

NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 881
HOUSE BILL 254

AN ACT TO REWRITE PORTIONS OF THE MACHINERY ACT TO PROVIDE A MORE
EQUITABLE, FAIR, AND EFFICIENT SYSTEM OF TAXATION ON REAL AND
PERSONAL PROPERTY.

Whereas, the General Assembly of North Carolina has consistently sought to improve the taxation laws of this State to produce a fair, equitable, and efficient system of taxation; and

Whereas, the Joint Legislative Committee on the Tax Structure of the Local Units of Government made its report to the General Assembly on January 9, 1975, and recommended several changes in the Machinery Act; and

Whereas, in times of economic hardship it is especially important to protect the tax revenues of the local units of government, while continuing to improve the system of taxation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 18 of Chapter 105 of the General Statutes of North Carolina is hereby amended by adding the following sections thereto to be numbered and to read as follows:

"§ 105-316.1. Moving permit required to move mobile home. — (a) In order to protect the local taxing units of this State against the nonpayment of ad valorem taxes on mobile homes, it is hereby declared to be unlawful for any person other than a mobile home manufacturer or retailer to remove or cause to be removed any mobile home situated at a premises in this State without first obtaining a moving permit from the tax collector of the county in which the mobile home is situated. The moving permit shall be conspicuously displayed near the license tag on the rear of the mobile home at all times during its transportation. Permits required by this act may be obtained at the office of the county tax collector during normal business hours.

(b) Manufacturers, retailers and licensed carriers of mobile homes shall not be required to obtain the moving permits herein provided. Such firms shall, however, be responsible for seeing that a proper license tag is displayed on all mobile homes being transported by them or for them. Persons or firms which transport mobile homes for owners other than mobile home manufacturers and retailers shall also be responsible for seeing that the moving permit required by this act is properly displayed on the mobile home at all times during its transportation.

"§ 105-316.2. Requirements for obtaining permit. — (a) In order to obtain the permits herein provided, persons other than manufacturers and retailers of mobile homes shall be required to (1) pay all taxes due to be paid by the owner to the county or to any other taxing unit therein; or (2) show proof to the tax collector that no taxes are due to be paid; or (3) demonstrate to the tax collector that the removal of the mobile home will not jeopardize the collection of any taxes due or to become due to the county or to any taxing unit therein.

(b) In addition to complying with the provisions of subdivision (a) above, owners of mobile homes required to obtain the permits herein provided shall also furnish the following information to the tax collector:

- (1) The name and address of the owner,

- (2) The address or location of the premises from which the mobile home is to be moved,
- (3) The address or location of the place to which the mobile home is to be moved, and
- (4) The name and address of the carrier who is to transport the mobile home.

"§ 105-316.3. **Issuance of permits.** — (a) Except as otherwise provided in G.S. 105-316.2 above, no permit required by this act shall be issued by the tax collector unless and until all taxes due to be paid by the owner to the county or to any other taxing unit therein, including any penalties or interest thereon, have been paid. Any taxes which have not yet been computed but which will become due during the current calendar year shall be determined as in the case of prepayments.

(b) Upon compliance with the provisions of this act, the tax collector shall issue, without charge, a permit authorizing the removal of the mobile home. He shall also maintain a record of all permits issued.

"§ 105-316.4. **Issuance of permits under repossession.** — Notwithstanding the provisions of G.S. 105-316.2(a) and G.S. 105-316.3(a), above, any person who intends to take possession of a mobile home, whether by judicial or nonjudicial authority, as a holder of a lien on said mobile home shall apply for and be issued the permit herein provided without paying all taxes due to be paid by the owner of the mobile home being repossessed, upon notifying the tax collector of the location to which the mobile home is being taken and stored and obtaining a statement from the tax collector of any personal property taxes owed on the mobile home only. Within seven days of the issuance of such a permit, the applicant shall pay to the tax collector the taxes due hereunder as set forth in the statement, including penalties and interest.

"§ 105-316.5. **Form of permit.** — The permit shall be in substantially the following form:

MOVING PERMIT

County of _____ Permit Number _____

State of North Carolina Date of Issuance _____

Permission is hereby granted to: _____

(Name & address of owner)

(Name & address of carrier)

to remove the following described mobile home:

(Make, model, size, serial number, etc.)

From: _____

(Address)

To: _____

(Address)

This permit is issued in accordance with the provisions of G.S. 105-316.1 through G.S. 105-316.8 of the General Statutes of North Carolina.

(Signed) _____

Tax Collector

(or Deputy Tax Collector)

County of _____

"§ 105-316.6. **Penalties for violations.** — (a) Any person required by this act to obtain a moving permit who fails to do so or who fails to properly display same shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court. This penalty shall be in addition to any penalties imposed for failure to list property for taxation and interest for failure to pay taxes provided by the general laws of this State.

(b) Any manufacturer or retailer of mobile homes who aids or abets any owner covered by this act to defeat in any manner the purpose of the act shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court.

(c) Any person who transports a mobile home from a location in this State for an owner other than a manufacturer or retailer of mobile homes without having properly displayed thereon the moving permit required by this act shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court.

(d) Any law enforcement officer of this State who apprehends any person violating the provisions of this act shall detain such person until satisfactory arrangements have been made to meet the requirements of this act.

"§ 105-316.7. Mobile home defined. — For the purpose of this act, 'mobile home' means a structure that (i) is designed, constructed, and intended for use as a dwelling house, office, place of business, or similar place of habitation and (ii) is capable of being transported from place to place on wheels attached to its frame. This definition does not include trailers and vehicles required to be registered annually pursuant to Part 3, Article 3 of Chapter 20 of the General Statutes.

"§ 105-316.8. Taxable situs not presumed. — Nothing in this act shall be interpreted so as to subject to taxation any mobile home which does not have a taxable situs within this State under the general rules of law appropriate to such a determination."

Sec. 2. G.S. 105-277.1 as the same appears in the 1973 Machinery Act of North Carolina is hereby rewritten to read as follows:

"§ 105-277.1. Property classified for taxation at reduced valuation. — (a) The following class of property is hereby designated a special class under authority of Article V, Section 2(2) of the North Carolina Constitution and shall not be assessed for taxation: The first five thousand dollars (\$5,000) in assessed value of property owned by a North Carolina resident and occupied by the owner as his or her permanent residence, provided that as of January 1 of the year for which the benefit of this classification is claimed, the following conditions are met:

- (1) The owner is (a) 65 years of age or older or (b) totally and permanently disabled, and
- (2) The owner's disposable income for the calendar year immediately preceding did not exceed seven thousand five hundred dollars (\$7,500), and
- (3) The owner makes timely application for the benefit of this classification in the manner and at the time hereinafter provided.

For married applicants residing with their spouses, the disposable income of both spouses must be included, whether or not the property is in both names.

(b) Definitions. When used in this section, the following definitions shall apply:

- (1) An 'owner' of property means a person who holds legal or equitable title to the property, either individually or as a tenant by the entirety, a joint tenant, a tenant in common, a life estate or an estate for the life of another. Property owned and occupied by husband and wife as tenants by the entirety shall be entitled to the full benefit of this classification notwithstanding that only one of them meets the age or disability requirements herein provided. If the residence is a mobile home and is jointly owned by husband and wife, it shall be treated as property held by the entirety. When property is owned by two or more persons other than husband and wife and one or more of such owners qualifies for this classification, each qualifying owner shall be entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no

event shall the total exclusion allowed to a qualifying property exceed five thousand dollars (\$5,000).

- (2) 'Disposable income' means adjusted gross income as defined for North Carolina income tax purposes in G.S. 105-141.3 plus all other monies received from every source.
- (3) 'Permanent residence' means legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements but does not include furniture or furnishings within the dwelling. The dwelling may be a single family residence, a unit in a multi-family residential complex or a mobile home. Notwithstanding the occupancy requirements of this classification, an otherwise qualified applicant shall not lose the benefit of the exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the applicant's spouse or other dependent.
- (4) A 'totally and permanently disabled person' means one who has a physical or mental impairment which substantially precludes him from obtaining gainful employment and such impairment appears reasonably certain to continue without substantial improvement throughout his lifetime.

(c) Application. To receive the benefit of this exclusion, an owner of qualifying property must make application therefor during the regular listing period each year on forms approved by the Department of Revenue. Such forms shall require the following information:

- (1) The claimant's date of birth.
- (2) For permanently disabled applicants, a certificate from a licensed medical doctor verifying that the claimant is totally and permanently disabled within the meaning of this section.
- (3) The claimant's disposable income for the calendar year immediately preceding.

When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each such owner shall file a separate application for his or her proportionate share of the exclusion. If an applicant is unable to supply information as to his disposable income during the regular listing period, he shall be permitted to furnish the information at any time prior to May 1.

Notwithstanding the above filing requirements, the board of commissioners may approve an otherwise proper application received at any time prior to November 1 provided the applicant can show proof that his failure to file a timely application was due to circumstances beyond his control."

Sec. 3. G.S. 105-309(f) is hereby rewritten to read as follows:

"(f) The following information shall appear on each abstract: 'PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS WITH LIMITED INCOME.

If you are 65 years of age or older or totally and permanently disabled and your disposable income for the preceding year did not exceed seven thousand five hundred dollars (\$7,500), you are eligible for an exclusion of up to five thousand dollars (\$5,000) in assessed valuation of the property you own and occupy as your principal residence. If you are qualified and wish to apply for this exclusion, place an "X" in the box at the right '."

Sec. 4. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.