GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1143

Short Title: Homestead Exemption/Deferral. (Public)

Sponsors: Senators Odom; Speed, Marshall, Carpenter, and Seymour.

Referred to: Finance.

May 12, 1993

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 AND, IF A STATE-OPERATED LOTTERY IS IMPLEMENTED, TO INCREASE THE PROPERTY TAX HOMESTEAD EXEMPTION FOR THE ELDERLY AND DISABLED AND REIMBURSE LOCAL GOVERNMENTS FOR THEIR REVENUE LOST DUE TO THE HOMESTEAD EXEMPTION.

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.~~ <u>tax relief for the elderly and disabled.</u>**

(a) <u>Classification.</u> ~~The following class of property~~ <u>Real property or a manufactured home owned and occupied by a qualifying owner as the owner's permanent residence</u> 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.~~ <u>Constitution and is taxable in accordance with this section. A qualifying owner may elect property tax relief for this classified property in the form of a homestead exclusion or property tax deferral as provided in subsection (c) of this section. To qualify for the homestead exclusion under 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:</u>

<u>(1)</u> <u>Be a North Carolina resident.</u>

<u>(2)</u> <u>Be at least 65 years old or totally and permanently disabled.</u>

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

To qualify for property tax deferral under G.S. 105-277.1B, 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 twenty-five thousand dollars ($25,000).

~~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) The owner is either 65 years of age or older or is totally and permanently disabled; and~~

~~(2) The owner's disposable income for the preceding calendar year did not exceed eleven thousand dollars ($11,000); and~~

~~(3) The owner makes the required application.~~

~~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,~~ G.S. 105-277.1 through G.S. 105-277.1B, the following definitions shall apply:

(1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.

(1a) Reserved.

(1b) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all other money received from every source other than gifts and inheritances from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.

(1c) ~~An 'owner' of property means a~~ Owner. – A person who holds legal or equitable title to the property, ~~either individually or~~ whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of 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~~ is entitled to the full benefit of this classification notwithstanding that only one of them meets the age or disability requirements ~~herein provided~~of this section. ~~If the residence is a mobile~~ A manufactured home ~~and is~~ jointly owned by husband and ~~wife, it shall be treated as~~ wife is considered 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~~ the owners qualifies for this classification, each qualifying owner ~~shall be~~ is entitled to ~~the full~~ a proportionate amount of the ~~exclusion~~ property tax relief not to exceed his or her proportionate share of the valuation of the property. No part of ~~an~~

~~exclusion~~ the relief 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 residence (including the household personal property therein) exceed twelve thousand dollars ($12,000).~~ co-owner.

~~(2) " Disposable income" means adjusted gross income as defined for North Carolina income tax purposes in G.S. 105-141.3 plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestors, or lineal descendants.~~

(2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

(3) ~~'Permanent residence' means legal residence.~~ Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential ~~complex~~ complex, or a ~~mobile~~ manufactured home. Notwithstanding the occupancy requirements of this classification, an otherwise qualified applicant ~~shall~~ does not lose the benefit of the ~~exclusion~~ property tax relief 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.

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

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

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

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

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

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

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

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

(2) Disabled Applicants. – Persons who are totally and permanently disabled may apply for ~~this exclusion~~ property tax relief by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability. Such proof shall be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, he or she shall not be required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for ~~the taxation at reduced valuation.~~ property tax relief under this section."

Sec. 2. Chapter 105 of the General Statutes is amended by adding a new section to read:

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

(a) Deferral. – A qualified owner under G.S. 105-277.1 may elect to defer payment of all or part of any future increases in the amount of tax levied on the permanent residence to the extent permissible under subsection (c) of this section unless (i) the property is subject to a lien that, pursuant to a federal law, rule, or regulation, prohibits deferral of taxes or (ii) the amount of outstanding liens on the property exceeds eighty-five percent (85%) of the assessed value of the property. The amount of the tax increase that may be deferred each year is the amount by which the tax due on the residence for that year exceeds the amount of tax that was due on the residence for the year preceding the owner's application for deferral under G.S. 105-277.1, reduced by a percentage equal to the percentage by which the assessed value of the residence exceeds one hundred fifty thousand dollars ($150,000). The amount of taxes deferred shall accrue interest at the rate specified in G.S. 105-241.1(i) for assessments from the date the tax is otherwise due until payment. The amount of deferred taxes and accrued interest shall constitute a lien on the property, which shall attach at the time prescribed in G.S. 105-355 and shall have the priority established in G.S. 105-356.

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

(c) Transfer or Disqualification of Property. – Payment of taxes deferred under this section may be deferred until the death of the owner or until the property is transferred, at which time the full amount of deferred taxes and interest shall become due and shall be paid within nine months after the date of death or transfer, unless the property is transferred to the former owner's spouse and the spouse is 65 years of age or older and occupies the property as his or her permanent residence, in which case the spouse may elect to continue deferring payment of the tax. If the owner of tax-deferred property does not meet the income requirements of G.S. 105-277.1(a) as of January 1 preceding a taxable year, the owner may not defer any increase in property tax that occurs that year, but the deferred taxes from earlier years do not become due because of the owner's failure to meet the income requirements for the current year.

Except as provided in G.S. 105-277.1(b)(3), in any year in which the owner of tax-deferred property no longer occupies the property as his or her permanent residence no tax levied on the property for that year may be deferred and the full tax for that year is due on the date established in G.S. 105-360. If the owner of tax-deferred property fails to occupy the property as his or her permanent residence for three successive years, the full amount of deferred taxes and interest shall become due that third year and shall be due and payable at the same time the tax levied on the property in that year is otherwise due. In any year in which the total amount of deferred taxes, interest, and other unsatisfied liens on the property exceeds eighty-five percent (85%) of the assessed value of the property, the assessor shall notify the owner that the portion of deferred taxes and interest that exceeds the eighty-five percent (85%) limit is due and must be paid within 60 days after receipt of the notice. Failure to pay an amount due under this subsection shall cause the total amount of deferred taxes and interest to become due and payable at the same time the tax levied on the property in the year in which the failure occurs is otherwise due.

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

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

(f) Payment by Trustee or Mortgagee. – A mortgagee or trustee that elects to pay any tax deferred by the owner of property subject to the mortgage or deed of trust does not thereby acquire a right to foreclose.

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

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

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

"(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~~ 105-278.8; exclusion under G.S. 105-275(3), (7), (12), or (39), ~~G.S. 105-277.1 or G.S. 105-278~~ G.S. 105-277.1, or G.S. 105-278; or deferral under G.S 105-277.1B has applied for ~~exemption or exclusion and the exemption or exclusion~~ exemption, exclusion, or deferral and the application has been approved, the owner ~~is not required to file an application in subsequent years except in the following circumstances:~~ need not apply for the same benefit in subsequent years unless one or more of the following events have occurred:

a. New or additional property ~~is~~ has been acquired or improvements ~~are~~ have been added or removed, necessitating a change in the valuation of the ~~property; or~~ property.

b. There is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion.

c. The owner no longer qualifies for the deferral."

Sec. 4. G.S. 105-277.1, as amended by Section 1 of this act, reads as rewritten:

"**§ 105-277.1. Property tax relief for the elderly and disabled.**

(a) Classification. – 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 is taxable in accordance with this section. A qualifying owner may elect property tax relief for this classified property in the form of a homestead exclusion or property tax deferral as provided in subsection (c). To qualify for the homestead exclusion under 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).~~

(3) Have an income for the immediately preceding calendar year of not more than the income eligibility limit provided in subsection (c1) of this section.

To qualify for property tax deferral under G.S. 105-277.1B, 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 twenty-five thousand dollars ($25,000).

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

(1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.

<u>(1a) Consumer Price Index. – The Consumer Price Index (all items – United States city average), as published by the United States Department of Labor, Bureau of Labor Statistics.</u>

(1b) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all other money received from every source other than gifts and inheritances from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.

(1c) Owner. – A person who holds legal or equitable title to the property, whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of a life estate or an estate for the life of another. Property owned and occupied by husband and wife as tenants by the is entitled to the full benefit of this classification notwithstanding that only one of them meets the age or disability requirements of this section. A manufactured home jointly owned by husband and wife is considered property held by the entirety. When property is owned by two or more persons other than husband and wife and one or more of the owners qualifies for this classification, each qualifying owner is entitled to a proportionate amount of the property tax relief not to exceed his or her proportionate share of the valuation of the property. No part of the relief available to one co-owner may be claimed by any other ~~co-owner.~~ <u>co-owner and in no event may the total homestead exclusion allowed to a qualifying residence exceed the index amount provided in subsection (c2) of this section.</u>

(2) Repealed.

(2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

(3) Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex, or a manufactured home. Notwithstanding the occupancy requirements of this classification, an otherwise qualified applicant does not lose the benefit of the property tax relief 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.

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

(4) Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment that substantially precludes him or her from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout his or her life.

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

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

(2) To exclude from taxation the ~~first twelve thousand dollars ($12,000) in appraised value of the permanent residence.~~ amount of the appraised value of a permanent residence that equals the index amount provided in subsection (c2) of this section.

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

(c1) Income Limit. – For the taxable year beginning the first July 1 after a State-operated lottery is implemented in this State, the income eligibility limit for the homestead exclusion is eighteen thousand dollars ($18,000). For taxable years beginning on or after the second July 1 after a State-operated lottery is implemented in this State, the income eligibility limit is the amount for the preceding year increased by the same percentage of this amount as the percentage by which the federal government increased the benefits under Titles II and XVI of the Social Security Act during the calendar year preceding the year in which the determination of a new income limit is made, rounded to the nearest one hundred dollars ($100.00). On or before July 1 of each year, the Department of Revenue shall determine the income eligibility amount to be in effect for the taxable year beginning the following July 1 and shall notify the assessor of each county of the amount to be in effect for that taxable year.

(c2) Index Amount. – The initial index amount for the homestead exclusion is twenty-five thousand dollars ($25,000) for the five taxable years beginning on or after the first July 1 after a State-operated lottery is implemented in this State. Every fifth taxable year after the initial index amount becomes effective, the index amount is increased by a percentage equal to one-half the percentage increase in the Consumer Price Index for the most recent five-year period for which the information is available, rounded to the nearest one hundred dollars ($100.00). Each new index amount remains in effect for five years.

The Department of Revenue shall calculate a new index amount to be in effect every fifth year beginning April 1 of the fifth taxable year beginning on or after July 1 after a State-operated lottery is implemented. The Department shall notify the assessor of each county by April 1 of the amount to be in effect for the taxable year beginning the following July 1.

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

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

(2) Disabled Applicants. – Persons who are totally and permanently disabled may apply for property tax relief by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability. Such proof shall be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, he or she shall not be required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for property tax relief under this section."

Sec. 5. G.S. 105-277.1A reads as rewritten:

"**§ 105-277.1A. Property ~~classified for taxation at reduced valuation; duties of tax collectors;~~ tax relief for the elderly and disabled; reimbursement of localities for ~~portion of~~ tax lost.**

(a) On ~~September 1, 1990,~~ December 1 of each year, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue a list containing the name and address of each person who has qualified in that year for the ~~exemption~~ homestead exclusion provided in G.S. 105-277.1. The list shall also contain for each name the total amount of property ~~exempted,~~ excluded, the tax rate the property is subject to, and the product obtained by multiplying those two numbers by each other. ~~The lists~~ Each list shall be accompanied by an affidavit attesting to the accuracy of the list, and shall all be on a form prescribed by the Secretary of Revenue.

~~(b) In addition to the list required by subsection (a) of this section, the county or city may provide a supplemental list on December 1.~~

(c) The Secretary of Revenue may, for cause, grant an extension for the submission of the list required by this section.

(d) Before May ~~31, 1991,~~ 31 of each year, the Secretary of Revenue shall distribute to the county or city ~~fifty percent (50%) of~~ the total for the entire list submitted the previous December of the product obtained by multiplying the tax ~~exemption~~ exclusion for each taxpayer times the applicable tax rate. ~~Each year thereafter, on or before~~

~~May 31, the Secretary of Revenue shall pay to each county and city that was entitled to receive a distribution under this section in 1991 the amount it was entitled to receive in 1991.~~

(e) Any funds received by any county or city pursuant to this section because the county or city was collecting taxes for another unit of government or special district shall be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

(f) In order to pay for the reimbursement under this section and the cost to the Department of Revenue of administering the reimbursement, the Secretary of Revenue shall draw from collections received under Division I of Article 4 of this Chapter an amount equal to the reimbursement and the cost of administration. <u>It is the intent of the General Assembly that the amount the Secretary draws from collections shall be reimbursed from revenues from the sale of lottery tickets and shares pursuant to a State-operated lottery.</u> "

Sec. 6. G.S. 105-309(f) reads as rewritten:

"(f) The following information shall appear on each abstract, or on an information sheet distributed with the abstract. (The abstract or sheet must include the address and telephone number of the assessor below the notice required by this subsection):

'PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS.

North Carolina excludes from property taxes ~~the first twelve thousand dollars ($12,000)~~ <u>(assessor insert amount, if amount known, or words 'a portion', if amount not known) of the</u> ~~in assessed~~ <u>appraised</u> value of certain property owned by North Carolina residents aged 65 or older or totally and permanently disabled whose ~~disposable~~ income does not exceed ~~eleven thousand dollars ($11,000).~~ <u>(assessor insert amount).</u> The exclusion covers real property, or a ~~mobile~~ <u>manufactured</u> home, occupied by the owner as his <u>or her</u> permanent residence. ~~Disposable income includes all moneys received other than gifts or inheritances received from a spouse, lineal ancestors, or lineal descendants.~~ <u>Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all other money received from every source other than gifts and inheritances from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included.</u>

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your ~~disposable~~ income in (assessor insert previous year) was above ~~eleven thousand dollars ($11,000),~~ <u>(assessor insert amount),</u> you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the ~~exemption~~ <u>exclusion</u> in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before April 15 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by April 15.'"

Sec. 7. Sections 4, 5, and 6 of this act become effective for taxes imposed for taxable years beginning on or after the first July 1 after a State-operated lottery is implemented in this State. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1994.