GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 57
Finance Committee Substitute Adopted 7/9/92

Short Title: Property Tax Deferral for Elderly. (Public)

Sponsors:

Referred to:

February 12, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROPERTY TAX DEFERRAL AS AN ALTERNATIVE FORM OF PROPERTY TAX RELIEF FOR THE ELDERLY AND DISABLED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.1 reads as rewritten:

"§ 105-277.1. Property ~~classified for taxation at reduced valuation.~~ tax relief for the elderly and disabled.

(a) Classification. ~~The following class of property~~ Real property or a manufactured home owned and occupied by a qualifying owner as the owner's permanent residence is designated a special class of property under Article V, Sec. 2(2) of the North Carolina ~~Constitution and shall be assessed for taxation as follows.~~ Constitution and is taxable in accordance with this section. To qualify for the benefit of this section, an owner must meet all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Be a North Carolina resident.

(2) Be at least 65 years old or totally and permanently disabled.

(3) Have an income for the immediately preceding calendar year of not more than eleven thousand dollars ($11,000).

~~The first twelve thousand dollars ($12,000) in assessed value of real property, or a mobile home, owned by a North Carolina resident and occupied by the owner as his permanent residence shall not be assessed for taxation if, as of January 1 of the year for which the benefit of this section is claimed:~~

~~(1) The owner is either 65 years of age or older or is totally and permanently disabled; and~~

~~(2) The owner's disposable income for the preceding calendar year did not exceed eleven thousand dollars ($11,000); and~~

~~(3) The owner makes the required application.~~

~~For married applicants residing with their spouses, the disposable income of both spouses must be included, whether or not the property is in both names.~~

(b) Definitions. – When used in ~~section,~~ G.S. 105-277.1 through G.S. 105-277.1B, the following definitions shall apply:

(1) Code. – The Internal Revenue Code, as defined in G.S. 105-134.1.

(1a) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all tax-exempt interest and dividends. 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) ~~An 'owner' of property means a~~ Owner. – A person who holds legal or equitable title to the property, ~~either individually or~~ 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. Property owned and occupied by husband and wife as tenants by the entirety ~~shall be~~ is entitled to the full benefit of this classification notwithstanding that only one of them meets the age or disability requirements ~~herein provided~~of this section. ~~If the residence is a mobile~~ A manufactured home ~~and is~~ jointly owned by husband and ~~wife, it shall be treated as~~ wife is considered property held by the entirety. When property is owned by two or more persons other than husband and wife and one or more of ~~such~~ the owners qualifies for this classification, each qualifying owner ~~shall be~~ is entitled to ~~the full~~ a proportionate amount of the ~~exclusion~~ property tax relief not to exceed his or her proportionate share of the valuation of the property. No part of ~~an exclusion~~ the relief available to one co-owner may be claimed by any other ~~co-owner and in no event shall the total exclusion allowed to a qualifying residence (including the household personal property therein) exceed twelve thousand dollars ($12,000).~~ co-owner.

~~(2) " Disposable income" means adjusted gross income as defined for North Carolina income tax purposes in G.S. 105-141.3 plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestors, or lineal descendants.~~

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

(3) ~~'Permanent residence' means legal residence.~~ 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 ~~mobile~~ manufactured home.

Notwithstanding the occupancy requirements of this classification, an otherwise qualified applicant ~~shall~~ does not lose the benefit of the ~~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 applicant's spouse or other dependent.

(3a) Property tax relief. – Homestead exclusion and property tax deferral.

(4) ~~A 'totally and permanently disabled person' means one who~~ Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment ~~which~~ that substantially precludes him or her from obtaining gainful employment and ~~such impairment~~ appears reasonably certain to continue without substantial improvement throughout his ~~lifetime.~~ or her life.

(c) Election. – A qualified owner may elect one of the following kinds of property tax relief.

(1) To defer payment of all or part of any future increases in the amount of tax levied on the permanent residence to the extent allowed under G.S. 105-277.1B.

(2) To exclude from taxation the first twelve thousand dollars ($12,000) in appraised value of a permanent residence.

When property is owned by two or more persons who qualify for this classification, the election made by the qualified owners must be the same.

~~(c)~~ (d) Application. ~~– Applications for the exclusions provided by this section are to be filed during the regular listing period, but, shall~~ An application for 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 April 15 ~~of the calendar~~ preceding the tax year for which ~~they are to be effective.~~ the relief is claimed. The application form provided by the county for deferral shall state the conditions under which deferred taxes and interest become due and payable and shall also state that interest will accrue on the amount deferred and that this amount constitutes a lien. Each applicant who elects the deferral method of property tax relief shall furnish a list of the amounts of all liens on the property for which tax deferral is sought and the holders of these liens. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for ~~this exclusion,~~ property tax relief, each ~~such~~ owner shall apply separately for his or her proportionate share of the ~~exclusion.~~ relief.

(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. Such proof shall 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, he or she shall not be 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 under this section."

Sec. 2. Chapter 105 of the General Statutes is amended by adding a new section, G.S. 105-277.1B, to read:

"**§ 105-277.1B. Deferral of residential tax increases for qualified owners.**

(a) Deferral. – A qualified owner under G.S. 105-277.1 may elect to defer payment of all or part of any future increases in the amount of tax levied on the permanent residence to the extent permissible under subsection (c) 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 amount of the tax increase that may be deferred each year is the amount by which the tax due on the residence for that year exceeds the amount of tax that was due on the residence for the year preceding the owner's application for deferral under G.S. 105-277.1. The amount of taxes deferred shall accrue 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 shall constitute a lien on the property, which shall attach at the time prescribed in G.S. 105-355 and shall have the priority established in G.S. 105-356.

(b) Notification of Additional Liens. – The owner of tax-deferred property shall 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 of the creation of the new lien.

(c) Transfer or Disqualification of Property. – Payment of taxes deferred under G.S. 105-277.1 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 shall become due and shall 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.

Except as provided in G.S. 105-277.1(b)(3), 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 shall become due that third year and shall be 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 shall 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 any amount due under this subsection shall cause 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 shall be 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, an owner may not elect to pay taxes upon the property at a reduced value 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 thereby acquire a right to foreclose.

(g) Clauses Preventing Application for Deferral Void. – Except for requirements dictated by federal law, rule, or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from electing to defer taxes on property under G.S. 105-277.1 is void.

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

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

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

a. New or additional property ~~is~~ has been acquired or improvements ~~are~~ have been added or removed, necessitating a change in the valuation of the ~~property, or~~ property.

b. There is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption.

c. The owner no longer qualifies for the deferral."

Sec. 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1993.