

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

5

HOUSE BILL 1499
Committee Substitute Favorable 5/2/07
Committee Substitute #2 Favorable 6/19/07
Senate Finance Committee Substitute Adopted 7/30/07
Fifth Edition Engrossed 8/1/07

Short Title: Property Tax and PUV Changes and Studies.

(Public)

Sponsors:

Referred to:

April 17, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO INCREASE THE BENEFIT OF THE PROPERTY TAX HOMESTEAD
3 EXCLUSION BY RAISING BOTH THE INCOME ELIGIBILITY LIMIT AND
4 THE AMOUNT EXCLUDED FROM TAXATION; TO AUTHORIZE THE
5 REVENUE LAWS STUDY COMMITTEE TO STUDY WHETHER AND HOW
6 TO INDEX THE MINIMUM AMOUNT THAT IS EXCLUDED FROM TAX; TO
7 CREATE A SENIOR CIRCUIT BREAKER PROPERTY TAX BENEFIT; TO
8 MODIFY THE PRESENT-USE VALUE REQUIREMENTS FOR
9 AGRICULTURAL LAND USED AS AN AQUATIC SPECIES FARM; AND TO
10 AUTHORIZE THE REVENUE LAWS STUDY COMMITTEE TO STUDY
11 VARIOUS MODIFICATIONS AND EXPANSIONS TO THE PRESENT-USE
12 VALUE SYSTEM.

13 The General Assembly of North Carolina enacts:

14 **PART I. PROPERTY TAX HOMESTEAD EXCLUSION MODIFICATION**

15 **SECTION 1.1.** G.S. 105-277.1 reads as rewritten:

16 **"§ 105-277.1. Property tax homestead exclusion.**

17 (a) Exclusion. – A permanent residence owned and occupied by a qualifying
18 owner is designated a special class of property under Article V, Sec. 2(2) of the North
19 Carolina Constitution and is taxable in accordance with this section. The amount of the
20 appraised value of the residence equal to the exclusion amount is excluded from
21 taxation. The exclusion amount is the greater of ~~twenty thousand dollars~~
22 (~~\$20,000~~twenty-five thousand dollars (\$25,000)) or fifty percent (50%) of the appraised
23 value of the residence. A qualifying owner is an owner who meets all of the following
24 requirements as of January 1 preceding the taxable year for which the benefit is
25 claimed:

- 26 (1) Is at least 65 years of age or totally and permanently disabled.

- 1 (2) Has an income for the preceding calendar year of not more than the
2 income eligibility limit.
- 3 (3) Is a North Carolina resident.
- 4 (a1) Temporary Absence. – An otherwise qualifying owner does not lose the
5 benefit of this exclusion because of a temporary absence from his or her permanent
6 residence for reasons of health, or because of an extended absence while confined to a
7 rest home or nursing home, so long as the residence is unoccupied or occupied by the
8 owner's spouse or other dependent.
- 9 (a2) Income Eligibility Limit. – Until July 1, ~~2003,2008~~, the income eligibility
10 limit is ~~eighteen thousand dollars (\$18,000)~~ twenty-five thousand dollars (\$25,000). For
11 taxable years beginning on or after July 1, ~~2003,2008~~, the income eligibility limit is the
12 amount for the preceding year, adjusted by the same percentage of this amount as the
13 percentage of any cost-of-living adjustment made to the benefits under Titles II and
14 XVI of the Social Security Act for the preceding calendar year, rounded to the nearest
15 one hundred dollars (\$100.00). On or before July 1 of each year, the Department of
16 Revenue must determine the income eligibility amount to be in effect for the taxable
17 year beginning the following July 1 and must notify the assessor of each county of the
18 amount to be in effect for that taxable year.
- 19 (b) Definitions. – The following definitions apply in this section:
- 20 (1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.
- 21 (1a) Income. – ~~Adjusted gross income, as defined in section 62 of the Code,~~
22 ~~plus all other~~ All moneys received from every source other than gifts or
23 inheritances received from a spouse, lineal ancestor, or lineal
24 descendant. For married applicants residing with their spouses, the
25 income of both spouses must be included, whether or not the property
26 is in both names.
- 27 (1b) Owner. – A person who holds legal or equitable title, whether
28 individually, as a tenant by the entirety, a joint tenant, or a tenant in
29 common, or as the holder of a life estate or an estate for the life of
30 another. A manufactured home jointly owned by husband and wife is
31 considered property held by the entirety.
- 32 (2) Repealed by Session Laws 1993, c. 360, s. 1.
- 33 (2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.
- 34 (3) Permanent residence. – A person's legal residence. It includes the
35 dwelling, the dwelling site, not to exceed one acre, and related
36 improvements. The dwelling may be a single family residence, a unit
37 in a multi-family residential complex, or a manufactured home.
- 38 (4) Totally and permanently disabled. – A person is totally and
39 permanently disabled if the person has a physical or mental
40 impairment that substantially precludes him or her from obtaining
41 gainful employment and appears reasonably certain to continue
42 without substantial improvement throughout his or her life.
- 43 (c) Application. – An application for the exclusion provided by this section
44 should be filed during the regular listing period, but may be filed and must be accepted

1 at any time up to and through June 1 preceding the tax year for which the exclusion is
 2 claimed. When property is owned by two or more persons other than husband and wife
 3 and one or more of them qualifies for this exclusion, each owner must apply separately
 4 for his or her proportionate share of the exclusion.

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

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

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

30 **SECTION 1.2.** The Revenue Laws Study Committee may study the issue of
 31 whether to index the minimum excluded appraised value limit in the property tax
 32 homestead exclusion in G.S. 105-277.1 and, if so, which index to use.

33 **SECTION 1.3.** Section 1.1 of this act is effective for taxes imposed for
 34 taxable years beginning on or after July 1, 2008. The remainder of this section is
 35 effective when it becomes law.

36 **PART II. SENIOR CIRCUIT BREAKER PROPERTY TAX BENEFIT**

37 **SECTION 2.1.** G.S. 105-277.1(b) is amended by adding a new subdivision
 38 to read:

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

40 ...

41 (3a) Property tax relief. – The property tax homestead exclusion provided
 42 in this section or the property tax homestead circuit breaker provided
 43 in G.S. 105-277.1B.

44"

1 SECTION 2.2. G.S. 105-277.1 is amended by adding a new subsection to
 2 read:

3 **"§ 105-277.1. Property tax homestead exclusion.**

4 ...

5 (e) Election. – An owner who qualifies for both kinds of property tax relief may
 6 elect the property tax homestead circuit breaker under G.S. 105-277.1B instead of the
 7 property tax homestead exclusion provided in this section. When property is owned by
 8 two or more persons, each person must qualify for both kinds of property tax relief and
 9 must elect the property tax homestead circuit breaker in order for the property tax
 10 homestead circuit breaker to be allowed instead of the property tax homestead
 11 exclusion."

12 SECTION 2.3. Article 12 of Chapter 105 of the General Statutes is amended
 13 by adding a new section to read:

14 **"§ 105-277.1B. Property tax homestead circuit breaker.**

15 (a) Classification. – A permanent residence owned and occupied by a qualifying
 16 owner is designated a special class of property under Article V, Section 2(2) of the
 17 North Carolina Constitution and is taxable in accordance with this section.

18 (b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this
 19 section.

20 (c) Income Eligibility Limit. – The income eligibility limit provided in
 21 G.S. 105-277.1(a2) applies to this section.

22 (d) Qualifying Owner. – For the purpose of qualifying for the property tax
 23 homestead circuit breaker under this section, a qualifying owner is an owner who meets
 24 all of the following requirements as of January 1 preceding the taxable year for which
 25 the benefit is claimed:

26 (1) The owner has an income for the preceding calendar year of not more
 27 than one hundred fifty percent (150%) of the income eligibility limit
 28 specified in subsection (c) of this section.

29 (2) The owner has occupied the property as a permanent residence for at
 30 least five years.

31 (3) The owner is at least 65 years of age or totally and permanently
 32 disabled.

33 (4) The owner is a North Carolina resident.

34 (e) Multiple Owners. – When a permanent residence is owned and occupied by
 35 two or more persons other than husband and wife, no property tax homestead circuit
 36 breaker is allowed unless all of the owners qualify and elect to defer taxes under this
 37 section.

38 (f) Tax Limitation. – A qualifying owner may defer the portion of tax imposed
 39 on his or her permanent residence if it exceeds a percentage of the qualifying owner's
 40 income as provided in this section.

<u>Income</u>	<u>Percentage</u>
<u>Less than the income eligibility limit</u>	<u>4.0%</u>
<u>100% to 150% of the income eligibility limit</u>	<u>5.0%</u>

1 (g) Temporary Absence. – An otherwise qualifying owner does not lose the
2 benefit of this circuit breaker because of a temporary absence from his or her permanent
3 residence for reasons of health, or because of an extended absence while confined to a
4 rest home or nursing home, so long as the residence is unoccupied or occupied by the
5 owner's spouse or other dependent.

6 (h) Deferred Taxes. – The difference between the taxes due under this section
7 and the taxes that would have been payable in the absence of this section are a lien on
8 the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes
9 for the three fiscal years preceding the current tax year shall be carried forward in the
10 records of the taxing unit or units as deferred taxes. Interest accrues on the deferred
11 taxes due as if they had been payable on the dates on which they originally became due.
12 On or before September 1 of each year, the assessor shall notify each residence owner to
13 whom a tax deferral has previously been granted of the accumulated sum of deferred
14 taxes and interest.

15 (i) Disqualifying Events. – Taxes deferred under this section are payable within
16 nine months after a disqualifying event. The tax for the fiscal year that opens in a
17 calendar year in which deferred taxes become due is computed as if the property was
18 not eligible for property tax relief under this section. Each of the following constitutes a
19 disqualifying event:

20 (1) The owner transfers the residence. Transfer of the residence under this
21 subdivision is not a disqualifying event if (i) the owner transfers the
22 residence as part of a divorce proceeding to either his or her spouse
23 who qualifies for tax deferral under this section or to a co-owner of the
24 residence, (ii) that individual occupies or continues to occupy the
25 property as his or her permanent residence, and (iii) that individual
26 elects to continue deferring payment of the tax.

27 (2) The owner dies. Death of the owner under this subdivision is not a
28 disqualifying event if (i) the owner's share passes to either his or her
29 spouse who qualifies for tax deferral under this section or to a
30 co-owner of the residence, (ii) that individual occupies or continues to
31 occupy the property as his or her permanent residence, and (iii) that
32 individual elects to continue deferring payment of the tax.

33 (3) The owner ceases to use the property as a permanent residence.

34 (j) Interruption of Qualification. – If the owner of a tax-deferred residence does
35 not qualify under this section for deferral as of January 1 preceding a taxable year for
36 reasons other than a disqualifying event or if the owner of a tax-deferred residence
37 revokes an application for deferral by notifying the assessor in writing, the owner may
38 not defer any additional property taxes under this section without submitting a new
39 application. Deferred taxes from earlier years do not become due because of an
40 interruption of qualification; however, deferred taxes existing at the time of an
41 interruption of qualification shall be carried forward until the occurrence of a
42 disqualifying event. If the owner qualifies for tax deferral under this section following
43 an interruption of qualification, the taxing unit or units shall disregard the years during

1 which there was an interruption of qualification for purposes of determining the three
2 fiscal years preceding the current tax year under subsection (g) of this section.

3 (k) Prepayment. – All or part of the deferred taxes and accrued interest may be
4 paid to the tax collector at any time. Any partial payment is applied first to accrued
5 interest. A residence owner to whom a tax deferral has previously been granted may
6 revoke the application for deferral at any time by notifying the assessor in writing.

7 (l) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax
8 deferred by the owner of a residence subject to a mortgage or deed of trust does not
9 acquire a right to foreclose as a result of the election. Except for requirements dictated
10 by federal law or regulation, any provision in a mortgage, deed of trust, or other
11 agreement that prohibits the owner from deferring taxes on property under this section
12 is void.

13 (m) Construction. – This section does not affect the attachment of a lien for
14 personal property taxes against a tax-deferred residence.

15 (n) Application. – An application for property tax relief provided by this section
16 should be filed during the regular listing period, but may be filed and must be accepted
17 at any time up to and through June 1 preceding the tax year for which the relief is
18 claimed. Persons may apply for this property tax relief by entering the appropriate
19 information on a form made available by the assessor under G.S. 105-282.1."

20 **SECTION 2.4.** G.S. 105-282.1(a)(2) reads as rewritten:

21 "(2) Single application required. – An owner of one or more of the
22 following properties eligible ~~to be exempted or excluded from~~
23 ~~taxation~~ for a property tax benefit must file an application for
24 ~~exemption or exclusion~~ the benefit to receive it. Once the application
25 has been approved, the owner does not need to file an application in
26 subsequent years unless new or additional property is acquired or
27 improvements are added or removed, necessitating a change in the
28 valuation of the property, or there is a change in the use of the property
29 or the qualifications or eligibility of the taxpayer necessitating a
30 review of the ~~exemption or exclusion~~ benefit.

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

1 **SECTION 2.5.** G.S. 105-309(f) reads as rewritten:

2 "(f) ~~The notice set out below must appear~~ assessor must print a homestead tax
3 relief notice on each abstract or on an information sheet distributed with the abstract.
4 The abstract or sheet must include the address and telephone number of the assessor
5 below the ~~notice~~ notice required by this section. The notice must be in the form required
6 by the Department of Revenue designed to notify the taxpayer of his or her rights and
7 responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1
8 and the property tax homestead circuit breaker provided in G.S. 105-277.1B.

9
10 ~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR~~
11 ~~PERMANENTLY DISABLED PERSONS.~~

12
13 ~~North Carolina excludes from property taxes a portion of the appraised value of a~~
14 ~~permanent residence owned and occupied by North Carolina residents aged 65 or older~~
15 ~~or totally and permanently disabled whose income does not exceed (assessor insert~~
16 ~~amount). The amount of the appraised value of the residence that may be excluded from~~
17 ~~taxation is the greater of twenty thousand dollars (\$20,000) or fifty percent (50%) of the~~
18 ~~appraised value of the residence. Income means the owner's adjusted gross income as~~
19 ~~determined for federal income tax purposes, plus all moneys received other than gifts or~~
20 ~~inheritances received from a spouse, lineal ancestor or lineal descendant.~~

21 ~~If you received this exclusion in (assessor insert previous year), you do not need to~~
22 ~~apply again unless you have changed your permanent residence. If you received the~~
23 ~~exclusion in (assessor insert previous year) and your income in (assessor insert previous~~
24 ~~year) was above (assessor insert amount), you must notify the assessor. If you received~~
25 ~~the exclusion in (assessor insert previous year) because you were totally and~~
26 ~~permanently disabled and you are no longer totally and permanently disabled, you must~~
27 ~~notify the assessor. If the person receiving the exclusion in (assessor insert previous~~
28 ~~year) has died, the person required by law to list the property must notify the assessor.~~
29 ~~Failure to make any of the notices required by this paragraph before June 1 will result in~~
30 ~~penalties and interest.~~

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

34 **SECTION 2.6.** This section is effective for taxes imposed for taxable years
35 beginning on or after July 1, 2009.

36 **PART III. AQUATIC SPECIES FARM MODIFICATIONS TO PUV**

37 **SECTION 3.1.** G.S. 105-277.3(a)(1) reads as rewritten:

38 "(1) Agricultural land. – Individually owned agricultural land consisting of
39 one or more tracts, one of which ~~consists~~ satisfies the requirements of
40 this subdivision. For agricultural land used as a farm for aquatic
41 species, as defined in G.S. 106-758, the tract must meet the income
42 requirement for agricultural land and must consist of at least five acres
43 in actual production or produce at least 20,000 pounds of aquatic
44 species for commercial sale annually, regardless of acreage. For all

1 other agricultural land, the tract must meet the income requirement for
2 agricultural land and must consist of at least 10 acres that are in actual
3 production and that production. Land in actual production includes
4 land under improvements used in the commercial production or
5 growing of crops, plants, or animals.

6 To meet the income requirement, agricultural land must, for the
7 three years preceding January 1 of the year for which the benefit of
8 this section is claimed, have produced an average gross income of at
9 least one thousand dollars (\$1,000). Gross income includes income
10 from the sale of the agricultural products produced from the land, any
11 payments received under a governmental soil conservation or land
12 retirement program, and the amount paid to the taxpayer during the
13 taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable
14 Tobacco Reform Act of 2004. Land in actual production includes land
15 under improvements used in the commercial production or growing of
16 crops, plants, or animals."

17 **SECTION 3.2.** This section is effective for taxes imposed for taxable years
18 beginning on or after July 1, 2008.

19 **PART IV. TAX RELIEF STUDY FOR NONDEVELOPMENTAL PROPERTY**

20 **SECTION 4.1.** The General Assembly finds that increases to property tax
21 values in this State resulting from real estate development often make it difficult for
22 owners who do not want to develop their property to continue to use their property for
23 farming or other nondevelopmental purposes. The Revenue Laws Study Committee
24 may study ways to address the inability of landowners to pay escalating property taxes
25 while maintaining nondevelopmental uses. The study may include a review of the
26 following:

- 27 (1) Implementing tax benefits for donating perpetual easements on
28 property to ensure continuation of nondevelopmental uses.
- 29 (2) Extending present-use value benefits to property that is used for
30 wildlife conservation.
- 31 (3) Other ways to reduce property taxes to preserve property used for
32 farmland and other nondevelopmental uses.

33 **SECTION 4.2.** The Revenue Laws Study Committee may report its findings
34 on the issues in this act, including any recommendations or legislative proposals, to the
35 2008 Regular Session of the General Assembly.

36 **SECTION 4.3.** This section is effective when it becomes law.