

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1442
Finance Committee Substitute Adopted 7/30/07

Short Title: Senior Circuit Breaker Tax Benefit.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

1 AN ACT TO CREATE A SENIOR CIRCUIT BREAKER PROPERTY TAX
2 BENEFIT.

3
4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-277.1(b) is amended by adding a new subdivision to
6 read:

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

8 ...

9 (3a) Property tax relief. – The property tax homestead exclusion provided
10 in this section or the property tax homestead circuit breaker provided
11 in G.S. 105-277.1B.

12"

13 **SECTION 2.** G.S. 105-277.1 is amended by adding a new subsection to
14 read:

15 "**§ 105-277.1. Property tax homestead exclusion.**

16 ...

17 (e) Election. – An owner who qualifies for both kinds of property tax relief may
18 elect the property tax homestead circuit breaker under G.S. 105-277.1B instead of the
19 property tax homestead exclusion provided in this section. When property is owned by
20 two or more persons, each person must qualify for both kinds of property tax relief and
21 must elect the property tax homestead circuit breaker in order for the property tax
22 homestead circuit breaker to be allowed instead of the property tax homestead
23 exclusion."

24 **SECTION 3.** Article 12 of Chapter 105 of the General Statutes is amended
25 by adding a new section to read:

26 "**§ 105-277.1B. Property tax homestead circuit breaker.**

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

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

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

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

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

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

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

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

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

21 (f) Tax Limitation. – A qualifying owner may defer the portion of tax imposed
 22 on his or her permanent residence if it exceeds a percentage of the qualifying owner's
 23 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>

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

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

41 (i) Disqualifying Events. – Taxes deferred under this section are payable within
 42 nine months after a disqualifying event. The tax for the fiscal year that opens in a
 43 calendar year in which deferred taxes become due is computed as if the property was

1 not eligible for property tax relief under this section. Each of the following constitutes a
2 disqualifying event:

3 (1) The owner transfers the residence. Transfer of the residence under this
4 subdivision is not a disqualifying event if (i) the owner transfers the
5 residence as part of a divorce proceeding to either his or her spouse
6 who qualifies for tax deferral under this section or to a co-owner of the
7 residence, (ii) that individual occupies or continues to occupy the
8 property as his or her permanent residence, and (iii) that individual
9 elects to continue deferring payment of the tax.

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

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

17 (j) Interruption of Qualification. – If the owner of a tax-deferred residence does
18 not qualify under this section for deferral as of January 1 preceding a taxable year for
19 reasons other than a disqualifying event or if the owner of a tax-deferred residence
20 revokes an application for deferral by notifying the assessor in writing, the owner may
21 not defer any additional property taxes under this section without submitting a new
22 application. Deferred taxes from earlier years do not become due because of an
23 interruption of qualification; however, deferred taxes existing at the time of an
24 interruption of qualification shall be carried forward until the occurrence of a
25 disqualifying event. If the owner qualifies for tax deferral under this section following
26 an interruption of qualification, the taxing unit or units shall disregard the years during
27 which there was an interruption of qualification for purposes of determining the three
28 fiscal years preceding the current tax year under subsection (g) of this section.

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

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

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

41 (n) Application. – An application for property tax relief provided by this section
42 should be filed during the regular listing period, but may be filed and must be accepted
43 at any time up to and through June 1 preceding the tax year for which the relief is

1 claimed. Persons may apply for this property tax relief by entering the appropriate
 2 information on a form made available by the assessor under G.S. 105-282.1."

3 **SECTION 4.** G.S. 150-282.1(a)(2) reads as rewritten:

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

14 a. Property exempted from taxation under G.S. 105-278.3,
 15 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

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

19 c. Special classes of property classified for taxation at a reduced
 20 valuation under G.S. 105-277(h), 105-277.1, 105-277.10,
 21 105-277.13, 105-278.

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

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

28 **SECTION 5.** G.S. 105-309(f) reads as rewritten:

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

36
 37 ~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR~~
 38 ~~PERMANENTLY DISABLED PERSONS.~~

39
 40 ~~North Carolina excludes from property taxes a portion of the appraised value of a~~
 41 ~~permanent residence owned and occupied by North Carolina residents aged 65 or older~~
 42 ~~or totally and permanently disabled whose income does not exceed (assessor insert~~
 43 ~~amount). The amount of the appraised value of the residence that may be excluded from~~
 44 ~~taxation is the greater of twenty thousand dollars (\$20,000) or fifty percent (50%) of the~~

1 appraised value of the residence. Income means the owner's adjusted gross income as
2 determined for federal income tax purposes, plus all moneys received other than gifts or
3 inheritances received from a spouse, lineal ancestor or lineal descendant.

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

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

17 **SECTION 6.** This act is effective for taxes imposed for taxable years
18 beginning on or after July 1, 2008.