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SENATE BILL 1442
Finance Committee Substitute Adopted 7/30/07
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Short Title: Senior Circuit Breaker Tax Benefit. (Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

…

<u>(3a)</u> <u>Property tax relief. – The property tax homestead exclusion provided in this section or the property tax homestead circuit breaker provided in G.S. 105-277.1B.</u>

…."

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

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

…

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

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

"<u>**§ 105-277.1B. Property tax homestead circuit breaker.**</u>

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

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

(d) Qualifying Owner. – For the purpose of qualifying for the property tax homestead circuit breaker 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 has an income for the preceding calendar year of not more than one hundred fifty percent (150%) of the income eligibility limit specified in subsection (c) of this section.

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

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

(4) The owner is a North Carolina resident.

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

(f) Tax Limitation. – A qualifying owner may defer the portion of tax imposed on his or her permanent residence if it exceeds a percentage of the qualifying owner's income as provided in this section.

Income	**Percentage**
Less than the income eligibility limit	4.0%
100% to 150% of the income eligibility limit	5.0%

(g) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this circuit breaker 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.

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

(i) Disqualifying Events. – Taxes deferred under this section are payable within nine months after a disqualifying event. The tax for the fiscal year that opens in a calendar year in which deferred taxes become due is computed as if the property was not eligible for property tax relief under this section. Each of the following constitutes a disqualifying event:

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

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

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

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

(k) 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 residence 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.

(l) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by the owner of a residence subject to a mortgage or deed of trust does not acquire a right to foreclose as a result of the election. 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.

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

(n) Application. – 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 June 1 preceding the tax year for which the relief is claimed. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1."

SECTION 4. 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 relief under G.S. 105-277.1B."

SECTION 5. 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 property tax homestead circuit breaker provided in G.S. 105-277.1B.

~~"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 6. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2009.