

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 128\*  
Finance Committee Substitute Adopted 3/14/91

Short Title: Review of Exempt Property.

(Public)

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Sponsors:

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Referred to:

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February 20, 1991

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE SYSTEMATIC REVIEW OF PROPERTY  
2 EXEMPTED OR EXCLUDED FROM PROPERTY TAXATION AND TO  
3 ALLOW PROPERTY THAT WAS ERRONEOUSLY EXEMPTED OR  
4 EXCLUDED TO BE TREATED AS DISCOVERED PROPERTY.  
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 105-282.1(a) reads as rewritten:

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

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

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

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

44 Sec. 3. G.S. 105-273 reads as rewritten:

1 "§ 105-273. Definitions.

2 When used in this Subchapter (unless the context requires a different meaning):

- 3 (1) 'Abstract' means the document on which the property of a taxpayer is  
4 listed for ad valorem taxation and on which the appraised and assessed  
5 values of the property are recorded.
- 6 (2) 'Appraisal' means both the true value of property and the process by  
7 which true value is ascertained.
- 8 (3) 'Assessment' means both the tax value of property and the process by  
9 which the assessment is determined.
- 10 (4) Repealed by Session Laws 1973, c. 695, s. 15, effective January 1,  
11 1974.
- 12 (5) 'Collector' or 'tax collector' means any person charged with the duty of  
13 collecting taxes for a county or municipality.
- 14 (6) 'Corporation' includes nonprofit corporation and every type of  
15 organization having capital stock represented by shares.
- 16 (6a) 'Discovered property' includes all of the following:  
17 a. Property that was not listed during a listing period.  
18 b. Property that was listed but the listing included a substantial  
19 understatement.  
20 c. Property that has been granted an exemption or exclusion and  
21 does not qualify for the exemption or exclusion.
- 22 (6b) 'To discover property' means to determine any of the following:  
23 a. Property has not been listed during a listing period.  
24 b. A taxpayer made a substantial understatement of listed  
25 property.  
26 c. Property was granted an exemption or exclusion and the  
27 property does not qualify for an exemption or exclusion.
- 28 (7) 'Document' includes book, paper, record, statement, account, map,  
29 plat, film, picture, tape, object, instrument, and any other thing  
30 conveying information.
- 31 (7a) 'Failure to list property' includes all of the following:  
32 a. Failure to list property during a listing period.  
33 b. A substantial understatement of listed property.  
34 c. Failure to notify the assessor that property granted an  
35 exemption or exclusion under an application for exemption or  
36 exclusion does not qualify for the exemption or exclusion.
- 37 (8) 'Intangible personal property' means patents, copyrights, secret  
38 processes, formulae, good will, trademarks, trade brands, franchises,  
39 stocks, bonds, cash, bank deposits, notes, evidences of debt, leasehold  
40 interests in exempted real property, bills and accounts receivable, and  
41 other like property.
- 42 (8a) 'Inventories' means goods held for sale in the regular course of  
43 business by manufacturers and retail and wholesale merchants. As to  
44 manufacturers, the term includes raw materials, goods in process, and

1 finished goods, as well as other materials or supplies that are  
2 consumed in manufacturing or processing, or that accompany and  
3 become a part of the sale of the property being sold. The term also  
4 includes crops, livestock, poultry, feed used in the production of  
5 livestock and poultry, and other agricultural or horticultural products  
6 held for sale, whether in process or ready for sale. The term does not  
7 include fuel used in manufacturing or processing, nor does it include  
8 materials or supplies not used directly in manufacturing or processing.  
9 As to retail and wholesale merchants, the term includes, in addition to  
10 articles held for sale, packaging materials that accompany and become  
11 a part of the sale of the property being sold.

12 (9) 'List' or 'listing,' when used as a noun, means abstract.

13 (10) Repealed by Session Laws 1987, c. 43, s. 1, effective April 2, 1987.

14 (10a) 'Local tax official' includes a county assessor, an assistant county  
15 assessor, a member of a county board of commissioners, a member  
16 of a county board of equalization and review, a county tax collector,  
17 and the municipal equivalents of these officials.

18 (10b) 'Manufacturer' means a taxpayer who is regularly engaged in the  
19 mechanical or chemical conversion or transformation of materials or  
20 substances into new products for sale or in the growth, breeding,  
21 raising, or other production of new products for sale. The term does  
22 not include delicatessens, cafes, cafeterias, restaurants, and other  
23 similar retailers that are principally engaged in the retail sale of  
24 foods prepared by them for consumption on or off their premises.

25 (11) 'Municipal corporation' and 'municipality' mean city, town,  
26 incorporated village, sanitary district, rural fire protection district, rural  
27 recreation district, mosquito control district, hospital district,  
28 metropolitan sewerage district, watershed improvement district, or  
29 other district or unit of local government by or for which ad valorem  
30 taxes are levied.

31 (12) 'Person' and 'he' include any individual, trustee, executor,  
32 administrator, other fiduciary, corporation, unincorporated association,  
33 partnership, sole proprietorship, company, firm, or other legal entity.

34 (13) 'Real property,' 'real estate,' and 'land' mean not only the land itself,  
35 but also buildings, structures, improvements, and permanent fixtures  
36 thereon, and all rights and privileges belonging or in any wise  
37 appertaining thereto. These terms also means a manufactured home as  
38 defined in G.S. 143-143.9(6) if it is a multi-section residential structure  
39 (consisting of two or more sections); has the moving hitch, wheels, and  
40 axles removed; and is placed upon a permanent enclosed foundation  
41 on land owned by the owner of the manufactured home.

42 (13a) 'Retail Merchant' means a taxpayer who is regularly engaged in the  
43 sale of tangible personal property, acquired by a means other than

- 1 manufacture, processing, or producing by the merchant, to users or  
2 consumers.
- 3 (13b) 'Substantial understatement' means the omission of a material  
4 portion of the value, quantity, or other measurement of taxable  
5 property. The determination of materiality in each case shall be  
6 made by the assessor, subject to the taxpayer's right to review of the  
7 determination by the county board of equalization and review or  
8 board of commissioners and appeal to the Property Tax  
9 Commission.
- 10 (14) 'Tangible personal property' means all personal property that is not  
11 intangible and that is not permanently affixed to real property.
- 12 (15) 'Tax' and 'taxes' include the principal amount of any tax, costs,  
13 penalties, and interest imposed upon property tax or dog license tax.
- 14 (16) 'Taxing unit' means a county or municipality authorized to levy ad  
15 valorem property taxes.
- 16 (17) 'Taxpayer' means any person whose property is subject to ad valorem  
17 property taxation by any county or municipality and any person who,  
18 under the terms of this Subchapter, has a duty to list property for  
19 taxation.
- 20 (18) 'Valuation' means appraisal and assessment.
- 21 (19) 'Wholesale Merchant' means a taxpayer who is regularly engaged in  
22 the sale of tangible personal property, acquired by a means other than  
23 manufacture, processing, or producing by the merchant, to other retail  
24 or wholesale merchants for resale or to manufacturers for use as  
25 ingredient or component parts of articles being manufactured for sale."
- 26 Sec. 4. G.S. 105-312(a) is repealed.
- 27 Sec. 5. This act is effective upon ratification.