

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 926

Short Title: Property Tax Deferral for Seniors.

(Public)

Sponsors: Senator Ballantine.

Referred to: Finance.

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO ALLOW LOW-INCOME ELDERLY AND DISABLED
HOMEOWNERS TO DEFER HOMESTEAD PROPERTY TAXES.

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.~~ Homestead property tax exclusion.

(a) ~~Exclusion. Classification. – The following class of property~~ 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 shall be assessed for taxation in accordance with this section. The first twenty thousand dollars (\$20,000) in appraised value of a permanent residence owned and occupied by a qualifying owner is excluded from taxation. is taxable as provided in this section. If the owner qualifies for both the homestead property tax exclusion allowed under this section and the homestead property tax deferral provided in G.S. 105-277.1B, the owner may elect either but not both types of property tax relief as provided in subsection (b1) of this section. If the owner qualifies for property tax deferral but not for the homestead property tax exclusion, the property is eligible for the property tax deferral provided in G.S. 105-277.1B.

(a1) Exclusion. – The property tax homestead exclusion allowed under this section is an exclusion from taxation of the first twenty thousand dollars (\$20,000) in appraised value of the classified property.

(a2) Qualifying Owner. – The requirements for qualifying for the homestead property tax exclusion under this section are different from the requirements for qualifying for homestead property tax deferral under G.S. 105-277.1B, as provided in this subsection.

(1) For the purpose of qualifying for the homestead property tax exclusion under this section, a ~~A~~ qualifying owner is an owner who meets all of

1 the following requirements as of January 1 preceding the taxable year
2 for which the benefit is claimed:

3 ~~(1)a. Is~~ The owner is at least 65 years of age or totally and
4 permanently disabled.

5 ~~(2)b. Has~~ The owner has an income for the preceding calendar year
6 of not more than fifteen thousand dollars (\$15,000).

7 ~~(3)c. Is~~ The owner is a North Carolina resident.

8 (2) For the purpose of qualifying for homestead property tax deferral
9 under G.S. 105-277.1B, a qualifying owner is an owner who meets all
10 of the following requirements as of January 1 preceding the taxable
11 year for which the benefit is claimed:

12 a. The owner is at least 65 years of age or totally and permanently
13 disabled.

14 b. The owner has an income for the preceding calendar year of not
15 more than twenty-five thousand dollars (\$25,000) in the case of
16 a single owner or not more than thirty-four thousand dollars
17 (\$34,000) in the case of married owners residing with their
18 spouses.

19 c. The owner is a North Carolina resident.

20 d. The owner has owned and occupied the classified property as
21 his or her permanent residence for at least 10 years.

22 (a3) Temporary Absence. – An otherwise qualifying owner does not lose the
23 benefit of this ~~exclusion~~ property tax relief because of a temporary absence from his or
24 her permanent residence for reasons of health, or because of an extended absence while
25 confined to a rest home or nursing home, so long as the residence is unoccupied or
26 occupied by the owner's spouse or other dependent.

27 (b) Definitions. – ~~When used in this section, the following definitions shall~~
28 apply: The following definitions apply in this section:

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

30 (1a) Income. – Adjusted gross income, as defined in section 62 of the Code,
31 plus all other moneys received from every source other than gifts or
32 inheritances received from a spouse, lineal ancestor, or lineal
33 descendant. For married applicants residing with their spouses, the
34 income of both spouses must be included, whether or not the property
35 is in both names.

36 (1b) Owner. – A person who holds legal or equitable title, whether
37 individually, as a tenant by the entirety, a joint tenant, or a tenant in
38 common, or as the holder of a life estate or an estate for the life of
39 another. A manufactured home jointly owned by husband and wife is
40 considered property held by the entirety.

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

42 (2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

43 (3) Permanent residence. – A person's legal residence. It includes the
44 dwelling, the dwelling site, not to exceed one acre, and related

1 improvements. The dwelling may be a single family residence, a unit
2 in a multi-family residential complex, or a manufactured home.

3 (3a) Property tax relief. – The homestead property tax exclusion provided
4 in this section or homestead property tax deferral provided in G.S.
5 105-277.1B.

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

11 (b1) Election. – An owner who qualifies for both kinds of property tax relief may
12 elect property tax deferral under G.S. 105-277.1B instead of the property tax homestead
13 exclusion provided in this section. When property is owned by two or more persons,
14 each person must qualify for both kinds of property tax relief and must elect property
15 tax deferral in order for property tax deferral to be allowed instead of the property tax
16 homestead exclusion.

17 (c) Application. – An application for ~~the exclusion~~ property tax relief provided
18 by this section should be filed during the regular listing period, but may be filed and
19 must be accepted at any time up to and through April 15 preceding the tax year for
20 which the ~~exclusion~~ relief is claimed. The application form provided by a county for
21 deferral must state the conditions under which deferred taxes and interest become due
22 and payable and must also state that interest will accrue on the amount deferred and that
23 this amount constitutes a lien. Each applicant who applies for the deferral method of
24 property tax relief shall furnish a list of the amounts of all liens on the property for
25 which tax deferral is sought and the holders of these liens. When property is owned by
26 two or more persons other than husband and wife and one or more of them qualifies for
27 this the property tax homestead exclusion, each owner shall ~~must~~ apply separately for
28 his or her proportionate share of the exclusion.

29 (1) Elderly Applicants. – Persons 65 years of age or older may apply for
30 ~~this exclusion~~ property tax relief by entering the appropriate
31 information on a form made available by the assessor under G.S.
32 105-282.1.

33 (2) Disabled Applicants. – Persons who are totally and permanently
34 disabled may apply for ~~this exclusion~~ property tax relief by (i) entering
35 the appropriate information on a form made available by the assessor
36 under G.S. 105-282.1 and (ii) furnishing acceptable proof of their
37 disability. The proof shall be in the form of a certificate from a
38 physician licensed to practice medicine in North Carolina or from a
39 governmental agency authorized to determine qualification for
40 disability benefits. After a disabled applicant has qualified for this
41 classification, he or she shall not be required to furnish an additional
42 certificate unless the applicant's disability is reduced to the extent that
43 the applicant could no longer be certified for ~~the taxation at reduced~~
44 ~~valuation~~ property tax relief.

1 (d) Multiple Ownership. – A permanent residence owned and occupied by
2 husband and wife as tenants by the entirety is entitled to the full benefit of ~~this exclusion~~
3 property tax relief notwithstanding that only one of them meets the age or disability
4 requirements of this section. When a permanent residence is owned and occupied by
5 two or more persons other than husband and ~~wife and wife~~, no homestead property tax
6 deferral is allowed unless all of the owners qualify. If one or more of the owners
7 qualifies for ~~this~~ the homestead property tax exclusion, however, each qualifying owner
8 is entitled to the full amount of the exclusion not to exceed his or her proportionate
9 share of the valuation of the property. No part of an exclusion available to one co-owner
10 may be claimed by any other co-owner and in no event may the total exclusion allowed
11 for a permanent residence exceed the exclusion amount provided in this section."

12 **SECTION 2.** Article 12 of Chapter 105 of the General Statutes is amended
13 by adding a new section to read:

14 **"§ 105-277.1B. Homestead property tax deferral.**

15 (a) Deferral. – A qualified owner of property classified under G.S. 105-277.1
16 may defer payment of all or part of the tax levied on the classified property to the extent
17 permissible under subsection (c) of this section unless (i) the property is subject to a lien
18 that, pursuant to a federal law, rule, or regulation, prohibits deferral of taxes or (ii) the
19 amount of outstanding liens on the property exceeds eighty-five percent (85%) of the
20 assessed value of the property. The definitions provided in G.S. 105-277.1 apply to this
21 section.

22 If the owner qualifies for both the homestead property tax exclusion allowed under
23 G.S. 105-277.1 and the homestead property tax deferral provided in this section, the
24 owner is eligible for either but not both types of property tax relief. The owner will
25 receive the property tax homestead exclusion rather than homestead property tax
26 deferral unless the owner elects homestead property tax deferral instead of the
27 homestead property tax exclusion, as provided in G.S. 105-277.1(b1).

28 The amount of taxes deferred accrues interest at the rate specified in G.S.
29 105-241.1(i) for assessments from the date the tax is otherwise due until payment. The
30 amount of deferred taxes and accrued interest constitutes a lien on the property, which
31 attaches at the time prescribed in G.S. 105-355 and has the priority established in G.S.
32 105-356.

33 (b) Notification of Additional Liens. – The owner of tax-deferred property must
34 notify the assessor of the amount and holder of any new lien against the property arising
35 after application for deferral has been made within 60 days after the new lien is created.

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

43 If the owner of tax-deferred property does not qualify under G.S. 105-277.1 for
44 deferral as of January 1 preceding a taxable year, the owner may not defer any

1 additional property taxes that year, but the deferred taxes from earlier years do not
2 become due because of the owner's failure to qualify for the current year.

3 Except as provided in G.S. 105-277.1(a3), in any year in which the owner of tax-
4 deferred property no longer occupies the property as his or her permanent residence, no
5 tax levied on the property for that year may be deferred, and the full tax for that year is
6 due on the date established in G.S. 105-360. If the owner of tax-deferred property fails
7 to occupy the property as his or her permanent residence for three successive years, the
8 full amount of deferred taxes and interest become due that third year and are due and
9 payable at the same time the tax levied on the property in that year is otherwise due.

10 In any year in which the total amount of deferred taxes, interest, and other
11 unsatisfied liens on the property exceeds eighty-five percent (85%) of the assessed value
12 of the property, the assessor must notify the owner that the portion of deferred taxes and
13 interest that exceeds the eighty-five percent (85%) limit is due and must be paid within
14 60 days after receipt of the notice. Failure to pay an amount due under this subsection
15 causes the total amount of deferred taxes and interest to become due and payable at the
16 same time the tax levied on the property in the year in which the failure occurs is
17 otherwise due.

18 (d) Annual Notification to Property Owner. – On or before September 1 of each
19 year, the assessor shall notify each property owner to whom a tax deferral has
20 previously been granted of the accumulated sum of deferred taxes and interest.

21 (e) Prepayment. – All or part of the deferred taxes and accrued interest may be
22 paid to the tax collector at any time. Any partial payment is applied first to accrued
23 interest. A property owner to whom a tax deferral has previously been granted may
24 revoke the application for deferral at any time by notifying the assessor in writing;
25 however, the owner is not eligible for the property tax homestead exclusion under G.S.
26 105-277.1 unless all of the deferred taxes and accrued interest have been paid to the tax
27 collector.

28 (f) Payment by Trustee or Mortgagee. – A mortgagee or trustee that elects to pay
29 any tax deferred by the owner of property subject to the mortgage or deed of trust does
30 not by doing so acquire a right to foreclose.

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

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

37 **SECTION 3.** G.S. 105-282.1(a)(3) reads as rewritten:

38 "(3) After an owner of property entitled to exemption under G.S.
39 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or ~~105-278.8~~
40 ~~or 105-278.8~~; exclusion under G.S. 105-275(3), (7), (8), (12), (17)
41 through (19), (21) or (39), G.S. 105-277.1, or ~~G.S. 105-278~~ G.S.
42 105-278; or deferral under G.S. 105-277.1B has applied for exemption
43 ~~or exclusion and the exemption or exclusion~~ the property tax benefit
44 and the benefit has been approved, the owner is not required to file an

1 application in subsequent years except in the following circumstances:
2 need not apply for the same benefit in subsequent years unless one or
3 more of the following events have occurred:

- 4 a. New or additional property ~~is~~ has been acquired or
5 improvements ~~are~~ have been added or removed, necessitating a
6 change in the valuation of the ~~property~~; or property.
7 b. There is a change in the use of the property or the qualifications
8 or eligibility of the taxpayer necessitating a review of the
9 exemption or exclusion.
10 c. The owner no longer qualifies for the benefit."

11 **SECTION 4.** G.S. 105-309(f) reads as rewritten:

12 "(f) ~~The following information shall appear on~~ The assessor must print a
13 homestead tax relief notice on each abstract or on an information sheet distributed with
14 the abstract. The abstract or sheet must include the address and telephone number of the
15 assessor below the notice required by this subsection. The notice shall read as follows:
16 must in be the form required by the Department of Revenue designed to notify
17 taxpayers of their rights and responsibilities under the homestead property tax exclusion
18 provided in G.S. 105-277.1 and the homestead property tax deferral provided in G.S.
19 105-277.1B.

20
21 ~~"PROPERTY TAX RELIEF FOR ELDERLY AND~~
22 ~~PERMANENTLY DISABLED PERSONS.~~

23
24 ~~North Carolina excludes from property taxes the first twenty thousand dollars~~
25 ~~(\$20,000) in appraised value of a permanent residence owned and occupied by North~~
26 ~~Carolina residents aged 65 or older or totally and permanently disabled whose income~~
27 ~~does not exceed fifteen thousand dollars (\$15,000). Income means the owner's adjusted~~
28 ~~gross income as determined for federal income tax purposes, plus all moneys received~~
29 ~~other than gifts or inheritances received from a spouse, lineal ancestor or lineal~~
30 ~~descendant.~~

31 ~~If you received this exclusion in (assessor insert previous year), you do not need to~~
32 ~~apply again unless you have changed your permanent residence. If you received the~~
33 ~~exclusion in (assessor insert previous year) and your income in (assessor insert previous~~
34 ~~year) was above fifteen thousand dollars (\$15,000), you must notify the assessor. If you~~
35 ~~received the exclusion in (assessor insert previous year) because you were totally and~~
36 ~~permanently disabled and you are no longer totally and permanently disabled, you must~~
37 ~~notify the assessor. If the person receiving the exclusion in (assessor insert previous~~
38 ~~year) has died, the person required by law to list the property must notify the assessor.~~
39 ~~Failure to make any of the notices required by this paragraph before April 15 will result~~
40 ~~in penalties and interest.~~

41 ~~If you did not receive the exclusion in (assessor insert previous year) but are now~~
42 ~~eligible, you may obtain a copy of an application from the assessor. It must be filed by~~
43 ~~April 15."~~

1 **SECTION 5.** This act becomes effective for taxes imposed for taxable years
2 beginning on or after July 1, 2002.