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Short Title: Property Tax Deferral for Elderly.

(Public)

Sponsors:

Referred to:

February 12, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROPERTY TAX DEFERRAL AS AN ALTERNATIVE FORM OF PROPERTY TAX RELIEF FOR THE ELDERLY AND DISABLED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.1 reads as rewritten:

"§ 105-277.1. ~~Property classified for taxation at reduced valuation.~~ tax relief for the elderly and disabled.

(a) Classification. ~~The following class of property~~ Real property or a manufactured home owned and occupied by a qualifying owner as the owner's permanent residence is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation as follows. Constitution and is taxable in accordance with this section. To qualify for the benefit of this section, an owner must meet all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Be a North Carolina resident.

(2) Be at least 65 years old or totally and permanently disabled.

(3) Have an income for the immediately preceding calendar year of not more than eleven thousand dollars (\$11,000).

~~The first twelve thousand dollars (\$12,000) in assessed value of real property, or a mobile home, owned by a North Carolina resident and occupied by the owner as his permanent residence shall not be assessed for taxation if, as of January 1 of the year for which the benefit of this section is claimed:~~

- 1 (1) ~~The owner is either 65 years of age or older or is totally and~~
 2 ~~permanently disabled; and~~
 3 (2) ~~The owner's disposable income for the preceding calendar year did not~~
 4 ~~exceed eleven thousand dollars (\$11,000); and~~
 5 (3) ~~The owner makes the required application.~~

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

8 (b) ~~Definitions. – When used in section, G.S. 105-277.1 through G.S. 105-~~
 9 ~~277.1B, the following definitions shall apply:~~

- 10 (1) Code. – The Internal Revenue Code, as defined in G.S. 105-
 11 134.1.
 12 (1a) Income. – Adjusted gross income, as defined in section 62 of the Code,
 13 plus all tax-exempt interest and dividends. For married applicants
 14 residing with their spouses, the income of both spouses must be
 15 included, whether or not the property is in both names.
 16 (1b) An 'owner' of property means a Owner. – A person who holds legal or
 17 equitable title to the property, either individually or whether
 18 individually, as a tenant by the entirety, a joint tenant, or a tenant in
 19 common, or as the holder of a life estate or an estate for the life of
 20 another. Property owned and occupied by husband and wife as tenants
 21 by the entirety shall be is entitled to the full benefit of this classification
 22 notwithstanding that only one of them meets the age or disability
 23 requirements herein provided of this section. If the residence is a mobile A
 24 manufactured home and is jointly owned by husband and wife, it shall
 25 be treated as wife is considered property held by the entirety. When
 26 property is owned by two or more persons other than husband and wife
 27 and one or more of such the owners qualifies for this classification,
 28 each qualifying owner shall be is entitled to the full a proportionate
 29 amount of the exclusion property tax relief not to exceed his or her
 30 proportionate share of the valuation of the property. No part of an
 31 exclusion the relief available to one co-owner may be claimed by any
 32 other co-owner and in no event shall the total exclusion allowed to a
 33 qualifying residence (including the household personal property therein)
 34 exceed twelve thousand dollars (\$12,000). co-owner.
 35 (2) ~~" Disposable income" means adjusted gross income as defined for~~
 36 ~~North Carolina income tax purposes in G.S. 105-141.3 plus all other~~
 37 ~~moneys received from every source other than gifts or inheritances~~
 38 ~~received from a spouse, lineal ancestors, or lineal descendants.~~
 39 (2a) ~~Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.~~
 40 (3) ~~'Permanent residence' means legal residence. Permanent~~
 41 residence. – A person's legal residence. It includes the dwelling, the
 42 dwelling site, not to exceed one acre, and related improvements. The
 43 dwelling may be a single family residence, a unit in a multi-family
 44 residential complex or a mobile manufactured home.

1 Notwithstanding the occupancy requirements of this classification,
2 an otherwise qualified applicant ~~shall~~ does not lose the benefit of the
3 ~~exclusion-property tax relief~~ because of a temporary absence from his
4 or her permanent residence for reasons of health, or because of an
5 extended absence while confined to a rest home or nursing home, so
6 long as the residence is unoccupied or occupied by the applicant's
7 spouse or other dependent.

8 (3a) Property tax relief. – Homestead exclusion and property tax deferral.

9 (4) ~~A 'totally and permanently disabled person' means one who~~ Totally and
10 permanently disabled. – A person is totally and permanently disabled
11 if the person has a physical or mental impairment which that
12 substantially precludes him or her from obtaining gainful employment
13 and such impairment appears reasonably certain to continue without
14 substantial improvement throughout his lifetime or her life.

15 (c) Election. – A qualified owner may elect one of the following kinds of
16 property tax relief.

17 (1) To defer payment of all or part of any future increases in the amount of
18 tax levied on the permanent residence to the extent allowed under G.S.
19 105-277.1B.

20 (2) To exclude from taxation the first twelve thousand dollars (\$12,000) in
21 appraised value of a permanent residence.

22 When property is owned by two or more persons who qualify for this classification, the
23 election made by the qualified owners must be the same.

24 (e) (d) ~~Application. – Applications for the exclusions provided by this section are to~~
25 ~~be filed during the regular listing period, but, shall~~ An application for property tax relief
26 provided by this section should be filed during the regular listing period, but may be
27 filed and must be accepted at any time up to and through April 15 of the calendar
28 preceding the tax year for which they are to be effective. the relief is claimed. The
29 application form provided by the county for deferral shall state the conditions under
30 which deferred taxes and interest become due and payable and shall also state that
31 interest will accrue on the amount deferred and that this amount constitutes a lien. Each
32 applicant who elects the deferral method of property tax relief shall furnish a list of the
33 amounts of all liens on the property for which tax deferral is sought and the holders of
34 these liens. When property is owned by two or more persons other than husband and
35 wife and one or more of them qualifies for ~~this exclusion, property tax relief,~~ each such
36 owner shall apply separately for his or her proportionate share of the ~~exclusion relief.~~

37 (1) Elderly Applicants. – Persons 65 years of age or older may apply for
38 this exclusion property tax relief by entering the appropriate
39 information on a form made available by the assessor under G.S. 105-
40 282.1.

41 (2) Disabled Applicants. – Persons who are totally and permanently
42 disabled may apply for this exclusion property tax relief by (i) entering
43 the appropriate information on a form made available by the assessor
44 under G.S. 105-282.1 and (ii) furnishing acceptable proof of their

1 disability. Such proof shall be in the form of a certificate from a
2 physician licensed to practice medicine in North Carolina or from a
3 governmental agency authorized to determine qualification for
4 disability benefits. After a disabled applicant has qualified for this
5 classification, he or she shall not be required to furnish an additional
6 certificate unless the applicant's disability is reduced to the extent that
7 the applicant could no longer be certified for ~~the taxation at reduced~~
8 ~~valuation.~~ property tax relief under this section."

9 Sec. 2. Chapter 105 of the General Statutes is amended by adding a new
10 section, G.S. 105-277.1B, to read:

11 **"§ 105-277.1B. Deferral of residential tax increases for qualified owners.**

12 (a) Deferral. – A qualified owner under G.S. 105-277.1 may elect to defer
13 payment of all or part of any future increases in the amount of tax levied on the
14 permanent residence to the extent permissible under subsection (c) unless (i) the
15 property is subject to a lien that, pursuant to a federal law, rule, or regulation, prohibits
16 deferral of taxes or (ii) the amount of outstanding liens on the property exceeds eighty
17 percent (80%) of the assessed value of the property. The amount of the tax increase that
18 may be deferred each year is the amount by which the tax due on the residence for that
19 year exceeds the amount of tax that was due on the residence for the year preceding the
20 owner's application for deferral under G.S. 105-277.1. The amount of taxes deferred
21 shall accrue interest at the rate specified in G.S. 105-241.1(i) for assessments from the
22 date the tax is otherwise due until payment. The amount of deferred taxes and accrued
23 interest shall constitute a lien on the property, which shall attach at the time prescribed
24 in G.S. 105-355 and shall have the priority established in G.S. 105-356.

25 (b) Notification of Additional Liens. – The owner of tax-deferred property shall
26 notify the assessor of the amount and holder of any new lien against the property arising
27 after application for deferral has been made within 60 days of the creation of the new
28 lien.

29 (c) Transfer or Disqualification of Property. – Payment of taxes deferred under
30 G.S. 105-277.1 may be deferred until the death of the owner or until the property is
31 transferred, at which time the full amount of deferred taxes and interest shall become
32 due and shall be paid within nine months after the date of death or transfer, unless the
33 property is transferred to the former owner's spouse and the spouse is 65 years of age or
34 older and occupies the property as his or her permanent residence, in which case the
35 spouse may elect to continue deferring payment of the tax.

36 Except as provided in G.S. 105-277.1(b)(3), in any year in which the owner of tax-
37 deferred property no longer occupies the property as his or her permanent residence no
38 tax levied on the property for that year may be deferred and the full tax for that year is
39 due on the date established in G.S. 105-360. If the owner of tax-deferred property fails
40 to occupy the property as his or her permanent residence for three successive years, the
41 full amount of deferred taxes and interest shall become due that third year and shall be
42 due and payable at the same time the tax levied on the property in that year is otherwise
43 due. In any year in which the total amount of deferred taxes, interest, and other
44 unsatisfied liens on the property exceeds eighty percent (80%) of the assessed value of

1 the property, the assessor shall notify the owner that the portion of deferred taxes and
2 interest that exceeds the eighty percent (80%) limit is due and must be paid within 60
3 days after receipt of the notice. Failure to pay any amount due under this subsection
4 shall cause the total amount of deferred taxes and interest to become due and payable at
5 the same time the tax levied on the property in the year in which the failure occurs is
6 otherwise due.

7 (d) Annual Notification to Property Owner. – On or before September 1 of each
8 year, the assessor shall notify each property owner to whom a tax deferral has
9 previously been granted of the accumulated sum of deferred taxes and interest.

10 (e) Prepayment. – All or part of the deferred taxes and accrued interest may be
11 paid to the tax collector at any time. Any partial payment shall be applied first to
12 accrued interest. A property owner to whom a tax deferral has previously been granted
13 may revoke the application for deferral at any time by notifying the assessor in writing;
14 however, an owner may not elect to pay taxes upon the property at a reduced value
15 under G.S. 105-277.1 unless all of the deferred taxes and accrued interest have been
16 paid to the tax collector.

17 (f) Payment by Trustee or Mortgagee. – A mortgagee or trustee that elects to pay
18 any tax deferred by the owner of property subject to the mortgage or deed of trust does
19 not thereby acquire a right to foreclose. Nothing herein shall deny or prohibit a
20 mortgagee or trustee the right to foreclose on the applicable mortgage or note and deed
21 of trust that is otherwise in default.

22 (g) Clauses Preventing Application for Deferral Void. – Except for requirements
23 dictated by federal law, rule, or regulation, any provision in a mortgage, deed of trust, or
24 other agreement that prohibits the owner from electing to defer taxes on property under
25 G.S. 105-277.1 is void.

26 (h) Construction. – This section does not prevent the collection of personal
27 property taxes that become a lien against tax-deferred property."

28 Sec. 3. G.S. 105-282.1(a)(3) reads as rewritten:

29 "(3) After an owner of property entitled to exemption under G.S. 105-
30 277.1, 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or ~~105-~~
31 ~~278.8 or 105-278.8;~~ exclusion under G.S. 105-275(3), (7), ~~(12) or (39)~~
32 ~~or G.S. 105-278-(12), or (39), or G.S. 105-278; or deferral under G.S.~~
33 ~~105-277.1 has applied for exemption-exemption, exclusion, or deferral~~
34 ~~and the exemption-the application has been approved, such owner shall~~
35 ~~not be required to file applications in subsequent years except in the~~
36 ~~following circumstances:-the owner need not apply for the same benefit~~
37 ~~in subsequent years unless one of the following events has occurred:~~

- 38 a. New or additional property is—has been acquired or
39 improvements are—have been added or removed, necessitating a
40 change in the valuation of the property, or property.
41 b. There is a change in the use of the property or the qualifications
42 or eligibility of the taxpayer necessitating a review of the
43 exemption.
44 c. The owner no longer qualifies for the deferral."

1 Sec. 4. This act is effective for taxes imposed for taxable years beginning on
2 or after July 1, 1993.