

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 1891

Short Title: Homestead Property Tax Deferral.

(Public)

Sponsors: Senator Hoyle.

Referred to: Finance.

May 25, 2006

A BILL TO BE ENTITLED

AN ACT TO ALLOW LOW-INCOME ELDERLY AND DISABLED  
HOMEOWNERS TO DEFER HOMESTEAD PROPERTY TAXES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-277.1 reads as rewritten:

**"§ 105-277.1. Property tax homestead exclusion.**

(a) ~~Exclusion.~~Classification. – A permanent residence owned and occupied by a qualifying owner 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. If the owner qualified for both the property tax homestead exclusion allowed under this section and the homestead property tax deferral provided in G.S. 105-277.1B, the owner may elect either but not both types of property tax relief as provided in subsection (b1) of this section. If the owner qualified for homestead property tax deferral but not for the property tax homestead exclusion, the property is eligible for the homestead property tax deferral provided in G.S. 105-277.1B.~~The amount of the appraised value of the residence equal to the exclusion amount is excluded from taxation. The exclusion amount is the greater of twenty thousand dollars (\$20,000) or fifty percent (50%) of the appraised value of the residence. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:~~

- ~~(1) Is at least 65 years of age or totally and permanently disabled.~~
- ~~(2) Has an income for the preceding calendar year of not more than the income eligibility limit.~~
- ~~(3) Is a North Carolina resident.~~

(a1) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this ~~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 owner's spouse or other dependent.

1 (a2) Income Eligibility Limit. – Until July 1, 2003, the income eligibility limit is  
2 eighteen thousand dollars (\$18,000). For taxable years beginning on or after July 1,  
3 2003, the income eligibility limit is the amount for the preceding year, adjusted by the  
4 same percentage of this amount as the percentage of any cost-of-living adjustment made  
5 to the benefits under Titles II and XVI of the Social Security Act for the preceding  
6 calendar year, rounded to the nearest one hundred dollars (\$100.00). On or before July 1  
7 of each year, the Department of Revenue must determine the income eligibility amount  
8 to be in effect for the taxable year beginning the following July 1 and must notify the  
9 assessor of each county of the amount to be in effect for that taxable year.

10 (a3) Exclusion. – The amount of the appraised value of the residence equal to the  
11 exclusion amount is excluded from taxation. The exclusion amount is the greater of  
12 twenty thousand dollars (\$20,000) or fifty percent (50%) of the appraised value of the  
13 residence.

14 (a4) Qualifying Owner. – The requirements for qualifying for the property tax  
15 homestead exclusion under this section are different from the requirements for  
16 qualifying for homestead property tax deferral under G.S. 105-277.1B, as provided in  
17 this subsection.

18 (1) For the purpose of qualifying for the homestead property tax exclusion  
19 under this section, a qualifying owner is an owner who meets all of the  
20 following requirements as of January 1 preceding the taxable year for  
21 which the benefit is claimed:

22 a. The owner is at least 65 years of age or totally and permanently  
23 disabled.

24 b. The owner has an income for the preceding calendar year of not  
25 more than the income limit specified in subsection (a2) of this  
26 section.

27 c. The owner is a North Carolina resident.

28 (2) For the purpose of qualifying for homestead property tax deferral  
29 under G.S. 105-277.1B, a qualifying owner is an owner who meets all  
30 of the following requirements as of January 1 preceding the taxable  
31 year for which the benefit is claimed:

32 a. The owner is at least 65 years of age or totally and permanently  
33 disabled.

34 b. The owner has an income for the preceding calendar year of not  
35 more than twenty-five thousand dollars (\$25,000) in the case of  
36 a single owner or not more than thirty-four thousand dollars  
37 (\$34,000) in the case of married owners residing with their  
38 spouses.

39 c. The owner is a North Carolina resident.

40 d. The owner has owned and occupied the classified property as  
41 his or her permanent residence for at least 10 years.

42 (b) Definitions. – The following definitions apply in this section:

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

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

7 (1b) Owner. – A person who holds legal or equitable title, whether  
8 individually, as a tenant by the entirety, a joint tenant, or a tenant in  
9 common, or as the holder of a life estate or an estate for the life of  
10 another. A manufactured home jointly owned by husband and wife is  
11 considered property held by the entirety.

12 (2) Repealed by Session Laws 1993, c. 360, s. 1.

13 (2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

14 (3) Permanent residence. – A person's legal residence. It includes the  
15 dwelling, the dwelling site, not to exceed one acre, and related  
16 improvements. The dwelling may be a single family residence, a unit  
17 in a multi-family residential complex, or a manufactured home.

18 (3a) Property tax relief. – The property tax homestead exclusion provided  
19 in this section or the homestead property tax deferral provided in  
20 G.S. 105-277.1B.

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

26 (b1) Election. – An owner who qualifies for both kinds of property tax relief may  
27 elect homestead property tax deferral under G.S. 105-277.1B instead of the property tax  
28 homestead exclusion provided in this section. When property is owned by two or more  
29 persons, each person must qualify for both kinds of property tax relief and must elect  
30 homestead property tax deferral in order for homestead property tax deferral to be  
31 allowed instead of the property tax homestead exclusion.

32 (c) Application. – An application for ~~the exclusion~~ property tax relief provided by  
33 this section should be filed during the regular listing period, but may be filed and must  
34 be accepted at any time up to and through June 1 preceding the tax year for which the  
35 ~~exclusion~~ relief is claimed. The application form provided by a county for deferral must  
36 state the conditions under which deferred taxes and interest become due and payable  
37 and must also state that interest will accrue on the amount deferred and that this amount  
38 constitutes a lien. Each applicant who applies for the deferral method of property tax  
39 relief must furnish a list of the amounts of all liens on the property for which tax  
40 deferral is sought and the holders of these liens. When property is owned by two or  
41 more persons other than husband and wife and one or more of them qualifies for ~~this the~~  
42 property tax homestead exclusion, each owner must apply separately for his or her  
43 proportionate share of the exclusion.

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

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

17 (d) Multiple Ownership. – A permanent residence owned and occupied by  
18 husband and wife as tenants by the entirety is entitled to the full benefit of ~~this~~  
19 ~~exclusion~~property tax relief notwithstanding that only one of them meets the age or  
20 disability requirements of this section. When a permanent residence is owned and  
21 occupied by two or more persons other than husband and ~~wife and wife~~, no homestead  
22 property tax deferral is allowed unless all of the owners qualify. If one or more of the  
23 owners qualifies for ~~this the property tax homestead~~ exclusion, each qualifying owner is  
24 entitled to the full amount of the exclusion not to exceed his or her proportionate share  
25 of the valuation of the property. No part of an exclusion available to one co-owner may  
26 be claimed by any other co-owner and in no event may the total exclusion allowed for a  
27 permanent residence exceed the exclusion amount provided in this section."

28 **SECTION 2.** Article 12 of Chapter 105 of the General Statutes is amended  
29 by adding a new section to read:

30 "**§ 105-277.1B. Homestead property tax deferral.**

31 (a) Deferral. – A qualified owner of property classified under G.S. 105-277.1  
32 may defer payment of all or part of the tax levied on the classified property to the extent  
33 permissible under subsection (c) of this section unless (i) the property is subject to a lien  
34 that, pursuant to a federal law, rule, or regulation, prohibits deferral of taxes, or (ii) the  
35 amount of outstanding liens on the property exceeds eighty-five percent (85%) of the  
36 assessed value of the property. The definitions provided in G.S. 105-277.1 apply to this  
37 section.

38 If the owner qualifies for both the homestead property tax exclusion allowed under  
39 G.S. 105-277.1 and the homestead property tax deferral provided in this section, the  
40 owner is eligible for either but not both types of property tax relief. The owner will  
41 receive the property tax homestead exclusion rather than homestead property tax  
42 deferral unless the owner elects homestead property tax deferral instead of the  
43 homestead property tax exclusion, as provided in G.S. 105-277.1(b1).

1     The amount of taxes deferred accrues interest at the rate specified in  
2 G.S. 105-241.1(i) for assessments from the date the tax is otherwise due until payment.  
3 The amount of deferred taxes and accrued interest constitutes a lien on the property,  
4 which attaches at the time prescribed in G.S. 105-355, and has the priority established in  
5 G.S. 105-356.

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

9     (c) Transfer or Disqualification of Property. – Payment of taxes deferred under  
10 this section may be deferred until the death of the owner or until the property is  
11 transferred, at which time the full amount of deferred taxes and interest becomes due.  
12 The taxes and interest must be paid within nine months after the date of death or  
13 transfer, unless the property is transferred to the former owner's spouse and the spouse  
14 is 65 years of age or older and occupies the property as his or her permanent residence,  
15 in which case the spouse may elect to continue deferring payment of the tax.

16     If the owner of tax-deferred property does not qualify under G.S. 105-277.1 for  
17 deferral as of January 1 preceding a taxable year, the owner may not defer any  
18 additional property taxes that year, but the deferred taxes from earlier years do not  
19 become due because of the owner's failure to qualify for the current year.

20     Except as provided in G.S. 105-277.1(a1), in any year in which the owner of  
21 tax-deferred property no longer occupies the property as his or her permanent residence,  
22 no tax levied on the property for that year may be deferred, and the full tax for that year  
23 is due on the date established in G.S. 105-360. If the owner of tax-deferred property  
24 fails to occupy the property as his or her permanent residence for three successive years,  
25 the full amount of deferred taxes and interest becomes due that third year and is due and  
26 payable at the same time the tax levied on the property in that year is otherwise due.

27     In any year in which the total amount of deferred taxes, interest, and other  
28 unsatisfied liens on the property exceeds eighty-five percent (85%) of the assessed value  
29 of the property, the assessor must notify the owner that the portion of deferred taxes and  
30 interest that exceeds the eighty-five percent (85%) limit is due and must be paid within  
31 60 days after receipt of the notice. Failure to pay an amount due under this subsection  
32 causes the total amount of deferred taxes and interest to become due and payable at the  
33 same time the tax levied on the property in the year in which the failure occurs is  
34 otherwise due.

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

38     (e) Prepayment. – All or part of the deferred taxes and accrued interest may be  
39 paid to the tax collector at any time. Any partial payment is applied first to accrued  
40 interest. A property owner to whom a tax deferral has previously been granted may  
41 revoke the application for deferral at any time by notifying the assessor in writing;  
42 however, the owner is not eligible for the property tax homestead exclusion under  
43 G.S. 105-277.1 unless all of the deferred taxes and accrued interest have been paid to  
44 the tax collector.

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

4 (g) Clauses Preventing Application for Deferral Void. – Except for requirements  
5 dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other  
6 agreement that prohibits the owner from deferring taxes on property under this section  
7 is void.

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

10 **SECTION 3.** G.S. 150-282.1(a)(2) reads as rewritten:

11 "(2) Single application required. – An owner of one or more of the  
12 following properties eligible ~~to be exempted or excluded from~~  
13 ~~taxation~~ for a property tax benefit must file an application for  
14 ~~exemption or exclusion~~ the benefit to receive it. Once the application  
15 has been approved, the owner does not need to file an application in  
16 subsequent years unless new or additional property is acquired or  
17 improvements are added or removed, necessitating a change in the  
18 valuation of the property, or there is a change in the use of the property  
19 or the qualifications or eligibility of the taxpayer necessitating a  
20 review of the ~~exemption or exclusion~~ benefit.

- 21 a. Property exempted from taxation under G.S. 105-278.3,  
22 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.  
23 b. Special classes of property excluded from taxation under  
24 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35),  
25 (36), (38), (39), or (41) or under G.S. 131A-21.  
26 c. Special classes of property classified for taxation at a reduced  
27 valuation under G.S. 105-277(h), 105-277.1, 105-277.10,  
28 105-277.13, 105-278.  
29 d. Property owned by a nonprofit homeowners' association but  
30 where the value of the property is included in the appraisals of  
31 property owned by members of the association under  
32 G.S. 105-277.8.  
33 e. Special classes of property eligible for tax deferral under  
34 G.S. 105-277.1B."

35 **SECTION 4.** G.S. 105-309(f) reads as rewritten:

36 "(f) ~~The notice set out below must appear~~ assessor must print a homestead tax  
37 relief notice on each abstract or on an information sheet distributed with the abstract.  
38 The abstract or sheet must include the address and telephone number of the assessor  
39 below the ~~notice~~ notice required by this section. The notice must be in the form required  
40 by the Department of Revenue designed to notify the taxpayer of his or her rights and  
41 responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1  
42 and the homestead property tax deferral provided in G.S. 105-277.1B.  
43

~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR  
PERMANENTLY DISABLED PERSONS.~~

~~North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars (\$20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.~~

~~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 income in (assessor insert previous year) was above (assessor insert amount), 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 exclusion 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 June 1 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 June 1."~~

~~**SECTION 5.** This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.~~