



SENATE BILL 159: Transferred Properties in Corrected Revals

2015-2016 General Assembly

Committee:	House Local Government, if favorable, Finance	Date:	August 4, 2015
Introduced by:	Sens. Tarte, Rucho	Prepared by:	R. Erika Churchill Committee Counsel
Analysis of:	PCS to Fourth Edition S159-CSRWx-39		

SUMMARY: *The PCS to Senate Bill 159 would clarify the process by which undervalued property is to be taxed under S.L. 2013-362, and would would authorize local governments not to mail refunds of overpayment of taxes for overpayments less than \$15.*

CURRENT LAW and BILL ANALYSIS:

Section 1: General law provides that the value of real property is to be appraised, as of January 1, by each county at least once every eight years. Unless another standard applies for limited circumstances, the value to be determined is the true value of the property, or the price at which the property would change hands between a willing and financially able buyer and a willing seller.

In 2011, Mecklenburg County conducted a general reappraisal, which was a source of controversy and debate. In response to a significantly higher rate of appeal and public criticism, the county commissioned a review of the reappraisal data. The resulting report indicated that many of the neighborhoods throughout the county had valuations that had either major or minor issues affecting the calculation.

In 2013, the General Assembly enacted S.L. 2013-362 which added a time-limited exception to the general rule that the assessed value may not be changed for tax years other than the current tax year by superseding the time limitations disallowing retroactive changes under certain conditions. If all of the conditions were met, the county had to do one of the two following:

- Conduct a general reappraisal pursuant to G.S. 105-286 within 18 months with at least 1 appraiser certified by the Department for mass valuations per 4,250 parcels.
- Have a qualified appraisal service expand the county's evidence of inequity to cover the entire county.

Once one of the two options has been completed, the county must change the abstracts and tax records so that the assessed value reflects the true value for each tax year until the next general reappraisal required by G.S. 105-286.

For overvalued parcels, the county must repay the overpayment with interest in the same manner as if there were an order of the Property Tax Commission reducing a valuation on property resulting in an overpayment under G.S. 105-290(b)(4), which is currently 5% per annum.

For undervalued parcels, the additional taxes are treated as taxes on discovered properties pursuant to G.S. 105-312. G.S. 105-312 provides that when property is discovered, it is taxed for the year in which discovered and for any of the preceding five years during which it escaped taxation in accordance with the assessed value it should have been assigned in each of the years for which it is to be taxed and the

O. Walker Reagan
Director



Research Division
(919) 733-2578

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rate of tax imposed in each such year, and interest does not begin to accrue until the next calendar date of delinquency, which would be the next January 6th. Under S.L. 2013-362, undervalued parcels would be treated as discovered property; however, penalties associated with discovered properties are expressly made non-applicable.

Section 1 of the PCS for Senate Bill 159 would clarify how additional taxes levied on undervalued parcels could be collected as follows:

Due Date and Interest – Additional taxes levied after a reappraisal are due and payable on September 1 of the year the taxes are levied, but not earlier than 4 years after the last general reappraisal. For Mecklenburg County, the due date for additional taxes would be no earlier than September 1, 2015. G.S. 105-360 provides that for property taxes due on September 1, interest applies if payment is not received by the following January 6th. For Mecklenburg County, interest will not accrue until January 6, 2016. Interest accrues at the rate of 2% for the month of January, and 0.75% for each month thereafter.

Payment Plans – If the additional taxes levied after reappraisal are greater than \$1000, the taxpayer has the option of entering into a payment plan with the county. The payment plan cannot exceed 36 months in duration. Interest does not accrue in the taxpayer is making timely payments under the payment plan.

Properties with no change in ownership. – If the property has not changed owners in any tax year that requires reappraisal under S.L. 2013-362, the underpaid taxes are treated as taxes on discovered property, except that the discovery penalties do not apply. Therefore, the underpaid taxes are the liability of the listed owner.

Properties with a change in ownership – If the property has changed owners in a tax year that requires reappraisal under S.L. 2013-362, the taxes for each tax year prior to and in the fiscal year in which the transfer occurred would be collected against the owner of record as of January 1 of each tax year for which unpaid taxes exist. The collection method would be only by levy, or attachment and garnishment. There would be no lien on the real property for underpaid taxes that arose in a year in which the property is owned by a person other than the current owner as of January 1 of that year. The current property owner would not be held personally responsible for the underpaid taxes.

If a current property owner has paid the underpaid taxes for a year that he or she did not own the property, the current owner can seek a refund of the taxes paid. Refunds must be paid within 90 days of request, and the county must pay interest on the refunded taxes at the rate of 5% per year.

Section 2: G.S. 105-357 authorizes local governments to treat small underpayments and overpayments in the following manner:

- Underpayments of \$1 or less are treated as fully paid.
- Refunds are not required for overpayments of \$1 or less. A taxpayer will receive a refund of less than \$1, if requested before the end of the fiscal year.

G.S. 105-321(f) authorizes local governments to forego the collection of taxes that exceed the cost of collection, provided the amount cost of collection cannot exceed \$5.

Section 2 of the PCS for Senate Bill 566 would authorize local governments, through the adoption of a resolution, not to mail refunds of overpayment of taxes for overpayments less than \$15. If a resolution is adopted, then the taxing unit must keep records of minimal refunds by receipt number and amount.

A refund will be issued for any taxpayer who requests a refund in person at the tax office before the end of the fiscal year. Any amount not refunded will be applied as a credit against future taxes. Interest will accrue on amounts not refunded at the rate set by the Secretary of Revenue under G.S. 105-241.21. The Secretary sets the interest rate on June 1 and December 1 of each year, and publishes the rates on the

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Department's website. The interest accrues from later of the date the tax is paid or the date the tax would be delinquent if unpaid. Any resolution adopted under this subsection must be adopted on or before June 15 of preceding the first taxable year to which it applies and remains in effect until amended or repealed.

EFFECTIVE DATE: When it becomes law.

Heather Fennel substantially contributed to this summary.