

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

3

SENATE BILL 162
Second Edition Engrossed 3/7/01
House Committee Substitute Favorable 5/14/01

Short Title: Property Tax Amendments.

(Public)

Sponsors:

Referred to:

February 19, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS PROPERTY TAX LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-282.1 reads as rewritten:

"§ 105-282.1. ~~Applications for property tax exemption or exclusion.~~ exclusion;
annual review of property exempted or excluded from property tax.

(a) Application. – Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled thereto. ~~Except as provided below, an owner claiming exemption or exclusion shall annually file an application for exemption or exclusion during the listing period. to it.~~ If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

(1) ~~The United States government, the State of North Carolina and the counties and municipalities of the State are exempted from the requirement that owners file applications for exemption.~~

(2) ~~Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (15), (16), (26), (31), (32a), (33), (34), or (40), or exempted under G.S. 105-278.2 are not required to file applications for the exclusion or exemption of that property.~~

(3) ~~After an owner of property entitled to exemption under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8 or~~

1 exclusion under G.S. 105-275(3), (7), (8), (12), (17) through (19), (21)
2 or (39), G.S. 105-277.1, or G.S. 105-278 has applied for exemption or
3 exclusion and the exemption or exclusion has been approved, the
4 owner is not required to file an application in subsequent years except
5 in the following circumstances:

- 6 a. New or additional property is acquired or improvements are
7 added or removed, necessitating a change in the valuation of
8 the property; or
9 b. There is a change in the use of the property or the
10 qualifications or eligibility of the taxpayer necessitating a
11 review of the exemption or exclusion.
- 12 (4) After an owner of property entitled to exclusion under G.S. 105-277.10
13 has applied for the exclusion and the exclusion has been approved, the
14 owner is not required to apply for the exclusion in subsequent years so
15 long as the classified property, including classified property acquired
16 after the application is approved, is used or held for use directly in
17 manufacturing or processing as part of industrial machinery.
- 18 (5) Upon a showing of good cause by the applicant for failure to make a
19 timely application, an application for exemption or exclusion filed
20 after the close of the listing period may be approved by the
21 Department of Revenue, the board of equalization and review, the
22 board of county commissioners, or the governing body of a
23 municipality, as appropriate. An untimely application for exemption or
24 exclusion approved under this subdivision applies only to property
25 taxes levied by the county or municipality in the calendar year in
26 which the untimely application is filed.

27 Except as provided below, an owner claiming an exemption or exclusion from
28 property taxes must file an application for the exemption or exclusion annually during
29 the listing period.

- 30 (1) No application required. – Owners of the following exempt or
31 excluded property do not need to file an application for the exemption
32 or exclusion to be entitled to receive it:
- 33 a. Property exempt from taxation under G.S. 105-278.1 or G.S.
34 105-278.2.
- 35 b. Special classes of property excluded from taxation under G.S.
36 105-275(15), (16), (26), (31), (32a), (33), (34), (37), (40), or
37 (42).
- 38 c. Property classified for taxation at a reduced valuation under
39 G.S. 105-277(g) or G.S. 105-277.9.
- 40 (2) Single application required. – An owner of one or more of the
41 following properties eligible to be exempted or excluded from taxation
42 must file an application for exemption or exclusion to receive it. Once
43 the application has been approved, the owner does not need to file an

1 application in subsequent years unless new or additional property is
2 acquired or improvements are added or removed, necessitating a
3 change in the valuation of the property, or there is a change in the use
4 of the property or the qualifications or eligibility of the taxpayer
5 necessitating a review of the exemption or exclusion:

- 6 a. Property exempted from taxation under G.S. 105-278.3, 105-
7 278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
8 b. Special classes of property excluded from taxation under G.S.
9 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36),
10 (38), (39), or (41) or under G.S. 131A-21.
11 c. Special classes of property classified for taxation at a reduced
12 valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-
13 277.13, or 105-278.
14 d. Property owned by a nonprofit homeowners' association but
15 where the value of the property is included in the appraisals of
16 property owned by members of the association under G.S. 105-
17 277.8.

18 (a1) Late Application. – Upon a showing of good cause by the applicant for failure
19 to make a timely application, an application for exemption or exclusion filed after the
20 close of the listing period may be approved by the Department of Revenue, the board of
21 equalization and review, the board of county commissioners, or the governing body of a
22 municipality, as appropriate. An untimely application for exemption or exclusion
23 approved under this subsection applies only to property taxes levied by the county or
24 municipality in the calendar year in which the untimely application is filed.

25 (b) Approval and Appeal Process. – The Department of Revenue or the assessor
26 to whom an application for exemption or exclusion is submitted shall must review the
27 application and either approve or deny the application. Approved applications shall be
28 filed and made available to all taxing units in which the exempted or excluded property
29 is situated. If the Department denies an application for exemption or exclusion, it shall
30 notify the taxpayer, who may appeal the denial to the Property Tax Commission.

31 If an assessor denies an application for exemption or exclusion, ~~he shall~~ the assessor
32 must notify the owner of his the decision in time for him and the owner may to appeal
33 the decision to the board of equalization and review or the board of county
34 commissioners, as appropriate, and from the county board to the Property Tax
35 Commission. If the notice of denial covers property located within a municipality, the
36 assessor shall send a copy of the notice and a copy of the application to the governing
37 body of the municipality. The municipal governing body shall then advise the owner
38 whether it will adopt the decision of the county board or require the owner to file a
39 separate appeal with the municipal governing body. In the event the owner is required to
40 appeal to the municipal governing body and that body renders an adverse decision, the
41 owner may appeal to the Property Tax Commission. Nothing in this section subsection
42 shall prevent the governing body of a municipality from denying an application which
43 has been approved by the assessor or by the county board provided the owner's rights to

1 notice and hearing are not abridged. Applications handled separately by a municipality
2 shall be filed in the office of the person designated by the governing body, or in the
3 absence of such designation, in the office of the chief fiscal officer of the municipality.

4 (c) Discovery of Property. – When an owner of property that may be eligible for
5 exemption or exclusion neither lists the property nor files an application for exemption
6 or exclusion, the assessor or the Department of Revenue, as appropriate, shall proceed
7 to discover the property. If, upon appeal, the owner demonstrates that the property
8 meets the conditions for exemption or exclusion, the body hearing the appeal may
9 approve the exemption or exclusion. Discovery of the property by the Department or the
10 county shall automatically constitute a discovery by any taxing unit in which the
11 property has a taxable situs.

12 (d) Roster of Exempted and Excluded Property. – The county assessor shall
13 prepare and maintain a roster of all property in the county that is granted tax relief
14 through classification or exemption. On or before November 1 of each year, the assessor
15 must send a report to the Department of Revenue summarizing the information
16 contained in the roster. The report must be in the format required by the Department.
17 The assessor must also send the Department a copy of the roster upon the request of the
18 Department. As to affected real and personal property, the roster shall set forth:

- 19 (1) The name of the owner of the property.
- 20 (2) A brief description of the property.
- 21 (3) A statement of the use to which the property is put.
- 22 (4) A statement of the value of the property.
- 23 (5) The total value of exempt property in the county and in each
24 municipality therein.

25 (e) Annual Review of Exempted or Excluded Property. – Pursuant to G.S. 105-
26 296(1), the assessor must annually review at least one-eighth of the parcels in the county
27 exempted or excluded from taxation to verify that the parcels qualify for the exemption
28 or exclusion. ~~A duplicate copy of the roster shall be forwarded to the Department of~~
29 ~~Revenue on or before November 1, 1974. In subsequent years, on or before November~~
30 ~~1, a report shall be filed with the Department of Revenue showing all changes since the~~
31 ~~last report."~~

32 **SECTION 2.** G.S. 105-287(a) reads as rewritten:

33 "(a) In a year in which a general reappraisal or horizontal adjustment of real
34 property in the county is not made, the assessor shall increase or decrease the appraised
35 value of real property, as determined under G.S. 105-286, ~~to accomplish any one or~~
36 ~~more of the following:~~ to recognize a change in the property's value resulting from one
37 or more of the reasons listed in this subsection. The reason necessitating a change in the
38 property's value need not be under the control of or at the request of the owner of the
39 affected property.

- 40 (1) Correct a clerical or mathematical error.
- 41 (2) Correct an appraisal error resulting from a misapplication of the
42 schedules, standards, and rules used in the county's most recent general
43 reappraisal or horizontal adjustment.

1 (2a) Recognize an increase or decrease in the value of the property
2 resulting from a conservation or preservation agreement subject to
3 Article 4 of Chapter 121 of the General Statutes, the Conservation and
4 Historic Preservation Agreements Act.

5 (2b) Recognize an increase or decrease in the value of the property
6 resulting from a physical change to the land or to the improvements on
7 the land, other than a change listed in subsection (b) of this section.

8 (2c) Recognize an increase or decrease in the value of the property
9 resulting from a change in the legally permitted use of the property.

10 (3) Recognize an increase or decrease in the value of the property
11 resulting from a factor other than one listed in subsection (b)."

12 **SECTION 3.** G.S. 105-296(j) reads as rewritten:

13 "(j) The assessor shall annually review one eighth of the parcels in the county
14 classified for taxation at present-use value to verify that these parcels qualify for the
15 classification. By this method, the assessor shall review the eligibility of all parcels
16 classified for taxation at present-use value in an eight-year period. The assessor may
17 require the owner of classified property to submit any information needed by the
18 assessor to verify that the property continues to qualify for present-use value taxation.
19 The owner has 60 days from the date a written request for the information is made to
20 submit the information to the assessor. If the assessor determines the owner failed to
21 make the information requested available in the time required without good cause, the
22 property loses its present-use value classification and the property's deferred taxes
23 become due and payable as provided in G.S. 105-277.4(c). The assessor must reinstate
24 the property's present-use value classification when the owner submits the requested
25 information unless the information discloses that the property no longer qualifies for
26 present-use value classification. When a property's present-use value classification is
27 reinstated, it is reinstated retroactive to the date the classification was revoked and any
28 deferred taxes that were paid as a result of the revocation must be refunded to the
29 property owner."

30 **SECTION 4.** G.S. 105-296(l) reads as rewritten:

31 "(l) The assessor shall annually review at least one-eighth of the parcels in the
32 county exempted or excluded from taxation to verify that these parcels qualify for the
33 exemption or exclusion. By this method, the assessor shall review the eligibility of all
34 parcels exempted or excluded from taxation in an eight-year period. The assessor may
35 require the owner of exempt or excluded property to make available for inspection any
36 information reasonably needed by the assessor to verify that the property continues to
37 qualify for the exemption or exclusion. The owner has 60 days from the date a written
38 request for the information is made to submit the information to the assessor. If the
39 assessor determines that the owner failed to make the information requested available in
40 the time required without good cause, then the property loses its exemption or
41 exclusion. The assessor must reinstate the property's exemption or exclusion when the
42 owner makes the requested information available unless the information discloses that
43 the property is no longer eligible for the exemption or exclusion."

1 **SECTION 5.** G.S. 105-296 is amended by adding a new subsection to read:

2 "(m) The assessor shall annually review the transportation corridor official maps and
3 amendments to them filed with the register of deeds pursuant to Article 2E of Chapter
4 136 of the General Statutes. The assessor must indicate on all tax maps maintained by
5 the county or city that portion of the properties embraced within a transportation
6 corridor and must note any variance granted for the property for such period as the
7 designation remains in effect. The assessor must tax the property within a transportation
8 corridor as required under G.S. 105-277.9."

9 **SECTION 6.** G.S. 105-322(e) reads as rewritten:

10 "(e) Time of Meeting. – Each year the board of equalization and review shall hold
11 its first meeting not earlier than the first Monday in April and not later than the first
12 Monday in May. In years in which a county does not conduct a real property
13 revaluation, the board shall complete its duties on or before the third Monday following
14 its first meeting unless, in its opinion, a longer period of time is necessary or expedient
15 to a proper execution of its responsibilities. ~~In no event shall~~ Except as provided in
16 subdivision (g)(5) of this section, the board may not sit later than July 1 except to hear
17 and determine requests made under the provisions of subdivision (g)(2), below, when
18 such requests are made within the time prescribed by law. In the year in which a county
19 conducts a real property revaluation, the board shall complete its duties on or before
20 December 1, except that it may sit after that date to hear and determine requests made
21 under the provisions of subdivision (g)(2), below, when such requests are made within
22 the time prescribed by law. From the time of its first meeting until its adjournment, the
23 board shall meet at such times as it deems reasonably necessary to perform its statutory
24 duties and to receive requests and hear the appeals of taxpayers under the provisions of
25 subdivision (g)(2), below."

26 **SECTION 7.** G.S. 105-322(g) reads as rewritten:

27 "(g) Powers and Duties. – The board of equalization and review has the following
28 powers and duties:

29 (1) ~~Powers and Duties. — It shall be the duty of the board of equalization~~
30 ~~and review to~~ Duty to Review Tax Lists. – The board shall examine
31 and review the tax lists of the county for the current year to the end
32 that all taxable property shall be listed on the abstracts and tax records
33 of the county and appraised according to the standard required by G.S.
34 105-283, and the board shall correct the abstracts and tax records to
35 conform to the provisions of this Subchapter. In carrying out its
36 responsibilities under this subdivision (g)(1), the board, on its own
37 motion or on sufficient cause shown by any person, shall:

- 38 a. List, appraise, and assess any taxable real or personal property
39 that has been omitted from the tax lists.
- 40 b. Correct all errors in the names of persons and in the description
41 of properties subject to taxation.
- 42 c. Increase or reduce the appraised value of any property that, in
43 the board's opinion, ~~shall have~~ has been listed and appraised at a

- 1 figure that is below or above the appraisal required by G.S.
2 105-283; however, the board shall not change the appraised
3 value of any real property from that at which it was appraised
4 for the preceding year except in accordance with the terms of
5 G.S. 105-286 and 105-287.
- 6 d. Cause to be done whatever else ~~shall be~~ is necessary to make
7 the lists and tax records comply with the provisions of this
8 Subchapter.
- 9 e. Embody actions taken under the provisions of subdivisions
10 (g)(1)a through (g)(1)d, above, in appropriate orders and have
11 the orders entered in the minutes of the board.
- 12 f. Give written notice to the taxpayer at ~~his~~ the taxpayer's last
13 known address in the event the ~~board~~ board, by
14 appropriate order, ~~increase~~ increases the appraisal of any
15 property or ~~list~~ lists for taxation any property omitted from the
16 tax lists under the provisions of this subdivision (g)(1).
- 17 (2) Duty to Hear Taxpayer Appeals. — On request, the board of
18 equalization and review shall hear any taxpayer who owns or controls
19 property taxable in the county with respect to the listing or appraisal of
20 ~~his~~ the taxpayer's property or the property of others.
- 21 a. A request for a hearing under this subdivision (g)(2) shall be
22 made in writing to or by personal appearance before the board
23 prior to its adjournment. However, if the taxpayer requests
24 review of a decision made by the board under the provisions of
25 subdivision (g)(1), above, notice of which was mailed fewer
26 than 15 days prior to the board's adjournment, the request for a
27 hearing thereon may be made within 15 days after the notice of
28 the board's decision was mailed.
- 29 b. Taxpayers may file separate or joint requests for hearings under
30 the provisions of this subdivision (g)(2) at their election.
- 31 c. At a hearing under provisions of this subdivision (g)(2), the
32 board, in addition to the powers it may exercise under the
33 provisions of subdivision (g)(3), below, shall hear any evidence
34 offered by the appellant, the assessor, and other county officials
35 that is pertinent to the decision of the appeal. Upon the request
36 of an appellant, the board shall subpoena witnesses or
37 documents if there is a reasonable basis for believing that the
38 witnesses have or the documents contain information pertinent
39 to the decision of the appeal.
- 40 d. On the basis of its decision after any hearing conducted under
41 this subdivision (g)(2), the board shall adopt and have entered
42 in its minutes an order reducing, increasing, or confirming the
43 appraisal appealed or listing or removing from the tax lists the

1 property whose omission or listing has been appealed. The
2 board shall notify the appellant by mail as to the action taken on
3 ~~his~~ the taxpayer's appeal not later than 30 days after the board's
4 adjournment.

5 (3) Powers in Carrying Out Duties. – In the performance of its duties
6 under subdivisions (g)(1) and (g)(2), above, the board of equalization
7 and review may exercise the following powers:

8 a. It may appoint committees composed of its own members or
9 other persons to assist it in making investigations necessary to
10 its work. It may also employ expert appraisers in its discretion.
11 The expense of the employment of committees or appraisers
12 shall be borne by the county. The board may, in its discretion,
13 require the taxpayer to reimburse the county for the cost of any
14 appraisal by experts demanded by ~~him~~ the taxpayer if the
15 appraisal does not result in material reduction of the valuation
16 of the property appraised and if the appraisal is not
17 subsequently reduced materially by the board or by the
18 Department of Revenue.

19 b. The board, in its discretion, may examine any witnesses and
20 documents. It may place any witnesses under oath administered
21 by any member of the board. It may subpoena witnesses or
22 documents on its own motion, and it must do so when a request
23 is made under the provisions of subdivision (g)(2)c, above.

24 A subpoena issued by the board shall be signed by the
25 ~~chairman~~ chair of the board, directed to the witness or to the
26 person having custody of the document, and served by an
27 officer authorized to serve subpoenas. Any person who willfully
28 fails to appear or to produce documents in response to a
29 subpoena or to testify when appearing in response to a
30 subpoena shall be guilty of a Class 1 misdemeanor.

31 (4) Power to Submit Reports. – Upon the completion of its other duties,
32 the board may submit to the Department of Revenue a report outlining
33 the quality of the reappraisal, any problems it encountered in the
34 reappraisal process, the number of appeals submitted to the board and
35 to the Property Tax Commission, the success rate of the appeals
36 submitted, and the name of the firm that conducted the reappraisal. A
37 copy of the report should be sent by the board to the firm that
38 conducted the reappraisal.

39 (5) Duty to Change Abstracts and Records After Adjournment. –
40 Following adjournment upon completion of its duties under
41 subdivisions (g)(1) and (g)(2) of this subsection, the board may
42 continue to meet to carry out the following duties:

- 1 a. To hear and decide all appeals relating to discovered property
2 under G.S. 105-312(d) and (k).
3 b. To hear and decide all appeals relating to the appraisal, situs,
4 and taxability of classified motor vehicles under G.S. 105-
5 330.2(b).
6 c. To hear and decide all appeals relating to audits conducted
7 under G.S. 105-296(j) and relating to audits conducted under
8 G.S. 105-296(j) and (l) of property classified at present-use
9 value and property exempted or excluded from taxation."

10 **SECTION 8.** G.S. 105-330.4(b) reads as rewritten:

11 "(b) Subject to the provisions of G.S. 105-395.1, interest on unpaid taxes on
12 classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) accrues at the rate of
13 ~~three-fourths of one percent (3/4%) per month beginning~~ two percent (2%) for the first
14 month following the date the taxes were due and three-fourths percent (3/4%) for each
15 month thereafter until the taxes are paid, unless the tax notice required by G.S.
16 105-330.5 is prepared after the date the taxes are due. In that circumstance, the interest
17 accrues beginning the second month following the date of the notice until the taxes are
18 paid. Subject to the provisions of G.S. 105-395.1, interest on delinquent taxes on
19 classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2) accrues as provided in
20 G.S. 105-360(a) and discounts shall be allowed as provided in G.S. 105-360(c)."

21 **SECTION 9.** G.S. 105-375(i) reads as rewritten:

22 "(i) Issuance of Execution. – At any time after ~~six~~ three months and before two
23 years from the indexing of the judgment as provided in subsection (b), above, execution
24 shall be issued at the request of the tax collector in the same manner as executions are
25 issued upon other judgments of the superior court, and the real property shall be sold by
26 the sheriff in the same manner as other real property is sold under execution with the
27 following exceptions:

- 28 (1) No debtor's exemption shall be allowed.
29 (2) In lieu of personal service of notice on the owner of the property,
30 registered or certified mail notice shall be mailed to the listing owner
31 ~~(and to the current owner if notice was required to be mailed to him~~
32 ~~pursuant to subsection (c), above)~~ at this [his] the listing owner's last
33 known address at least 30 days prior to the day fixed for the sale. The
34 notice must also be mailed to the current owner by registered or
35 certified mail if notice was required to be mailed to the current owner
36 pursuant to subsection (c) of this section.
37 (3) The sheriff shall add to the amount of the judgment as costs of the sale
38 any postage expenses incurred by the tax collector and the sheriff in
39 foreclosing under this section.
40 (4) In any advertisement or posted notice of sale under execution, the
41 sheriff may (and at the request of the governing body shall) combine
42 the advertisements or notices for properties to be sold under executions
43 against the properties of different taxpayers in favor of the same taxing

1 unit or group of units; however, the property included in each
2 judgment shall be separately described and the name of the listing
3 taxpayer specified in connection with each.

4 The purchaser at the execution sale shall acquire title to the property in fee simple
5 free and clear of all claims, rights, interests, and liens except the liens of other taxes or
6 special assessments not paid from the purchase price and not included in the judgment."

7 **SECTION 10.** G.S. 131A-21 reads as rewritten:

8 "**§ 131A-21. Tax exemption.**

9 The exercise of the powers granted by this Chapter will be in all respects for the
10 benefit of the people of the State and will promote their health and welfare. If bonds or
11 notes are issued by the Commission to provide or improve a health care facility, then
12 until the bonds or notes are retired, the facility for which bonds or notes are issued is
13 exempt from property taxes to the extent provided in this section. If refunding bonds or
14 notes are issued to refund bonds or notes issued to provide or improve a health care
15 facility, the facility will continue to be exempt from property taxes as provided in this
16 section until such time as the refunding bonds or notes are retired, provided that the
17 final maturity of the refunding bonds or notes does not extend beyond the final maturity
18 of the original bonds or notes.

19 Property may be exempt from property taxes as provided in this section if a timely
20 application for the exemption is filed with the assessor of the county in which the
21 property is located as required under G.S. 105-282.1.The property tax exemption under
22 this section shall not exceed the lesser of the original principal amount of the bonds or
23 notes or the assessed value for ad valorem tax purposes of the facility. If bonds or notes
24 are issued to finance more than one health care facility, only that portion of the principal
25 amount of the bonds or notes used to provide or improve the particular facility,
26 including any allocable reserves and financing costs, may be considered for the purpose
27 of determining the amount of the exemption allowable under this section. The
28 exemption authorized by this section shall begin with the first full tax year of the
29 taxpayer following the issuance of the bonds and notes. This section does not affect a
30 health care facility's eligibility for a property tax exemption under Subchapter II of
31 Chapter 105 of the General Statutes.

32 Any bonds or notes issued by the Commission under the provisions of this Chapter
33 shall at all times be free from taxation by the State or any local unit or political
34 subdivision or other instrumentality of the State, excepting inheritance, estate, or gift
35 taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise
36 taxes. The interest on the bonds and notes is not subject to taxation as income."

37 **SECTION 11.** Section 2 of this act becomes effective for taxes imposed for
38 taxable years beginning on or after July 1, 2002. Section 9 of this act becomes effective
39 July 1, 2001, and applies to an in rem foreclosure proceeding begun on or after that
40 date. Section 8 of this act becomes effective for taxes imposed for taxable years
41 beginning on or after July 1, 2001. The remainder of this act is effective when it
42 becomes law.

43