

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 57

Short Title: Elderly Property Tax Deferral.

(Public)

Sponsors: Senators Block; Carpenter and Odom.

Referred to: Finance.

February 12, 1991

A BILL TO BE ENTITLED

1 AN ACT TO PERMIT ELDERLY INDIVIDUALS TO DEFER PAYMENT OF
2 PROPERTY TAX INCREASES ON THEIR RESIDENCE UNTIL THE
3 PROPERTY IS TRANSFERRED.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 12 of Chapter 105 of the General Statutes is amended by
7 adding a new section, G.S. 105-282.2, to read:

8 **"§ 105-282.2. Deferral of residential tax increases for elderly.**

9 (a) Deferral. A North Carolina resident who is 65 years of age or older, whose
10 disposable income for the preceding calendar year did not exceed fifteen thousand
11 dollars (\$15,000), and who owns real property or a mobile home and occupies it as his
12 or her permanent residence, as defined in this section, may elect to defer payment of all
13 or part of any future increases in the amount of tax levied on the permanent residence to
14 the extent permissible under subsection (d) unless (i) the property is subject to a lien
15 that, pursuant to a federal law, rule, or regulation, prohibits deferral of taxes or (ii) the
16 amount of outstanding liens on the property exceeds eighty-five percent (85%) of the
17 fair market value of the property. The amount of the tax increase that may be deferred
18 each year is the amount by which the tax due on the residence for that year exceeds the
19 amount of tax that was due on the residence for the year preceding the owner's
20 application for deferral under this section. The amount of taxes deferred pursuant to
21 this section shall accrue interest at the rate specified in G.S. 105-241.1(i) for
22 assessments from the date the tax is otherwise due until payment. The amount of
23 deferred taxes and accrued interest shall constitute a lien on the property, which shall

1 attach at the time prescribed in G.S. 105-355 and shall have the priority established in
2 G.S. 105-356.

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

4 (1) 'Disposable income' means adjusted gross income as determined under
5 the Code plus all other moneys received from every source other than
6 gifts or inheritances received from a spouse, lineal ancestors, or lineal
7 descendents.

8 (2) An 'owner' of property means a person who holds legal or equitable
9 title to the property, either individually or as a tenant by the entirety, a
10 joint tenant, or a tenant in common, or who holds a life estate or an
11 estate for the life of another. Property jointly owned and occupied by
12 husband and wife is entitled to the full benefit of this classification
13 notwithstanding that only one of them meets the age requirement.
14 When property is owned by two or more persons other than husband
15 and wife and one or more of the owners qualifies for deferral, each
16 qualifying owner shall be entitled to the deferral provided in this
17 section for his or her proportionate share of the increased tax due on
18 the property. No part of the deferral available to one co-owner may be
19 claimed by another co-owner.

20 (3) 'Permanent residence' means legal residence. It includes the dwelling,
21 the dwelling site not to exceed two acres, and related improvements.
22 The dwelling may be a single family residence, a unit in a multifamily
23 residential complex, or a mobile home. Notwithstanding the
24 occupancy requirements of this section, an otherwise qualified owner
25 shall not lose the benefit of the deferral because of a temporary
26 absence from his or her permanent residence for reasons of health, or
27 because of an extended absence while confined to a rest home or
28 nursing home, as long as the residence is unoccupied or occupied by
29 the applicant's spouse or other dependent.

30 (c) Notification of Additional Liens. The owner of tax-deferred property shall
31 notify the assessor of the amount and holder of any new lien against the property arising
32 after application for deferral has been made within 60 days of the creation of the new
33 lien.

34 (d) Transfer or Disqualification of Property. Payment of taxes deferred under
35 this section may be deferred until the death of the owner or until the property is
36 transferred, at which time the full amount of deferred taxes and interest shall become
37 due and shall be paid within 60 days after the date of death or transfer, unless the
38 property is transferred to the former owner's spouse and the spouse is 65 years of age or
39 older and occupies the property as his or her permanent residence, in which case the
40 spouse may elect to continue deferring payment of the tax.

41 In any year in which the owner of tax-deferred property no longer occupies the
42 property as his or her permanent residence no tax levied on the property for that year
43 may be deferred and the full tax for that year is due on the date established in G.S. 105-
44 360. If the owner of tax-deferred property fails to occupy the property as his or her

1 permanent residence for three successive years, the full amount of deferred taxes and
2 interest shall become due that third year and shall be due and payable at the same time
3 the tax levied on the property in that year is otherwise due. In any year in which the
4 total amount of deferred taxes, interest, and other unsatisfied liens on the property
5 exceeds eighty-five percent (85%) of the fair market value of the property, the assessor
6 shall notify the owner that the portion of deferred taxes and interest that exceeds the
7 eighty-five percent (85%) limit is due and must be paid within 60 days after receipt of
8 the notice. Failure to pay any amount due under this subsection shall cause the total
9 amount of deferred taxes and interest to become due and payable at the same time the
10 tax levied on the property in the year in which the failure occurs is otherwise due.

11 (e) Application. Application for deferral of future tax increases may be made at
12 any time during the calendar year. The application form provided by the county shall
13 state the conditions under which deferred taxes and interest become due and payable
14 and shall also state that interest will accrue on the amount deferred and that this amount
15 constitutes a lien. Each applicant shall furnish a list of the amounts of all liens on the
16 property for which tax deferral is sought and the holders of these liens.

17 (f) Annual Notification to Property Owner; Prepayment. On or before
18 September 1 of each year, the assessor shall notify each property owner to whom a tax
19 deferral has previously been granted of the accumulated sum of deferred taxes and
20 interest. All or part of the deferred taxes and accrued interest may be paid to the tax
21 collector at any time. Any partial payment shall be applied first to accrued interest. A
22 property owner to whom a tax deferral has previously been granted may revoke the
23 application for deferral at any time by notifying the assessor in writing.

24 (g) Payment by Trustee or Mortgagee. A mortgagee or trustee that elects to pay
25 any tax deferred by the owner of property subject to the mortgage or deed of trust does
26 not thereby acquire a right to foreclose.

27 (h) Clauses Preventing Application for Deferral Void. Except for requirements
28 dictated by federal law, rule, or regulation, any provision in a mortgage, deed of trust, or
29 other agreement that prohibits the owner from deferring taxes on his property pursuant
30 to this section is void.

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

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

34 "(3) After an owner of property entitled to exemption under G.S. 105-
35 277.1, 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or ~~105-~~
36 ~~278.8 or 105-278.8~~; exclusion under G.S. 105-275(3), (7), ~~(12) or (39)~~
37 ~~or G.S. 105-278-(12), or (39), or G.S. 105-278~~; or deferral under G.S.
38 105-282.2 has applied for ~~exemption~~ exemption, exclusion, or deferral
39 and the ~~exemption~~ has been approved, such owner shall not be required to
40 file applications in subsequent years except in the following circumstances:
41 the owner need not apply for the same benefit in subsequent years
42 unless one of the following events has occurred:

- 1 a. New or additional property ~~is~~has been acquired or
2 improvements ~~are~~have been added or removed, necessitating a
3 change in the valuation of the ~~property, or property.~~
4 b. There is a change in the use of the property or the qualifications
5 or eligibility of the taxpayer necessitating a review of the
6 exemption.
7 c. The owner no longer qualifies for the deferral."
8 Sec. 3. G.S. 105-273 is amended by adding a new subdivision to read:
9 "(4a) 'Code' means the Internal Revenue Code as enacted as of January 1,
10 1991, including any provisions enacted as of that date which become
11 effective either before or after that date."
12 Sec. 4. This act is effective for taxes imposed for taxable years beginning on
13 or after July 1, 1991.