

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 852

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

Sponsors: Senators Clodfelter; Dannelly, Graham, Pittenger, and Thomas.

Referred to: Finance.

March 23, 2005

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

1 same percentage of this amount as the percentage of any cost-of-living adjustment made
2 to the benefits under Titles II and XVI of the Social Security Act for the preceding
3 calendar year, rounded to the nearest one hundred dollars (\$100.00). On or before July 1
4 of each year, the Department of Revenue must determine the income eligibility amount
5 to be in effect for the taxable year beginning the following July 1 and must notify the
6 assessor of each county of the amount to be in effect for that taxable year.

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

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

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

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

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

24 c. The owner is a North Carolina resident.

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

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

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

36 c. The owner is a North Carolina resident.

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

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

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

41 (1a) Income. – Adjusted gross income, as defined in section 62 of the Code,
42 plus all other moneys received from every source other than gifts or
43 inheritances received from a spouse, lineal ancestor, or lineal
44 descendant. For married applicants residing with their spouses, the

1 income of both spouses must be included, whether or not the property
2 is in both names.

3 (1b) Owner. – A person who holds legal or equitable title, whether
4 individually, as a tenant by the entirety, a joint tenant, or a tenant in
5 common, or as the holder of a life estate or an estate for the life of
6 another. A manufactured home jointly owned by husband and wife is
7 considered property held by the entirety.

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

9 (2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

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

14 (3a) Property tax relief. – The property tax homestead exclusion provided
15 in this section or homestead property tax deferral provided in
16 G.S. 105-277.1B.

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

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

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

43 (1) Elderly Applicants. – Persons 65 years of age or older may apply for
44 ~~this~~ exclusion property tax relief by entering the appropriate

1 information on a form made available by the assessor under
2 G.S. 105-282.1.

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

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

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

28 "**§ 105-277.1B. Homestead property tax deferral.**

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

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

42 The amount of taxes deferred accrues interest at the rate specified in
43 G.S. 105-241.1(i) for assessments from the date the tax is otherwise due until payment.
44 The amount of deferred taxes and accrued interest constitutes a lien on the property,

1 which attaches at the time prescribed in G.S. 105-355, and has the priority established in
2 G.S. 105-356.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40
41 ~~PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR~~
42 ~~PERMANENTLY DISABLED PERSONS.~~
43

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

9 ~~If you received this exclusion in (assessor insert previous year), you do not need to~~
10 ~~apply again unless you have changed your permanent residence. If you received the~~
11 ~~exclusion in (assessor insert previous year) and your income in (assessor insert previous~~
12 ~~year) was above (assessor insert amount), you must notify the assessor. If you received~~
13 ~~the exclusion in (assessor insert previous year) because you were totally and~~
14 ~~permanently disabled and you are no longer totally and permanently disabled, you must~~
15 ~~notify the assessor. If the person receiving the exclusion in (assessor insert previous~~
16 ~~year) has died, the person required by law to list the property must notify the assessor.~~
17 ~~Failure to make any of the notices required by this paragraph before June 1 will result in~~
18 ~~penalties and interest.~~

19 ~~If you did not receive the exclusion in (assessor insert previous year) but are now~~
20 ~~eligible, you may obtain a copy of an application from the assessor. It must be filed by~~
21 ~~June 1."~~

22 **SECTION 5.** This act is effective for tax imposed for taxable years
23 beginning on or after July 1, 2005.