

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 852
Committee Substitute Favorable 6/4/09

Short Title: Defer Tax on Builders' Inventory.

(Public)

Sponsors:

Referred to:

March 30, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO DEFER THE PROPERTY TAX DUE ON REAL PROPERTY HELD FOR
3 SALE BY A BUILDER.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-273 is amended by adding a new subdivision to read:

6 "(3a) "Builder" means a taxpayer licensed as a general contractor under G.S. 87-1
7 and engaged in the business of buying real property, making improvements
8 to it, and then reselling it."

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

11 "**§ 105-277.1D. Inventory property tax deferral.**

12 (a) Classification. – A residence owned and constructed by a builder is designated a
13 special class of property under Section 2(2) of Article V of the North Carolina Constitution and
14 is taxable in accordance with this section. For purposes of this section, a "residence" is an
15 improvement, other than remodeling, rehabilitating, or refinishing, by a builder to real property
16 that is intended to be sold and used as an individual's residence, that is unoccupied, and for
17 which a certificate of occupancy authorized by law has been issued.

18 (b) Deferred Taxes. – A builder may defer the portion of tax imposed on real property
19 that represents the increase in value of the property attributable solely to improvements
20 resulting from the construction by the builder of a residence on the property. The difference
21 between the taxes due under this section and the taxes that would have been payable in the
22 absence of this section are a lien on the real property of the taxpayer as provided in
23 G.S. 105-355(a). The difference in taxes for the fiscal years preceding the current tax year shall
24 be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes
25 are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility
26 for deferral because of the occurrence of a disqualifying event. A disqualifying event occurs at
27 the earliest of (i) when the builder transfers the residence, (ii) when the residence is occupied
28 by the builder or by someone other than the builder with the builder's consent, (iii) five years
29 from the time the improved property was first subject to being listed for taxation by the builder,
30 or (iv) three years from the time the improved property first received the property tax benefit
31 provided by this section. On or before September 1 of each year, the collector shall notify each
32 builder to whom a tax deferral has previously been granted of the accumulated sum of deferred
33 taxes and interest.

34 (c) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by
35 the builder subject to a mortgage or deed of trust does not acquire a right to foreclose as a result
36 of the election. Except for requirements dictated by federal law or regulation, any provision in a



1 mortgage, deed of trust, or other agreement that prohibits the builder from deferring taxes on
2 property under this section is void.

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

5 (e) Application. – An application for property tax relief provided by this section should
6 be filed during the regular listing period but may be filed after the regular listing period upon a
7 showing of good cause by the applicant for failure to make a timely application, as determined
8 and approved by the board of equalization and review or, if that board is not in session, by the
9 board of county commissioners. An untimely application approved under this subsection
10 applies only to property taxes levied by the county or municipality in the calendar year in
11 which the untimely application is filed. Decisions of the county board may be appealed to the
12 Property Tax Commission. Persons may apply for this property tax relief by entering the
13 appropriate information on a form made available by the assessor under G.S. 105-282.1."

14 **SECTION 3.** G.S. 105-277.1F(a) is amended by adding a new subdivision to read:

15 "(2a) G.S. 105-277.1D, the inventory property tax deferral."

16 **SECTION 4.** This act is effective for taxes imposed for taxable years beginning on
17 or after July 1, 2009. Notwithstanding G.S. 105-277.1D(e), an application filed within 60 days
18 of the effective date of this act shall be accepted by the county tax assessor as timely filed.
19 This act is repealed effective for taxes imposed for taxable years beginning on or after July 1,
20 2012. Residences receiving the property tax benefit provided by this act are not affected by the
21 repeal of this act until the occurrence of a disqualifying event.