessed at a six percent (6%) rate and include commercial properties, investment properties and second homes but excludes manufacturing properties assessed at 10.5%. Under the new law, properties will receive a 25% exemption from the sales value for taxation purposes. The Bill also provides for a minimum level of valuation established as the Fair Market Value documented on the county tax assessor's records.

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By way of example, a commercial property is on the tax records and assessed at \$1,000,000 but the Fair Market Value according to the tax assessor's records is \$1,200,000. The property sells after January 1, 2011, for \$2,000,000. The sale value of \$2,000,000 is discounted by 25% to be \$1,500,000 which is established as the new Assessed Value. However, if the property sold for \$1,500,000, the 25% exemption would place the Assessed Value at \$1,125,000 which is below the Assessor's Fair Market Value of \$1,200,000 and therefore the Assessed Value would remain at \$1,200,000.

The Assessor's Fair Market Value will be lowered if the property sells for less than the Assessor's Fair Market Value of record.

All properties will continue to be subject to each county's reassessment program and will be subject to the 15% cap on tax increases for each five (5) year reassessment period.

The Point of Sale Bill is considered a compromise between numerous impacted entities. Many thanks go to the South Carolina REALTORS® Association, CompeteSC, the Municipal Association of South Carolina, the Association of Counties and the School Board Association for working diligently to achieve an acceptable solution. Also, thanks to many South Carolina House and Senate members who were steadfast in their position to protect business and property owners in South Carolina.

