

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS65071-MC-72 (2/22)

Short Title: Homestead Exclusion Modifications.

(Public)

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Sponsors: Senator Brown.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR ADDITIONAL PROPERTY TAX BENEFITS FOR  
LOWER-INCOME HOMEOWNERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-277.1 reads as rewritten:

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

(a) ~~Exclusion Classification.~~ – 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. If the owner qualifies for both the property tax homestead exclusion allowed under this section and the homestead property tax circuit breaker 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. ~~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) ~~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.

1 (a2) Income Eligibility Limit. – Until July 1, 2003, the income eligibility limit is  
2 eighteen thousand dollars (\$18,000). For taxable years beginning on or after July 1,  
3 2003, the income eligibility limit is the amount for the preceding year, adjusted by the  
4 same percentage of this amount as the percentage of any cost-of-living adjustment made  
5 to the benefits under Titles II and XVI of the Social Security Act for the preceding  
6 calendar year, rounded to the nearest one hundred dollars (\$100.00). On or before July 1  
7 of each year, the Department of Revenue must determine the income eligibility amount  
8 to be in effect for the taxable year beginning the following July 1 and must notify the  
9 assessor of each county of the amount to be in effect for that taxable year.

10 (a3) Exclusion. – The amount of the appraised value of the residence equal to the  
11 exclusion amount is excluded from taxation. The exclusion amount is the greater of  
12 twenty thousand dollars (\$20,000) or fifty percent (50%) of the appraised value of the  
13 residence.

14 (a4) Qualifying Owner. – For the purpose of qualifying for the homestead  
15 property tax exclusion under this section, a qualifying owner is an owner who meets all  
16 of the following requirements as of January 1 preceding the taxable year for which the  
17 benefit is claimed:

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

20 (2) The owner has an income for the preceding calendar year of not more  
21 than the income limit specified in subsection (a2) of this section.

22 (3) The owner is a North Carolina resident.

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

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

25 (1a) Income. – Adjusted gross income, as defined in section 62 of the Code,  
26 plus all other moneys received from every source other than gifts or  
27 inheritances received from a spouse, lineal ancestor, or lineal  
28 descendant. For married applicants residing with their spouses, the  
29 income of both spouses must be included, whether or not the property  
30 is in both names.

31 (1b) Owner. – A person who holds legal or equitable title, whether  
32 individually, as a tenant by the entirety, a joint tenant, or a tenant in  
33 common, or as the holder of a life estate or an estate for the life of  
34 another. A manufactured home jointly owned by husband and wife is  
35 considered property held by the entirety.

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

37 (2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

38 (3) Permanent residence. – A person's legal residence. It includes the  
39 dwelling, the dwelling site, not to exceed one acre, and related  
40 improvements. The dwelling may be a single family residence, a unit  
41 in a multi-family residential complex, or a manufactured home.

42 (3a) Property tax relief. – The property tax homestead exclusion provided  
43 in this section or the homestead property tax circuit breaker provided  
44 in G.S. 105-277.1B.

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

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

13 (c) Application. – An application for ~~the exclusion~~ property tax relief provided by  
14 this section should be filed during the regular listing period, but may be filed and must  
15 be accepted at any time up to and through June 1 preceding the tax year for which the  
16 ~~exclusion-relief~~ is claimed. When property is owned by two or more persons other than  
17 husband and wife and one or more of them qualifies for ~~this~~ the property tax homestead  
18 exclusion, each owner must apply separately for his or her proportionate share of the  
19 exclusion.

20 (1) Elderly Applicants. – Persons 65 years of age or older may apply for  
21 this exclusion by entering the appropriate information on a form made  
22 available by the assessor under G.S. 105-282.1.

23 (2) Disabled Applicants. – Persons who are totally and permanently  
24 disabled may apply for this exclusion by (i) entering the appropriate  
25 information on a form made available by the assessor under  
26 G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability.  
27 The proof must be in the form of a certificate from a physician  
28 licensed to practice medicine in North Carolina or from a  
29 governmental agency authorized to determine qualification for  
30 disability benefits. After a disabled applicant has qualified for this  
31 classification, the applicant is not required to furnish an additional  
32 certificate unless the applicant's disability is reduced to the extent that  
33 the applicant could no longer be certified for the taxation at reduced  
34 valuation.

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

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

3 **"§ 105-277.1B. Homestead property tax circuit breaker.**

4       (a) Classification. – A permanent residence owned and occupied by a qualifying  
 5 owner is designated a special class of property under Article V, Sec. 2(2) of the North  
 6 Carolina Constitution and is taxable in accordance with this section. If the owner  
 7 qualifies for both the homestead property tax circuit breaker allowed under this section  
 8 and the property tax homestead exclusion as provided in G.S. 105-277.1, the owner may  
 9 elect either but not both types of property tax relief as provided in G.S. 105-277.1(b1).

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

12       (c) Income Eligibility Limit. – Until July 1, 2009, the income eligibility limit is  
 13 fifty thousand dollars (\$50,000). For taxable years beginning on or after July 1, 2009,  
 14 the income eligibility limit is the amount for the preceding year, adjusted by the same  
 15 percentage of this amount as the percentage of any cost-of-living adjustment made to  
 16 the benefits under Titles II and XVI of the Social Security Act for the preceding  
 17 calendar year, rounded to the nearest one hundred dollars (\$100.00). On or before July 1  
 18 of each year, the Department of Revenue must determine the income eligibility amount  
 19 to be in effect for the taxable year beginning the following July 1 and must notify the  
 20 assessor of each county of the amount to be in effect for that taxable year.

21       (d) Qualifying Owner. – For the purpose of qualifying for the homestead  
 22 property tax circuit breaker under this section, a qualifying owner is an owner who  
 23 meets all of the following requirements as of January 1 preceding the taxable year for  
 24 which the benefit is claimed:

- 25           (1) The owner has an income for the preceding calendar year of not more  
 26 than the income eligibility limit specified in subsection (b) of this  
 27 section.
- 28           (2) The owner is a North Carolina resident.

29       (e) Tax Limitation. – The amount of tax imposed on the permanent residence of a  
 30 qualifying owner may not exceed a percentage of the qualifying owner's income as  
 31 provided in this section.

<u>Income</u>	<u>Percentage</u>
<u>\$5,000 or less</u>	<u>3.5%</u>
<u>Greater than \$5,000 up to \$10,000</u>	<u>4.0%</u>
<u>Greater than \$10,000 up to \$25,000</u>	<u>4.5%</u>
<u>Greater than \$25,000 up to \$50,000</u>	<u>5.0%</u>

37       (f) Application. – An application for property tax relief provided by this section  
 38 should be filed during the regular listing period, but may be filed and must be accepted  
 39 at any time up to and through June 1 preceding the tax year for which the relief is  
 40 claimed.

41       (g) Multiple Ownership. – When a permanent residence is owned and occupied  
 42 by two or more persons other than husband and wife, no homestead property tax circuit  
 43 breaker is allowed unless all of the owners qualify.

1        (h) Temporary Absence. – An otherwise qualifying owner does not lose the  
2 benefit of this homestead property tax circuit breaker because of a temporary absence  
3 from his or her permanent residence for reasons of health, or because of an extended  
4 absence while confined to a rest home or nursing home, so long as the residence is  
5 unoccupied or occupied by the owner's spouse or other dependent."

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

8 **"§ 105-277.1C. Permanent residence tax deferral.**

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

11        (b) Deferral. – A permanent residence owned and occupied by a qualifying  
12 owner is designated a special class of property under Article V, Sec. 2(2) of the North  
13 Carolina Constitution and is taxable in accordance with this section. A qualified owner  
14 of property may defer payment of all or part of the tax levied on the classified property  
15 unless (i) the property is subject to a lien that, pursuant to a federal law, rule, or  
16 regulation, prohibits deferral of taxes, or (ii) the amount of outstanding liens on the  
17 property exceeds eighty-five percent (85%) of the assessed value of the property.

18        If the owner qualifies for property tax relief under G.S. 105-277.1 or  
19 G.S. 105-277.1B and the permanent residence tax deferral provided in this section, the  
20 owner is eligible for both property tax benefits.

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

26        (c) Qualifying Owner. – Under this section, a qualifying owner is an owner who  
27 meets all of the following requirements as of January 1 preceding the taxable year for  
28 which the benefit is claimed:

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

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

35                (3) The owner is a North Carolina resident.

36                (4) The owner has owned and occupied the classified property as his or  
37 her permanent residence for at least 10 years.

38        (d) Application. – An application for deferral provided by this section should be  
39 filed during the regular listing period, but may be filed and must be accepted at any time  
40 up to and through June 1 preceding the tax year for which the deferral is claimed. The  
41 application form provided by a county for deferral must state the conditions under  
42 which deferred taxes and interest become due and payable and must also state that  
43 interest will accrue on the amount deferred and that this amount constitutes a lien. Each  
44 applicant who applies for the deferral method of property tax relief must furnish a list of

1 the amounts of all liens on the property for which tax deferral is sought and the holders  
2 of these liens.

3 (1) Elderly applicants. – Persons 65 years of age or older may apply for  
4 this exclusion by entering the appropriate information on a form made  
5 available by the assessor under G.S. 105-282.1.

6 (2) Disabled applicants. – Persons who are totally and permanently  
7 disabled may apply for this exclusion by (i) entering the appropriate  
8 information on a form made available by the assessor under  
9 G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability.  
10 The proof must be in the form of a certificate from a physician  
11 licensed to practice medicine in North Carolina or from a  
12 governmental agency authorized to determine qualification for  
13 disability benefits. After a disabled applicant has qualified for this  
14 classification, the applicant is not required to furnish an additional  
15 certificate unless the applicant's disability is reduced to the extent that  
16 the applicant could no longer be certified for the deferral.

17 (e) Multiple Ownership. – A permanent residence owned and occupied by  
18 husband and wife as tenants by the entirety is entitled to the full benefit of this deferral  
19 notwithstanding that only one of them meets the age or disability requirements of this  
20 section. When a permanent residence is owned and occupied by two or more persons  
21 other than husband and wife, each person must qualify for this deferral and must elect  
22 this deferral for it to be allowed.

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

26 (g) Transfer or Disqualification of Property. – Payment of taxes deferred under  
27 this section may be deferred until the death of the owner or until the property is  
28 transferred, at which time the full amount of deferred taxes and interest becomes due.  
29 The taxes and interest must be paid within nine months after the date of death or  
30 transfer, unless the property is transferred to the former owner's spouse and the spouse  
31 qualifies for tax deferral under this section and occupies the property as his or her  
32 permanent residence, in which case the spouse may elect to continue deferring payment  
33 of the tax.

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

38 Except as provided in G.S. 105-277.1(a1), in any year in which the owner of  
39 tax-deferred property no longer occupies the property as his or her permanent residence,  
40 no tax levied on the property for that year may be deferred, and the full tax for that year  
41 is due on the date established in G.S. 105-360. If the owner of tax-deferred property  
42 fails to occupy the property as his or her permanent residence for three successive years,  
43 the full amount of deferred taxes and interest becomes due that third year and is due and  
44 payable at the same time the tax levied on the property in that year is otherwise due.

1        In any year in which the total amount of deferred taxes, interest, and other  
2 unsatisfied liens on the property exceeds eighty-five percent (85%) of the assessed value  
3 of the property, the assessor must notify the owner that the portion of deferred taxes and  
4 interest that exceeds the eighty-five percent (85%) limit is due and must be paid within  
5 60 days after receipt of the notice. Failure to pay an amount due under this subsection  
6 causes the total amount of deferred taxes and interest to become due and payable at the  
7 same time the tax levied on the property in the year in which the failure occurs is  
8 otherwise due.

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

12        (i) Prepayment. – All or part of the deferred taxes and accrued interest may be  
13 paid to the tax collector at any time. Any partial payment is applied first to accrued  
14 interest. A property owner to whom a tax deferral has previously been granted may  
15 revoke the application for deferral at any time by notifying the assessor in writing.

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

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

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

25        **SECTION 4.** G.S. 150-282.1(a)(2) reads as rewritten:

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

36        a. Property exempted from taxation under G.S. 105-278.3,  
37 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

38        b. Special classes of property excluded from taxation under  
39 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35),  
40 (36), (38), (39), or (41) or under G.S. 131A-21.

41        c. Special classes of property classified for taxation at a reduced  
42 valuation under G.S. 105-277(h), 105-277.1, 105-277.10,  
43 105-277.13, 105-278.

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

5 e. Special classes of property eligible for tax relief under  
6 G.S. 105-277.1B or G.S. 105-277.1C."

7 **SECTION 5.** G.S. 105-309(f) reads as rewritten:

8 "(f) ~~The notice set out below must appear~~ assessor must print a homestead tax  
9 relief notice on each abstract or on an information sheet distributed with the abstract.  
10 The abstract or sheet must include the address and telephone number of the assessor  
11 below the ~~notice~~ notice required by this section. The notice must be in the form required  
12 by the Department of Revenue designed to notify the taxpayer of his or her rights and  
13 responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1,  
14 the homestead property tax circuit breaker provided in G.S. 105-277.1B, and the  
15 permanent residence tax deferral provided in G.S. 105-277.1C.

16  
17 ~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR~~  
18 ~~PERMANENTLY DISABLED PERSONS.~~

19  
20 ~~North Carolina excludes from property taxes a portion of the appraised value of a~~  
21 ~~permanent residence owned and occupied by North Carolina residents aged 65 or older~~  
22 ~~or totally and permanently disabled whose income does not exceed (assessor insert~~  
23 ~~amount). The amount of the appraised value of the residence that may be excluded from~~  
24 ~~taxation is the greater of twenty thousand dollars (\$20,000) or fifty percent (50%) of the~~  
25 ~~appraised value of the residence. Income means the owner's adjusted gross income as~~  
26 ~~determined for federal income tax purposes, plus all moneys received other than gifts or~~  
27 ~~inheritances received from a spouse, lineal ancestor or lineal descendant.~~

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

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

41 **SECTION 6.** This act is effective for taxes imposed for taxable years  
42 beginning on or after July 1, 2008.