

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 128*

Short Title: Review of Exempt Property.

(Public)

Sponsors: Senators Winner, Ballance, Goldston, Hunt, Odom, Raynor, and Shaw.

Referred to: Finance.

February 20, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE SYSTEMATIC REVIEW OF PROPERTY EXEMPTED OR EXCLUDED FROM PROPERTY TAXATION AND TO ALLOW PROPERTY THAT WAS ERRONEOUSLY EXEMPTED OR EXCLUDED TO BE TREATED AS DISCOVERED PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-282.1(a) is rewritten to read:

"(a) Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled thereto. Except as provided below, an owner claiming exemption or exclusion shall annually file an application for exemption or exclusion during the listing period. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. ~~If the property covered by the application is located within a municipality, that fact shall be shown on the application.~~ Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

(1) The United States government, the State of North Carolina and the counties and municipalities of the State are exempted from the requirement that owners file applications for exemption.

- 1 (2) Owners of the special classes of property excluded from taxation under
2 G.S. 105-275(5), (15), (16), (26), (31), (33), or (34), or exempted
3 under G.S. 105-278.2 are not required to file applications for the
4 exclusion or exemption of that property.
- 5 (3) After an owner of property entitled to exemption under G.S. ~~105-277.1,~~
6 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8
7 or exclusion under G.S. 105-275(3), (7), ~~(12) or (39)-(12), or (39),~~ G.S.
8 105-277.1, or G.S. 105-278 has applied for exemption or exclusion
9 and the exemption or exclusion has been approved, ~~such the owner~~
10 ~~shall not be~~ is not required to file ~~applications~~ an application in
11 subsequent years except in the following circumstances:
- 12 a. New or additional property is acquired or improvements are
13 added or removed, necessitating a change in the valuation of the
14 ~~property,~~ property; or
- 15 b. There is a change in the use of the property or the qualifications
16 or eligibility of the taxpayer necessitating a review of the
17 ~~exemption.~~ exemption or exclusion.
- 18 (4) After an owner of property entitled to exclusion under G.S. 105-277.10
19 has applied for the exclusion and the exclusion has been approved, the
20 owner is not required to apply for the exclusion in subsequent years so
21 long as the classified property, including classified property acquired
22 after the application is approved, is used or held for use directly in
23 manufacturing or processing as part of industrial machinery.
- 24 (5) Upon a showing of good cause by the applicant for failure to make a
25 timely application, an application for exemption or exclusion filed
26 after the close of the listing period may be approved by the
27 Department of Revenue, the board of equalization and review, the
28 board of county commissioners, or the governing body of a
29 municipality, as appropriate. An untimely application for exemption
30 or exclusion approved under this subdivision applies only to property
31 taxes levied by the county or municipality in the calendar year in
32 which the untimely application is filed."

33 Sec. 2. G.S. 105-296 is amended by adding a new subsection to read:

34 "(1) The assessor shall annually review at least one-eighth of the parcels in the
35 county exempted or excluded from taxation to verify that these parcels qualify for the
36 exemption or exclusion. By this method, the assessor shall review the eligibility of all
37 parcels exempted or excluded from taxation in an eight-year period. The assessor may
38 require the owner of exempt or excluded property to submit any information needed by
39 the assessor to verify that the property continues to qualify for the exemption or
40 exclusion."

41 Sec. 3. G.S. 105-312(a) is rewritten to read:

42 "(a) Definitions. – For purposes of this Subchapter:

- 43 (1) The phrase 'discovered property' ~~shall include property that was not~~
44 ~~listed by the taxpayer or any other person during a regular listing~~

1 period and also property that was listed but with regard to the value,
2 quantity, or other measurement of which the taxpayer made a
3 substantial understatement in listing, includes:

- 4 a. Property that was not listed during a listing period.
- 5 b. Property that was listed but the listing included a substantial
6 understatement.
- 7 c. Property that has been granted an exemption or exclusion from
8 taxation under an application for exemption or exclusion and
9 does not qualify for the exemption or exclusion.

10 (2) The phrase 'failure to list property' ~~shall include both the omission to~~
11 ~~list property during a regular listing period and the taxpayer's~~
12 ~~substantial understatement of value, quantity, or other measurement~~
13 ~~with regard to property listed, includes:~~

- 14 a. Failure to list property during a listing period.
- 15 b. A substantial understatement of listed property.
- 16 c. Failure to notify the assessor that property granted an
17 exemption or exclusion under an application for exemption or
18 exclusion does not qualify for the exemption or exclusion.

19 (3) The phrase 'to discover property' ~~shall refer to the determination that~~
20 ~~property has not been listed during a regular listing period and to the~~
21 ~~identification of the omitted item. For discoveries made after July 1,~~
22 ~~1971 and in future years, the phrase shall also refer to the~~
23 ~~determination that listed property was returned by the taxpayer with a~~
24 ~~substantial understatement of value, quantity, or other measurement.~~
25 means to determine that:

- 26 a. Property has not been listed during a listing period.
- 27 b. A taxpayer made a substantial understatement of listed
28 property.
- 29 c. Property was granted an exemption or exclusion and the
30 property does not qualify for an exemption or exclusion.

31 (4) The phrase 'substantial understatement' ~~as used in these definitions shall~~
32 ~~be interpreted to mean~~ means the omission of a material portion of the
33 value, quantity, or other measurement of taxable property; the
34 determination of materiality in each case shall be made by the
35 assessor, subject to the taxpayer's right to review of the determination
36 by the county board of equalization and review or board of
37 commissioners and appeal to the Property Tax Commission."

38 Sec. 4. This act is effective upon ratification.