GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S D

SENATE DRS35118-MAx-10 (2/1)

Short Title: Homestead Property Tax Exemption Act. (Public)

Sponsors: Senator Clodfelter.

Referred to:

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 qualifies 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. ~~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.

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

(a3) Exclusion. – 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.

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

(1) For the purpose of qualifying for the homestead property tax exclusion under this section, 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:

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

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

c. The owner is a North Carolina resident.

(2) For the purpose of qualifying for homestead property tax deferral under G.S. 105-277.1B, 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:

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

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

c. The owner is a North Carolina resident.

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

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

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

(1a) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all other moneys received from every source other than gifts or inheritances received 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.

(1b) Owner. – A person who holds legal or equitable title, 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. A manufactured home jointly owned by husband and wife is considered property held by the entirety.

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

(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.

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

(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.

(b1) Election. – An owner who qualifies for both kinds of property tax relief may elect homestead property tax deferral under G.S. 105-277.1B or the property tax homestead exclusion provided in this section but not both. When two or more persons, who are not husband and wife, own property, each person must qualify for the type of property tax relief sought. An election of the homestead property tax deferral shall be made in order for the homestead property tax deferral to be allowed. If an election for the deferral is not made, the property tax homestead exclusion will be applied to the property, and no deferral may be taken for that tax year. A new election may be made pursuant to the application process in subsection (c) of this section.

(c) Application. – An application for ~~the exclusion~~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 June 1 preceding the tax year for which the ~~exclusion~~ 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 applies for the deferral method of property tax relief must furnish a list of the amounts of all liens on the property for which tax deferral is sought and the holders of the liens. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for ~~this~~ the property tax homestead exclusion, each owner must apply separately for his or her proportionate share of the exclusion.

(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. The proof must 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, the applicant is not 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.

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

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

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

(a) Deferral. – A qualified owner of property classified under G.S. 105-277.1 may defer payment of all or part of the tax levied on the classified property 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 definitions provided in G.S. 105-277.1 apply to this section.

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

The amount of taxes deferred accrues 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 constitutes a lien on the property, which attaches at the time prescribed in G.S. 105-355, and has the priority established in G.S. 105-356.

(b) Notification of Additional Liens. – The owner of tax-deferred property must 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 after the new lien is created.

(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 becomes due. The taxes and interest must 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 qualify under G.S. 105-277.1 for deferral as of January 1 preceding a taxable year, the owner may not defer any additional property taxes that year, but the deferred taxes from earlier years do not become due because of the owner's failure to qualify for the current year.

Except as provided in G.S. 105-277.1(a1), 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 become due that third year and are 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 must 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 causes 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 is 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, the owner is not eligible for the property tax homestead exclusion 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 acquire a right to foreclose.

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

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

SECTION 3. G.S. 105-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible ~~to be exempted or excluded from taxation~~ for a property tax benefit must file an application for ~~exemption or exclusion~~the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or 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:~~benefit:

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, 105-278.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

e. Special classes of property eligible for tax deferral under G.S. 105-277.1B."

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

"(f) ~~The notice set out below must appear~~ The assessor must print a homestead tax relief notice 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:~~notice required by this section. The notice must be in the form required by the Department of Revenue designed to notify the taxpayers of their rights and responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1 and the homestead property tax deferral provided in G.S. 105-277.1B.

~~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 tax imposed for taxable years beginning on or after July 1, 2005.