GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 35

Short Title: Index Homestead Exemption. (Public)

Sponsors: Senators Speed, Cochrane, Carpenter, Martin of Pitt, Richardson; Plyler, Odom, Albertson, Ward, Tally, Soles, Smith, Forrester, and Allran.

Referred to: Finance.

February 3, 1993

A BILL TO BE ENTITLED

AN ACT TO INDEX THE AMOUNT OF THE PROPERTY TAX HOMESTEAD EXEMPTION AND THE AMOUNT OF THE INCOME LIMIT FOR ELIGIBILITY FOR THE EXEMPTION.

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.

(a) Exclusion. – ~~The following class of property~~ Real property or a manufactured home owned and occupied by a qualifying owner as the owner's permanent residence is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and ~~shall be assessed for taxation as follows.~~ is taxable in accordance with this section. The amount of the appraised value of a permanent residence that equals the index amount for the county in which the residence is located is excluded from taxation. To qualify for the benefit of this section, an owner must meet all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Be a North Carolina resident.

(2) Be at least 65 years old or totally and permanently disabled.

(3) Have an income for the immediately preceding calendar year of not more than the income eligibility limit.

(a1) Amount Excluded. – The index amount is fifteen thousand dollars ($15,000) for each county until the county's first horizontal adjustment or reappraisal of real property that is effective on or after January 1, 1994. Upon the effective date of a county's first horizontal adjustment or reappraisal effective on or after January 1, 1994, the index amount for that county is the previous year's amount plus or minus a percentage of this amount that equals the average percentage increase or decrease in the appraised value of real property in the county resulting from the horizontal adjustment or reappraisal, rounded to the nearest one hundred dollars ($100.00). The index amount effective upon a county's horizontal adjustment or reappraisal remains the county's index amount until the county's next horizontal adjustment of residential property or reappraisal.

The Department of Revenue shall calculate a new index amount to be in effect in a county when a horizontal adjustment or reappraisal becomes effective in the county, and shall notify the assessor of the county by April 1 of the new amount to be in effect for the taxable year beginning the following July 1. The Department shall use the sales assessment ratio studies made under G.S. 105-289(h) to determine the percentage increase or decrease in real property values resulting from a horizontal adjustment or reappraisal.

~~The first twelve thousand dollars ($12,000) in assessed value of real property, or a mobile home, owned by a North Carolina resident and occupied by the owner as his permanent residence shall not be assessed for taxation if, as of January 1 of the year for which the benefit of this section is claimed:~~

~~(1) The owner is either 65 years of age or older or is totally and permanently disabled; and~~

~~(2) The owner's disposable income for the preceding calendar year did not exceed eleven thousand dollars ($11,000); and~~

~~(3) The owner makes the required application.~~

~~For married applicants residing with their spouses, the disposable income of both spouses must be included, whether or not the property is in both names.~~

(a2) Income Limit. – The income eligibility limit is the same for every county. Until January 1, 1994, the limit is eleven thousand dollars ($11,000). For taxable years beginning on or after January 1, 1994, the limit is the amount for the preceding year increased by the same percentage of this amount as the percentage by which the federal government increased the benefits under Titles II and XVI of the Social Security Act during the calendar year preceding the year in which the determination of a new income limit is made, rounded to the nearest one hundred dollars ($100.00). On or before July 1 of each year, the Department of Revenue shall determine the income eligibility amount to be in effect for the taxable year beginning the following January 1 and shall notify the assessor of each county of the amount to be in effect for that taxable year.

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

(1) Code. – The Internal Revenue Code, as defined in G.S. 105-134.1.

(1a) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all tax-exempt interest and dividends. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.

(1b) ~~An 'owner' of property means a~~ Owner. – A person who holds legal or equitable title to the property, ~~either individually or~~ whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of a life estate or an estate for the life of another. Property owned and occupied by husband and wife as tenants by the entirety ~~shall be~~ is entitled to the full benefit of this classification notwithstanding that only one of them meets the age or disability requirements ~~herein provided~~of this section. ~~If the residence is a mobile~~ A manufactured home ~~and is~~ jointly owned by husband and ~~wife, it shall be treated as~~ wife is considered property held by the entirety. When property is owned by two or more persons other than husband and wife and one or more of ~~such~~ the owners qualifies for this classification, each qualifying owner ~~shall be~~ is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event ~~shall~~ may the total exclusion allowed to a qualifying residence ~~(including the household personal property therein) exceed twelve thousand dollars ($12,000).~~ exceed the index amount.

~~(2)~~ " ~~Disposable income~~" ~~means adjusted gross income as defined for North Carolina income tax purposes in G.S. 105-141.3 plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestors, or lineal descendants.~~

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

(3) ~~'Permanent residence' means legal residence.~~ Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex or a ~~mobile~~ manufactured home. Notwithstanding the occupancy requirements of this classification, an otherwise qualified applicant ~~shall~~ does not lose the benefit of the 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 applicant's spouse or other dependent.

(4) ~~A 'totally and permanently disabled person' means one who~~ Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment ~~which~~ that substantially precludes him or her from obtaining gainful employment and ~~such impairment~~ appears reasonably certain to continue without substantial improvement throughout his ~~lifetime.~~ or her life.

(c) Application. ~~Applications for the exclusions provided by this section are to be filed during the regular listing period, but, shall~~ An application for the exclusion provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through April 15 ~~of the calendar~~ preceding the tax year for which ~~they are to be effective.~~ the exclusion is claimed. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each ~~such~~ owner shall apply separately for his or her proportionate share of the exclusion.

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

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

Sec. 2. G.S. 105-309(f) reads as rewritten:

"(f) The following information shall appear on each abstract, or on an information sheet distributed with the abstract. (The abstract or sheet must include the address and telephone number of the assessor below the notice required by this subsection):

'PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS.

North Carolina excludes from property taxes ~~the first twelve thousand dollars ($12,000)~~ (assessor insert amount, if amount known, or words "a portion", if amount not known) of the ~~in assessed~~ appraised value of certain property owned by North Carolina residents aged 65 or older or totally and permanently disabled whose ~~disposable~~ income does not exceed ~~eleven thousand dollars ($11,000).~~ (assessor insert amount). The exclusion covers real property, or a ~~mobile~~ manufactured home, occupied by the owner as his or her permanent residence. ~~Disposable income includes all moneys received other than gifts or inheritances received from a spouse, lineal ancestors, or lineal descendants.~~ Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all tax exempt interest and dividends. For married applicants residing with their spouses, the income of both spouses must be included.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your ~~disposable~~ income in (assessor insert previous year) was above ~~eleven thousand dollars ($11,000),~~ (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the ~~exemption~~ exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before April 15 will result in penalties and interest.

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

Sec. 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1993.