GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 1610

Short Title: Property Tax Deferral. (Public)

Sponsors: Representatives McElraft; Avila, Brown, Cleveland, T. Harrell, Harrison, Hurley, Lewis, and McGee.

Referred to: Aging, if favorable, Finance.

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO CREATE A PROPERTY TAX DEFERRAL BENEFIT FOR LOW-INCOME ELDERLY AND DISABLED INDIVIDUALS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.1B. Permanent residence tax deferral.**

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

(b) Deferral. – A qualified owner of property may defer payment of up to fifty percent (50%) of the tax levied on his or her permanent residence 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. Under this section, 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) The owner is at least 65 years of age or totally and permanently disabled.

(2) Until July 1, 2009, the owner has an income for the preceding calendar year of not more than thirty thousand dollars ($30,000). For taxable years beginning on or after July 1, 2009, the income requirement 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 requirement 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.

(3) The owner is a North Carolina resident.

The amount of taxes deferred accrues interest at the rate of five percent (5%) from the date the tax is otherwise due until payment. The amount of deferred taxes and accrued interest constitutes a lien on the property, which attaches at the time prescribed in G.S. 105-355, and has the priority established in G.S. 105-356.

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

(d) Application. – An application for deferral 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 deferral is claimed. The application form provided by a county for deferral must state the conditions under which deferred taxes and interest become due and payable and must also state that interest will accrue on the amount deferred and that this amount constitutes a lien. Each applicant who applies for the deferral method of property tax relief must furnish a list of the amounts of all liens on the property for which tax deferral is sought and the holders of these liens.

(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 deferral.

(e) 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 deferral 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, each person must qualify for this deferral and must elect this deferral in order for this deferral to be allowed.

(f) Notification of Additional Liens. – The owner of tax-deferred property must 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 after the new lien is created.

(g) Transfer or Disqualification of Property. – Payment of taxes deferred under this section 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 becomes due. The taxes and interest must 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.

If the owner of tax-deferred property does not qualify under this section for deferral as of January 1 preceding a taxable year, the owner may not defer any additional property taxes that year, but the deferred taxes from earlier years do not become due because of the owner's failure to qualify for the current year.

Except as provided in G.S. 105-277.1(a1), 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 becomes due that third year and is 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 must 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 an amount due under this subsection causes 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.

(h) 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.

(i) Prepayment. – All or part of the deferred taxes and accrued interest may be paid to the tax collector at any time. Any partial payment is 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.

(j) 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 by doing so acquire a right to foreclose.

(k) Clauses Preventing Application for Deferral Void. – Except for requirements dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from deferring taxes on property under this section is void.

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

(m) Election. – An owner who qualifies for both the homestead property tax exclusion allowed under G.S. 105-277.1 and the permanent residence tax deferral provided in this section may elect the permanent residence tax deferral instead of the property tax homestead exclusion. When property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the permanent residence tax deferral in order for the permanent residence tax deferral to be allowed instead of the property tax homestead exclusion."

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

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

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

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

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

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

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

SECTION 3. G.S. 105-309(f) reads as rewritten:

"(f) The ~~notice set out below must appear~~assessor must print a homestead tax relief notice on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the ~~notice:~~notice required by this section. The notice must be in the form required by the Department of Revenue designed to notify the taxpayer of his or her rights and responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1 and the permanent residence tax deferral provided in G.S. 105-277.1B. The notice must include a statement designed to inform the taxpayer of the rate of tax used to generate revenue appropriated for school operating expenses and capital outlay expenses, including debt service.

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

~~North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed (assessor insert~~

~~amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.~~

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

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

SECTION 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.