GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H **1**

HOUSE BILL 1777

Short Title:	Local Option Sales Tax and Homestead Relief.	(Public)
Sponsors:	Representatives McComas; and McMahan.	
Referred to:	Finance.	

May 12, 2005

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A MUNICIPALITY TO LEVY A ONE-HALF CENT LOCAL SALES AND USE TAX AND TO USE THE REVENUE GENERATED BY THE TAX TO EXPAND THE HOMESTEAD EXEMPTION TO ALL SENIOR CITIZENS IN THE MUNICIPALITY.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"<u>Article 46.</u>

"<u>Fourth One-Half Cent (1/2¢) Local Government Sales and Use Tax.</u>

"<u>**§ 105-535. Short title.**</u>

<u>This Article is the Fourth One-Half Cent (1/2¢) Local Government Sales and Use Tax Act.</u>

"<u>**§ 105-536. Limitations.**</u>

<u>This Article applies only to municipalities located in counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter, and the third one-half cent (1/2¢) local sales and use tax under Article 44 of this Chapter.</u>

"<u>**§ 105-537. Levy.**</u>

<u>After Vote. – If a majority of those voting in a special election held pursuant to this Article vote for the levy of the taxes in a municipality, the governing body of the municipality may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.</u>

"<u>**§ 105-538. Municipal election on adoption of tax.**</u>

<u>(a) Resolution. – When the additional one-half percent (1/2%) State sales and use tax enacted in S.L. 2001-424 and extended in S.L. 2003-284 sunsets or is repealed, the governing board of a municipality may direct the county board of elections to conduct a</u>

special election on the question of whether to levy local one-half percent (1/2%) sales and use taxes in the municipality as provided in this Article. The election must be held on a date jointly agreed upon by the two boards and must be held in accordance with the procedures of G.S. 163-287.

(b) Ballot Question. – The question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article must be in the following form:

'[ ] FOR [ ] AGAINST

One-half percent (1/2%) local sales and use taxes, in addition to all current State and local sales and use taxes. The proceeds generated by the one-half percent (1/2%) local sales and use taxes shall be used to reimburse a municipality for the portion of ad valorem tax lost by expanding the homestead exclusion set out in G.S. 105-277.1 to an owner who is at least 65 years of age, regardless of the owner's income.'

"**§ 105-539. Administration.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of the additional taxes authorized by this Article shall be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B.

"**§ 105-540. Distribution and use.**

(a) Distribution. – The Secretary shall, on a monthly basis, distribute to each taxing municipality the net proceeds of the tax collected in that municipality under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing municipality, the Secretary shall allocate these taxes among the taxing municipalities in proportion to the amount of taxes collected in each municipality under this Article in that month and shall include them in the monthly distribution.

(b) Use. – Municipalities may use the proceeds of a tax levied under this Article only to reimburse the municipality for the portion of ad valorem tax lost by expanding the homestead exclusion set out in G.S. 105-277.1 to any owner in the municipality who is at least 65 years of age, regardless of the owner's income."

SECTION 2. G.S. 105-277.1 reads as rewritten:

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

(a) Exclusion. – 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. 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)~~(2) Is a North Carolina resident.

(a1) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this exclusion 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 same percentage of this amount as the percentage of any cost-of-living adjustment made to the benefits under Titles II and XVI of the Social Security Act for the preceding calendar year, rounded to the nearest one hundred dollars ($100.00). On or before July 1 of each year, the Department of Revenue must determine the income eligibility amount to be in effect for the taxable year beginning the following July 1 and must notify the assessor of each county of the amount to be in effect for that taxable year.~~

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

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

~~(1a) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. 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) Owner. – A person who holds legal or equitable title, 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. A manufactured home jointly owned by husband and wife is considered property held by the entirety.

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

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

(3) 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 manufactured home.

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

(c) Application. – An application for the exclusion 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 June 1 preceding the tax year for which the exclusion is claimed. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each owner must apply separately for his or her proportionate share of the exclusion.

(1) Elderly Applicants. – Persons 65 years of age or older may apply for this exclusion 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 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. The proof must 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, the applicant is not 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.

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

SECTION 3. This act is effective when it becomes law. Section 2 of this act applies only to municipalities that levy an additional one-half cent (1/2¢) local sales and use tax pursuant to this act.