

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 509*

Short Title: Rev Laws Tech, Clarifying, & Admin. Changes. (Public)

Sponsors: Senators Hartsell, Brunstetter, Clodfelter, and Hoyle.

Referred to: Finance.

March 11, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES
3 TO THE TAX AND RELATED LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-41(a) reads as rewritten:

6 "(a) Every individual in this State who practices a profession or engages in a business
7 and is included in the list below must obtain from the Secretary a statewide license for the
8 privilege of practicing the profession or engaging in the business. A license required by this
9 section is not transferable to another person. The tax for each license is fifty dollars (\$50.00).

10 ...

11 (12) A home inspector or an associate home inspector licensed under Article 9F
12 of Chapter 143 of the General Statutes."

13 **SECTION 2.** G.S. 105-130.4(h) reads as rewritten:

14 "(h) The income less related expenses from any other ~~nonbusiness~~-activities producing
15 nonapportionable income or investments not otherwise specified in this section is allocable to
16 this State if the business situs of the activities or investments are located in this State."

17 **SECTION 3.** G.S. 105-130.18 reads as rewritten:

18 "§ 105-130.18. **Failure to file returns; supplementary returns.**

19 If the Secretary determines that a corporation has failed to file a return or to include in a
20 return filed, either intentionally or through error, items of taxable income, the Secretary may
21 require from the corporation a return or supplementary return, under affirmation, of all the
22 items of income that the corporation received during the year for which the return is made,
23 whether or not taxable under this Part. If from a supplementary return or otherwise the
24 Secretary finds that any items of income, taxable under this Part, have been omitted from the
25 original return, that any items returned as taxable are not taxable, or that any item of taxable
26 income is overstated or understated, the Secretary may require that the item be disclosed under
27 affirmation of the corporation, and be added to or deducted from the original return. The filing
28 of a supplementary return and the correction of the original return does not relieve the
29 corporation from any of the penalties under G.S. 105-236. The Secretary may proceed under
30 the provisions of G.S. ~~105-241.1, 105-241.9,~~ whether or not the Secretary requires a return or a
31 supplementary return under this section."

32 **SECTION 4.** Section 4(b) of S.L. 2008-134 reads as rewritten:

33 "**SECTION 4.(b)** This section is effective for taxable years beginning on or after
34 January 1, ~~2009-2008.~~"

35 **SECTION 5.(a)** G.S. 105-228.5B reads as rewritten:

36 "§ 105-228.5B. (Effective until June 30, 2010) **Proceeds credited to High Risk Pool.**



1 ~~Within 75 days after the end of each fiscal year, By November 1 of each year,~~ the State
2 Treasurer must transfer from the General Fund to the North Carolina Health Insurance Risk
3 Pool Fund established in G.S. 58-50-225 an amount equal to the growth in net revenue from the
4 tax applied to gross premiums under G.S. 105-228.5(d)(2). The growth in revenue from this tax
5 is the difference between the amount of revenue collected during the preceding fiscal year on
6 premiums taxed under that subdivision less \$475,545,413, which is the amount of revenue
7 collected during fiscal year 2006-2007 on premiums taxed under that subdivision. The
8 Treasurer must draw the amount required under this section from revenue collected on
9 premiums taxed under that subdivision."

10 **SECTION 5.(b)** G.S. 105-228.5B, as amended by S.L. 2008-118, reads as
11 rewritten:

12 "**§ 105-228.5B. (Effective June 30, 2010) Distribution of part of tax proceeds to High Risk**
13 **Pool.**

14 ~~Within 75 days after the end of each fiscal year, By November 1 of each year,~~ the State
15 Treasurer must transfer from the General Fund to the North Carolina Health Insurance Risk
16 Pool Fund established in G.S. 58-50-225 an amount equal to thirty percent (30%) of the growth
17 in revenue from the tax applied to gross premiums under G.S. 105-228.5(d)(2). The growth in
18 revenue from this tax is the difference between the amount of revenue collected during the
19 preceding fiscal year on premiums taxed under that subdivision less \$475,545,413, which is the
20 amount of revenue collected during fiscal year 2006-2007 on premiums taxed under that
21 subdivision. The Treasurer must draw the amount required under this section from revenue
22 collected on premiums taxed under that subdivision."

23 **SECTION 5.(c)** Subsections (a) and (c) of this section are effective when they
24 become law. Subsection (b) of this section becomes effective June 30, 2010.

25 SALES TAX CHANGES

26 **SECTION 6.(a)** G.S. 105-164.14(j)(2)n. reads as rewritten:

27 "n. Solar electricity generating materials manufacturing. Solar ~~energy~~
28 electricity generating materials manufacturing means the
29 development and production of one or more of the following:

- 30 1. Photovoltaic materials or modules used in producing
31 electricity.
- 32 2. Polymers or polymer films primarily intended for
33 incorporation into photovoltaic materials or modules used in
34 producing electricity."
35

36 **SECTION 6.(b)** This section is effective July 1, 2008, and applies to purchases
37 made on or after that date.

38 **SECTION 7.** G.S. 105-187.51C(c) reads as rewritten:

39 "(c) Forfeiture. – If the required level of investment to qualify as an eligible datacenter is
40 not timely made, then the rate provided under this section is forfeited. If the required level of
41 investment is timely made but any eligible machinery and equipment is not located and used at
42 an eligible datacenter, then the rate provided for that machinery and equipment under this
43 subdivision is forfeited. A taxpayer that forfeits a rate under this subdivision is liable for all
44 past sales and use taxes avoided as a result of the forfeiture, computed at the combined general
45 rate from the date the taxes would otherwise have been due, plus interest at the rate established
46 under G.S. ~~105-241.1(i)~~-105-241.21. If the forfeiture is triggered due to the lack of a timely
47 investment required by this section, then interest is computed from the date the sales or use tax
48 would otherwise have been due. For all other forfeitures, interest is computed at the combined
49 general rate from the time as of which the machinery or equipment was put to a disqualifying
50 use. A credit is allowed against the sales or use tax owed as a result of the forfeiture provisions
51 of this subsection for privilege taxes paid pursuant to this section. For purposes of applying this

1 credit, the fact that payment of the privilege tax occurred in a period outside the statute of
 2 limitations provided under G.S. ~~405-266-105-241.6~~ shall not be considered. Interest shall not be
 3 computed against the amount of taxes offset by this credit. The past taxes and interest are due
 4 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the
 5 due date is subject to the provisions of G.S. 105-236."

7 **PROPERTY TAX CHANGES**

8 **SECTION 8.(a)** G.S. 105-273(6) reads as rewritten:

9 "(6) Corporation. – An organization having capital stock represented by shares or
 10 an incorporated, nonprofit organization."

11 **SECTION 8.(b)** G.S. 105-277.1B(i) reads as rewritten:

12 "(i) Disqualifying Events. – Each of the following constitutes a disqualifying event:

13 (1) The owner transfers the residence. Transfer of the residence is not a
 14 disqualifying event if (i) the owner transfers the residence to a co-owner of
 15 the residence or, as part of a divorce proceeding, to his or her spouse and (ii)
 16 that individual occupies or continues to occupy the property as his or her
 17 permanent residence.

18 (2) The owner dies. Death of the owner is not a disqualifying event if (i) the
 19 owner's share passes to a co-owner of the residence or to his or her spouse
 20 ~~residence~~ and (ii) that individual occupies or continues to occupy the
 21 property as his or her permanent residence.

22 (3) The owner ceases to use the property as a permanent residence."

23 **SECTION 9.(a)** G.S. 105-282.1(a)(1) reads as rewritten:

24 "(1) No application required. – Owners of the following exempt or excluded
 25 property do not need to file an application for the exemption or exclusion to
 26 be entitled to receive it:

27 a. Property exempt from taxation under G.S. 105-278.1 or
 28 G.S. 105-278.2.

29 b. Special classes of property excluded from taxation under
 30 G.S. 105-275(15), (16), (26), (31), (32a), (33), (34), (37), (40), ~~or~~
 31 ~~(42)-(42), or (44).~~

32 c. Property classified for taxation at a reduced valuation under
 33 G.S. 105-277(g) or G.S. 105-277.9."

34 **SECTION 9.(b)** This section is effective for taxes imposed for taxable years
 35 beginning on or after July 1, 2008.

36 **SECTION 10.** G.S. 105-275 reads as rewritten:

37 "**§ 105-275. Property classified and excluded from the tax base.**

38 The following classes of property are ~~hereby~~ designated special classes under ~~authority of~~
 39 Article V, Sec. 2(2), of the North Carolina Constitution and ~~shall not be listed, appraised,~~
 40 ~~assessed, or taxed~~ are excluded from tax as provided in this section if they satisfy the
 41 application requirements in G.S. 105-282.1.

42 "...."

43 **SECTION 11.(a)** G.S. 105-277.1(d) reads as rewritten:

44 "**§ 105-277.1. (Effective for taxes imposed for taxable years beginning before July 1, 2009)**
 45 **Property tax homestead exclusion.**

46 "..."

47 (d) Multiple Ownership. – A permanent residence owned and occupied by husband and
 48 wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding
 49 that only one of them meets the age or disability requirements of this section. When a
 50 permanent residence is owned and occupied by two or more persons other than husband and
 51 wife as tenants by the entirety and one or more of the owners qualifies for this exclusion, each

1 qualifying owner is entitled to the full amount of the exclusion not to exceed his or her
2 proportionate share of the valuation of the property. No part of an exclusion available to one
3 co-owner may be claimed by any other co-owner and in no event may the total exclusion
4 allowed for a permanent residence exceed the exclusion amount provided in this section."

5 **SECTION 11.(b)** G.S. 105-277.1(d) and (e) read as rewritten:

6 "**§ 105-277.1. (Effective for taxes imposed for taxable years beginning on or after July 1,**
7 **2009) Elderly or disabled property tax homestead exclusion.**

8 ...

9 (d) ~~Ownership by Spouses.~~ Tenants by the Entirety. – A permanent residence owned and
10 occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this
11 exclusion notwithstanding that only one of them meets the age or disability requirements of this
12 section.

13 (e) Other Multiple Owners. – This subsection applies to co-owners who are not
14 husband and wife. ~~wife as tenants by the entirety.~~ Each co-owner of a permanent residence must
15 apply separately for the exclusion allowed under this section.

16 When one or more co-owners of a permanent residence qualify for the exclusion allowed
17 under this section and none of the co-owners qualifies for the exclusion allowed under
18 G.S. 105-277.1C, each co-owner is entitled to the full amount of the exclusion allowed under
19 this section. The exclusion allowed to one co-owner may not exceed the co-owner's
20 proportionate share of the valuation of the property, and the amount of the exclusion allowed to
21 all the co-owners may not exceed the exclusion allowed under this section.

22 When one or more co-owners of a permanent residence qualify for the exclusion allowed
23 under this section and one or more of the co-owners qualify for the exclusion allowed under
24 G.S. 105-277.1C, each co-owner who qualifies for the exclusion under this section is entitled to
25 the full amount of the exclusion. The exclusion allowed to one co-owner may not exceed the
26 co-owner's proportionate share of the valuation of the property, and the amount of the exclusion
27 allowed to all the co-owners may not exceed the greater of the exclusion allowed under this
28 section and the exclusion allowed under G.S. 105-277.1C."

29 **SECTION 12.** G.S. 105-277.1B reads as rewritten:

30 "**§ 105-277.1B. (Effective for taxes imposed for taxable years beginning on or after July 1,**
31 **2009) Property tax homestead circuit breaker.**

32 (a) Classification. – A permanent residence owned and occupied by a qualifying owner
33 is designated a special class of property under Article V, Section 2(2) of the North Carolina
34 Constitution and is taxable in accordance with this section.

35 (b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.
36 'Deferred taxes' means the principal amount of tax deferred under this section.

37 (c) Income Eligibility Limit. – The income eligibility limit provided in
38 G.S. 105-277.1(a2) applies to this section.

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

- 43 (1) The owner has an income for the preceding calendar year of not more than
44 one hundred fifty percent (150%) of the income eligibility limit specified in
45 subsection (c) of this section.
- 46 (2) The owner has ~~owned and~~ occupied the property as a permanent residence
47 for at least five ~~years.~~ years and has owned the property as a permanent
48 residence for at least five consecutive years.
- 49 (3) The owner is at least 65 years of age or totally and permanently disabled.
- 50 (4) The owner is a North Carolina resident.

1 (e) Multiple Owners. – A permanent residence owned and occupied by husband and
 2 wife as tenants by the entirety is entitled to the full benefit of the property tax homestead circuit
 3 breaker notwithstanding that only one of them meets the length of occupancy ~~occupat~~
 4 requirement and the age or disability requirement of this section. When a permanent residence
 5 is owned and occupied by two or more persons other than husband and ~~wife,~~ wife as tenants by
 6 the entirety, no property tax homestead circuit breaker is allowed unless all of the owners
 7 qualify and elect to defer taxes under this section.

8 (f) Tax Limitation. – A qualifying owner may defer the portion of tax imposed on his
 9 or her permanent residence if it exceeds the percentage of the qualifying owner's income set out
 10 in the table in this subsection. If a permanent residence is subject to tax by more than one
 11 taxing unit and the total tax liability exceeds the tax limit imposed by this section, then both the
 12 taxes due under this section and the taxes deferred under this section must be apportioned
 13 among the taxing units based upon the ratio each taxing unit's tax rate bears to the total tax rate
 14 of all units.

15 Income Over	Income Up To	Percentage
16 -0-	Income Eligibility Limit	4.0%
17 Income Eligibility Limit	150% of Income Eligibility Limit	5.0%

18 (g) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of
 19 this circuit breaker because of a temporary absence from his or her permanent residence for
 20 reasons of health, or because of an extended absence while confined to a rest home or nursing
 21 home, so long as the residence is unoccupied or occupied by the owner's spouse or other
 22 dependent.

23 (h) Deferred Taxes. – The difference between the taxes due under this section and the
 24 taxes that would have been payable in the absence of this section are a lien on the real property
 25 of the taxpayer as provided in G.S. 105-355(a). The difference in taxes for the three fiscal years
 26 preceding the ~~current~~ tax year in which a disqualifying event occurs shall be carried forward in
 27 the records of the taxing unit or units as deferred taxes. The deferred taxes are due and payable
 28 in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral because
 29 of the occurrence of a disqualifying event as provided in subsection (i) of this section. On or
 30 before September 1 of each year, the collector shall ~~notify each residence owner to whom a tax~~
 31 ~~deferral has previously been granted of the accumulated sum of deferred taxes and interest,~~
 32 send to the mailing address of a residence on which taxes have been deferred a notice stating the
 33 amount of deferred taxes and interest that are due and payable upon the occurrence of a
 34 disqualifying event.

- 35 (i) Disqualifying Events. – Each of the following constitutes a disqualifying event:
- 36 (1) The owner transfers the residence. Transfer of the residence is not a
 37 disqualifying event if (i) the owner transfers the residence to a co-owner of
 38 the residence or, as part of a divorce proceeding, to his or her spouse and (ii)
 39 that individual occupies or continues to occupy the property as his or her
 40 permanent residence.
 - 41 (2) The owner dies. Death of the owner is not a disqualifying event if (i) the
 42 owner's share passes to a co-owner of the residence or to his or her spouse
 43 ~~residence~~ and (ii) that individual occupies or continues to occupy the
 44 property as his or her permanent residence.
 - 45 (3) The owner ceases to use the property as a permanent residence.

46 (j) Gap in Deferral. – If an owner of a residence on which taxes have been deferred
 47 under this section is not eligible for continued deferral for a tax year, the three years for which
 48 the deferred taxes deferred from the prior tax years are carried forward are not due and payable
 49 ~~but are carried forward~~ until a disqualifying event occurs. If the owner of the residence
 50 qualifies for deferral after one or more years in which he or she did not qualify for deferral, the

1 years in which the owner did not qualify are disregarded in determining the three years for
2 which the deferred taxes are carried forward.

3 (k) **(Repealed effective for taxes imposed for taxable years beginning on or after**
4 **July 1, 2008)** Prepayment. – All or part of the deferred taxes and accrued interest may be paid
5 to the tax collector at any time. Any partial payment is applied first to accrued interest. A
6 residence owner to whom a tax deferral has previously been granted may revoke the application
7 for deferral at any time by notifying the assessor in writing.

8 (l) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by
9 the owner of a residence subject to a mortgage or deed of trust does not acquire a right to
10 foreclose as a result of the election. Except for requirements dictated by federal law or
11 regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the
12 owner from deferring taxes on property under this section is void.

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

15 (n) Application. – An application for property tax relief provided by this section should
16 be filed during the regular listing period, but may be filed and must be accepted at any time up
17 to and through June 1 preceding the tax year for which the relief is claimed. Persons may apply
18 for this property tax relief by entering the appropriate information on a form made available by
19 the assessor under G.S. 105-282.1."

20 **SECTION 13.** G.S. 105-277.1C reads as rewritten:

21 "**§ 105-277.1C. (Effective for taxes imposed for taxable years beginning on or after July 1,**
22 **2009) Disabled veteran property tax homestead exclusion.**

23 (a) Exclusion. – A permanent residence owned and occupied by an owner who is a
24 North Carolina resident and who is an honorably discharged disabled veteran or the unmarried
25 surviving spouse of an honorably discharged disabled veteran is designated a special class of
26 property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in
27 accordance with this section. The first forty-five thousand dollars (\$45,000) of appraised value
28 of the residence is excluded from taxation. An owner who receives an exclusion under this
29 section may not receive other property tax relief.

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

31 (1) Disabled veteran. – A veteran who, as of January 1 preceding the taxable
32 year for which the exclusion allowed by this section is claimed, ~~receives~~
33 received benefits under 38 U.S.C. § 2101 or has a veteran's disability
34 certification.

35 (2) Owner. – Defined in G.S. 105-277.1.

36 (3) Permanent residence. – Defined in G.S. 105-277.1.

37 (4) Property tax relief. – Defined in G.S. 105-277.1.

38 (5) Veteran. – A veteran of any branch of the Armed Forces of the United
39 States.

40 (6) Veteran's disability certification. – A certification by the United States
41 Department of Veterans Affairs or another federal agency that a veteran has
42 a permanent total disability that is service-connected.

43 (c) Temporary Absence. – An owner does not lose the benefit of this exclusion because
44 of a temporary absence from his or her permanent residence for reasons of health or because of
45 an extended absence while confined to a rest home or nursing home, so long as the residence is
46 unoccupied or occupied by the owner's spouse or other dependent.

47 (d) ~~Ownership by Spouses.~~ Tenants by the Entirety. – A permanent residence owned and
48 occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this
49 exclusion notwithstanding that only one of them meets the requirements of this section.

1 (e) Other Multiple Owners. – This subsection applies to co-owners who are not
2 husband and ~~wife~~wife as tenants by the entirety. Each co-owner of a permanent residence must
3 apply separately for the exclusion allowed under this section.

4 When one or more co-owners of a permanent residence qualify for the exclusion allowed
5 under this section and none of the co-owners qualifies for the exclusion allowed under
6 G.S. 105-277.1, each co-owner is entitled to the full amount of the exclusion allowed under this
7 section. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate
8 share of the valuation of the property, and the amount of the exclusion allowed to all the
9 co-owners may not exceed the exclusion allowed under this section.

10 When one or more co-owners of a permanent residence qualify for the exclusion allowed
11 under this section and one or more of the co-owners qualify for the exclusion allowed under
12 G.S. 105-277.1, each co-owner who qualifies for the exclusion allowed under this section is
13 entitled to the full amount of the exclusion. The exclusion allowed to one co-owner may not
14 exceed the co-owner's proportionate share of the valuation of the property, and the amount of
15 the exclusion allowed to all the co-owners may not exceed the greater of the exclusion allowed
16 under this section and the exclusion allowed under G.S. 105-277.1.

17 (f) Application. – An application for the exclusion allowed under this section should be
18 filed during the regular listing period, but may be filed and must be accepted at any time up to
19 and through June 1 preceding the tax year for which the exclusion is claimed. An applicant for
20 an exclusion under this section must establish eligibility for the exclusion by providing a copy
21 of the veteran's disability certification or evidence of benefits received under 38 U.S.C. §
22 2101."

23 **SECTION 14.** G.S. 105-282.1(a) reads as rewritten:

24 "(a) Application. – Every owner of property claiming exemption or exclusion from
25 property taxes under the provisions of this Subchapter has the burden of establishing that the
26 property is entitled to it. If the property for which the exemption or exclusion is claimed is
27 appraised by the Department of Revenue, the application shall be filed with the Department.
28 Otherwise, the application shall be filed with the assessor of the county in which the property is
29 situated. An application must contain a complete and accurate statement of the facts that entitle
30 the property to the exemption or exclusion and must indicate the municipality, if any, in which
31 the property is located. Each application filed with the Department of Revenue or an assessor
32 shall be submitted on a form approved by the Department. Application forms shall be made
33 available by the assessor and the Department, as appropriate.

34 Except as provided below, an owner claiming an exemption or exclusion from property
35 taxes must file an application for the exemption or exclusion annually during the listing period.

- 36 (1) No application required. – Owners of the following exempt or excluded
37 property do not need to file an application for the exemption or exclusion to
38 be entitled to receive it:
- 39 a. Property exempt from taxation under G.S. 105-278.1 or
40 G.S. 105-278.2.
 - 41 b. Special classes of property excluded from taxation under
42 G.S. 105-275(15), (16), (26), (31), (32a), (33), (34), (37), (40), ~~or~~
43 ~~(42)-(42), or (44)~~.
 - 44 c. Property classified for taxation at a reduced valuation under
45 G.S. 105-277(g) or G.S. 105-277.9.

- 46 (2) **(Effective for taxes imposed for taxable years beginning before July 1,**
47 **2009)** Single application required. – An owner of one or more of the
48 following properties eligible to be exempted or excluded from taxation must
49 file an application for exemption or exclusion to receive it. Once the
50 application has been approved, the owner does not need to file an application
51 in subsequent years unless new or additional property is acquired or

1 improvements are added or removed, necessitating a change in the valuation
2 of the property, or there is a change in the use of the property or the
3 qualifications or eligibility of the taxpayer necessitating a review of the
4 exemption or exclusion:

- 5 a. Property exempted from taxation under G.S. 105-278.3, 105-278.4,
6 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
7 b. Special classes of property excluded from taxation under
8 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),
9 (36), (38), (39), ~~or (41)(41)~~, or (45) or under G.S. 131A-21.
10 c. Special classes of property classified for taxation at a reduced
11 valuation under G.S. 105-277(h), 105-277.1, 105-277.10,
12 105-277.13, 105-278.
13 d. Property owned by a nonprofit homeowners' association but where
14 the value of the property is included in the appraisals of property
15 owned by members of the association under G.S. 105-277.8.

- 16 (2) **(Effective for taxes imposed for taxable years beginning on or after July**
17 **1, 2009 and before July 1, 2010)** Single application required. – An owner of
18 one or more of the following properties eligible for a property tax benefit
19 must file an application for the benefit to receive it. Once the application has
20 been approved, the owner does not need to file an application in subsequent
21 years unless new or additional property is acquired or improvements are
22 added or removed, necessitating a change in the valuation of the property, or
23 there is a change in the use of the property or the qualifications or eligibility
24 of the taxpayer necessitating a review of the benefit.

- 25 a. Property exempted from taxation under G.S. 105-278.3, 105-278.4,
26 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
27 b. Special classes of property excluded from taxation under
28 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),
29 (36), (38), (39), ~~or (41)(41)~~, or (45) or under G.S. 131A-21.
30 c. Special classes of property classified for taxation at a reduced
31 valuation under G.S. 105-277(h), 105-277.1, 105-277.1C,
32 105-277.10, 105-277.13, 105-277.14, or 105-278.
33 d. Property owned by a nonprofit homeowners' association but where
34 the value of the property is included in the appraisals of property
35 owned by members of the association under G.S. 105-277.8.
36 e. Repealed by Session Laws 2008-35, s. 1.2, effective for taxes
37 imposed for taxable years beginning on or after July 1, 2008.

- 38 (2) **(Effective for taxes imposed for taxable years beginning on or after July**
39 **1, 2010)** Single application required. – An owner of one or more of the
40 following properties eligible for a property tax benefit must file an
41 application for the benefit to receive it. Once the application has been
42 approved, the owner does not need to file an application in subsequent years
43 unless new or additional property is acquired or improvements are added or
44 removed, necessitating a change in the valuation of the property, or there is a
45 change in the use of the property or the qualifications or eligibility of the
46 taxpayer necessitating a review of the benefit.

- 47 a. Property exempted from taxation under G.S. 105-278.3, 105-278.4,
48 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
49 b. Special classes of property excluded from taxation under
50 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),
51 (36), (38), (39), ~~or (41)(41)~~, or (45) or under G.S. 131A-21.

- 1 c. Special classes of property classified for taxation at a reduced
 2 valuation under G.S. 105-277(h), 105-277.1, 105-277.1C,
 3 105-277.10, 105-277.13, ~~105-278, or 105-277.15-105-277.14,~~
 4 105-277.15, or 105-278.
- 5 d. Property owned by a nonprofit homeowners' association but where
 6 the value of the property is included in the appraisals of property
 7 owned by members of the association under G.S. 105-277.8.
- 8 e. Repealed by Session Laws 2008-35, s. 1.2, effective for taxes
 9 imposed for taxable years beginning on or after July 1, 2008."

10 **SECTION 15.** G.S. 105-277.14(d) is repealed.

11 **SECTION 16.** G.S. 105-361(a) reads as rewritten:

12 "(a) Duty to Furnish a Certificate. – On the request of any of the persons prescribed in
 13 subdivision (a)(1), below, and upon the condition prescribed by subdivision (a)(2), below, the
 14 tax collector shall furnish a written certificate stating the amount of any taxes and special
 15 assessments owed for the current year and for any prior years in his hands for collection
 16 ~~(together with any penalties, interest, and costs accrued thereon) including the amount due~~
 17 ~~under G.S. 105-277.4(e) if the property should lose its eligibility for the benefit of classification~~
 18 ~~under G.S. 105-277.2 et seq. that are a lien on a parcel of real property in the taxing unit years.~~
 19 The certificate shall include deferred taxes that are due and payable because of the occurrence
 20 of a disqualifying event.

21 (1) Who May Make Request. – Any of the following persons shall be entitled to
 22 request the certificate:

- 23 a. An owner of the real property;
 24 b. An occupant of the real property;
 25 c. A person having a lien on the real property;
 26 d. A person having a legal interest or estate in the real property;
 27 e. A person or firm having a contract to purchase or lease the property
 28 or a person or firm having contracted to make a loan secured by the
 29 property;
 30 f. The authorized agent or attorney of any person described in
 31 subdivisions (a)(1)a through e above."
 32

33 OCCUPANCY TAX CHANGES

34 **SECTION 17.** Section 1 of S.L. 2008-33 reads as rewritten:

35 "**SECTION 1.** Chapter 1055 of the 1983 Session ~~Laws~~-Laws, as amended by Section 21(e)
 36 of S.L. 2007-527, reads as rewritten:

37 'Section 1. Levy of Tax. Occupancy Tax. –

38 (a) Authorization and Scope. – The Cherokee County Board of Commissioners may ~~by~~
 39 ~~resolution, after not less than 10 days' public notice and after a public hearing held pursuant~~
 40 ~~thereto, levy a room occupancy and tourism development tax.~~

41 (b) ~~Collection of the tax, and liability therefor, shall begin and continue only on and~~
 42 ~~after the first day of a calendar month set by the Cherokee County Board of Commissioners in~~
 43 ~~the resolution levying the tax, which in no case may be earlier than the first day of the second~~
 44 ~~succeeding calendar month after the date of adoption of the resolution.~~

45 ~~Sec. 2. Occupancy Tax.~~

46 (a) ~~The county room occupancy and tourism development tax that may be levied under~~
 47 ~~this act shall be a percentage tax of three percent (3%) of the gross receipts derived from the~~
 48 ~~rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn,~~
 49 ~~tourist camp, or other similar place within the county now that is subject to the three percent~~
 50 ~~(3%) sales tax imposed by the State under G.S. 105-164.4(3). 105-164.4(a)(3). During the first~~
 51 ~~year in which a tax levied under this act is in effect, the tax shall be three percent (3%) of the~~

1 gross receipts derived from the rental of taxable accommodations in the county. Thereafter, the
2 rate of tax shall continue to be three percent (3%) unless the Cherokee County Board of
3 Commissioners, by resolution, adopts a rate of less than three percent (3%). A change in the
4 occupancy tax rate adopted by the board of commissioners becomes effective the first day of
5 the second succeeding calendar month following the date of adoption of the resolution. The
6 Cherokee County Board of Commissioners may not change the occupancy tax rate more than
7 once a year.

8 (b) The occupancy tax is in addition to any State or local sales tax. This tax does not
9 apply to accommodations furnished by nonprofit charitable, educational, benevolent, or
10 religious organizations.

11 (b) Authorization of Additional Tax. – In addition to the tax authorized by subsection
12 (a) of this section, the Cherokee County Board of Commissioners may levy an additional room
13 occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of
14 accommodations taxable under subsection (a) of this section. The levy, collection,
15 administration, and repeal of the tax authorized by this subsection shall be in accordance with
16 the provisions of this act. Cherokee County may not levy a tax under this subsection unless it
17 also levies the tax authorized under subsection (a) of this section.

18 'Sec. 3. Administration of Tax. – A tax levied under this act shall be levied, collected,
19 administered, and repealed as provided in G.S. 153A-155. The penalties provided in
20 G.S. 153A-155 apply to a tax levied under this act.

21 (a) ~~Any tax levied under this act is due and payable to the county in monthly~~
22 ~~installments on or before the 20th day of the month following the month in which the tax~~
23 ~~accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the~~
24 ~~20th day of each month, prepare and render a return on a form prescribed by the county. The~~
25 ~~return shall state the total gross receipts derived in the preceding month from rentals upon~~
26 ~~which the tax is levied.~~

27 (b) ~~Any person, firm, corporation, or association who fails or refuses to file the return~~
28 ~~required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.~~

29 (c) ~~In case of failure or refusal to file the return or pay the tax for a period of 30 days~~
30 ~~after the time required for filing the return or for paying the tax, there shall be an additional tax,~~
31 ~~as a penalty, of five percent (5%) of the tax due in addition to the penalty prescribed in~~
32 ~~subsection (b), with an additional tax of five percent (5%) for each additional month or fraction~~
33 ~~thereof until the occupancy tax is paid.~~

34 (d) ~~Any person who willfully attempts in any manner to evade the occupancy tax~~
35 ~~imposed by this act or to make a return and who willfully fails to pay the tax or make and file a~~
36 ~~return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and~~
37 ~~shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to~~
38 ~~exceed six months, or both.~~

39 'Sec. 4. Collection of Tax. Every operator of a business subject to the tax levied pursuant to
40 this act shall collect the tax on and after the effective date of the levy of the tax.

41 ~~This tax shall be collected as part of the charge for the furnishing of any taxable~~
42 ~~accommodations. The tax shall be stated and charged separately from the sales records, and~~
43 ~~shall be paid by the purchaser to the operator of the business as trustee for and on account of~~
44 ~~Cherokee County. The room occupancy tax levied under this act shall be added to the sales~~
45 ~~price and shall be passed on to the purchaser instead of being borne by the operator of the~~
46 ~~business. The county shall design, print, and furnish to all appropriate businesses in the county~~
47 ~~the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

48 'Sec. 5. Disposition of Taxes Collected. Distribution and use of tax revenue. – Cherokee
49 County shall, on a quarterly basis, remit the net proceeds of all revenues received from the
50 room occupancy tax to the Cherokee County Tourism Development Authority. Authority
51 appointed pursuant to this act. The Authority shall use at least two-thirds of the funds remitted

1 to it under this act to promote travel and tourism in Cherokee County and shall use the
2 remainder for tourism-related expenditures. "Net proceeds" means gross proceeds less the cost
3 to the county of administering and collecting the tax. The Authority may expend these funds
4 only to further the development of travel, tourism, and conventions in the county through
5 advertising and promotion.

6 The following definitions apply in this section:

- 7 (1) Net proceeds. – Gross proceeds less the cost to the county of administering
8 and collecting the tax, as determined by the finance officer, not to exceed
9 three percent (3%) of the first five hundred thousand dollars (\$500,000) of
10 gross proceeds collected each year and one percent (1%) of the remaining
11 gross receipts collected each year.
- 12 (2) Promote travel and tourism. – To advertise or market an area or activity,
13 publish and distribute pamphlets and other materials, conduct market
14 research, or engage in similar promotional activities that attract tourists or
15 business travelers to the area. The term includes administrative expenses
16 incurred in engaging in the listed activities.
- 17 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
18 Tourism Development Authority, are designed to increase the use of lodging
19 facilities, meeting facilities, or convention facilities in a county or to attract
20 tourists or business travelers to the county. The term includes
21 tourism-related capital expenditures.

22 'Sec. 6. Appointment, Duties of Cherokee County Tourism Development Authority. –

23 (a) Appointment and Membership. – When the Cherokee County Board of
24 Commissioners adopts a resolution levying a room occupancy tax, tax under this act, it shall
25 also adopt a resolution creating a County Tourism Development Authority composed of the
26 director of the Cherokee County Chamber of Commerce and the following four members
27 appointed by the Cherokee County Board of Commissioners:

- 28 (1) ~~an owner of a hotel, motel, or other accommodations subject to the tax~~
29 ~~levied by this act;~~
- 30 (2) ~~a member of the board of county commissioners;~~
- 31 (3) ~~a town commissioner or the mayor of the Town of Murphy; and~~
- 32 (4) ~~a town alderman or the mayor of the Town of Andrews.~~

33 ~~The director of the Cherokee County Chamber of Commerce shall serve as an ex officio~~
34 ~~member of the Authority. The members appointed by the board of county commissioners shall~~
35 ~~serve three year terms, except the initial appointees. Of the initial appointees, the board of~~
36 ~~commissioners shall designate one to serve a one year term, two a two year term, and one a~~
37 ~~three year term. Vacancies created by an appointed member shall be filled by the board of~~
38 ~~commissioners. Members appointed to fill vacancies shall serve the remainder of the unexpired~~
39 ~~term for which they are appointed to fill. Authority, which shall be a public authority under the~~
40 ~~Local Government Budget and Fiscal Control Act. The resolution shall provide for the~~
41 ~~membership of the Authority, including the members' terms of office, and for the filling of~~
42 ~~vacancies on the Authority. At least one-third of the members must be individuals who are~~
43 ~~affiliated with businesses that collect the tax in the county, and at least one-half of the members~~
44 ~~must be individuals who are currently active in the promotion of travel and tourism in the~~
45 ~~county. The board of commissioners shall designate one member of the Authority as chair and~~
46 ~~shall determine the compensation, if any, to be paid to members of the Authority.~~

47 The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern
48 its meetings. The Finance Officer for Cherokee County shall be the ex officio finance officer of
49 the Authority.

50 (b) Duties. – The Authority shall expend the net proceeds of the tax levied under this
51 act for the purposes provided in this act. The Authority shall promote travel, tourism, and

1 conventions in the county, sponsor tourist-related events and activities in the county, and
2 finance tourist-related capital projects in the county. ~~The members of the Tourism Development~~
3 ~~Authority shall elect from its membership a chairman. The Authority shall meet at the call of~~
4 ~~the chairman and shall adopt rules of procedure to govern its meetings. The finance officer of~~
5 ~~Cherokee County shall serve ex officio as accountant for the Authority.~~

6 (c) Reports. – ~~The Tourism Development Authority shall report quarterly and at the~~
7 ~~close of the fiscal year to the board of county commissioners on its receipts and disbursements~~
8 ~~for the preceding quarter and for the year in such detail as the board may require.~~

9 ~~'Sec. 7. Repeal of Levy.~~

10 (a) ~~The board of county commissioners may by resolution repeal the levy of the room~~
11 ~~occupancy tax in Cherokee County, but no repeal of taxes levied under this act is effective until~~
12 ~~the end of the fiscal year in which the repeal resolution was adopted.~~

13 (b) ~~No liability for any tax levied under this act that attached prior to the date on which~~
14 ~~a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that~~
15 ~~accrued prior to the effective date on which a levy is repealed may be denied as a result of the~~
16 ~~repeal.~~

17 ~~'Sec. 8. This act is effective upon ratification.'~~

18 **SECTION 18.** The catchline for Section 21(j) of S.L. 2007-527 reads as rewritten:

19 "**SECTION 21.(j)** Subsection (a) of Section 4 of Chapter 929 of the 1985 Session Laws as
20 ~~amended by S.L. 1985-929 Laws, as amended by Chapter 319 of the 1987 Session Laws,~~ reads
21 as rewritten:"

22 **SECTION 19.** Section 1(b) of S.L. 2005-68 reads as rewritten:

23 "**SECTION 1.(b)** Administration. – Except as otherwise provided in this act, a tax levied
24 under this section shall be levied, administered, and collected as provided in Part IV of Chapter
25 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws
26 ~~and S.L. 2001-402 Laws, S.L. 2001-402, and Section 21(cc) of S.L. 2007-527.~~ The penalties
27 provided in Part IV of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and
28 922 of the 1989 Session Laws and S.L. 2001-402, apply to a tax levied under this section."
29

30 MOTOR FUEL TAX CHANGES

31 **SECTION 20.** G.S. 105-449.72 is amended by adding a new subsection to read:

32 "(f) Exemption. – The requirement to obtain a bond or irrevocable letter of credit does
33 not apply to a distributor, importer, or motor fuel transporter who supplies motor fuel when the
34 market for motor fuel is disrupted and emergency supplies are needed, as identified by an
35 executive order of the Governor."

36 **SECTION 21.** G.S. 105-449.121(b)(2) reads as rewritten:

37 "(2) Audit a distributor, a retailer, a ~~bulk end user,~~ bulk end-user, or a motor fuel
38 user that is not licensed under this Article."

39 **SECTION 22.** G.S. 105-449.136 reads as rewritten:

40 "**§ 105-449.136. Tax on alternative fuel.**

41 A tax at the motor fuel rate is imposed on liquid alternative fuel used to operate a highway
42 vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel
43 to operate the vehicle. A tax at the equivalent of the motor fuel rate is imposed on all other
44 alternative fuel used to operate a highway vehicle. The Secretary must determine the equivalent
45 rate. The exemptions from the tax on motor fuel in ~~G.S. 105-449.88(2), (3), and (4)~~
46 G.S. 105-449.88 apply to the tax imposed by this section. The refunds for motor fuel tax
47 allowed by Part 5 of Article 36C of this Chapter apply to the tax imposed by this section,
48 except that the refund allowed by G.S. 105-449.107(b) for certain vehicles that use power
49 takeoffs does not apply to a vehicle whose use of alternative fuel is taxed on the basis of miles
50 driven. The proceeds of the tax imposed by this section must be allocated in accordance with
51 G.S. 105-449.125."

OTHER CHANGES

SECTION 23. Section 67(a) of S.L. 2008-134 reads as rewritten:

"**SECTION 67.(a)** G.S. ~~58-5-25(a)(2)~~58-6-25(a)(2) is repealed."

SECTION 24.(a) G.S. 153A-156.1 reads as rewritten:

"**§ 153A-156.1. (For effective date, see note) Heavy equipment gross receipts tax in lieu of property tax.**

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

(1) Heavy equipment. – Earthmoving, construction, or industrial equipment that is mobile, weighs at least 1,500 pounds, and meets any of the descriptions listed in this subdivision. The term includes an attachment for heavy equipment, regardless of the weight of the attachment.

a. It is a self-propelled vehicle that is not designed to be driven on a highway.

b. It is industrial lift equipment, industrial material handling equipment, industrial electrical generation equipment, or a similar piece of industrial equipment.

(2) Short-term lease or rental. – Defined in G.S. 105-187.1.

(b) Tax Authorized. – A county may, by ~~resolution, ordinance,~~ impose a tax at the rate of one and two-tenths percent (1.2%) on the gross receipts from the short-term lease or rental of heavy equipment by a person whose principal business is the short-term lease or rental of heavy equipment at retail. The heavy equipment subject to this tax is exempt from property tax under G.S. 105-275, and this tax provides an alternative to a property tax on the equipment. A person is not considered to be in the short-term lease or rental business if the majority of the person's lease and rental gross receipts are derived from leases and rentals to a person who is a related person under G.S. 105-163.010.

The tax authorized by this section applies to gross receipts that are subject to tax under G.S. 105-164.4(a)(2). Gross receipts from the short-term lease or rental of heavy equipment are subject to a tax imposed by a county under this section if the place of business from which the heavy equipment is delivered is located in the county.

(c) Payment. – A person whose principal business is the short-term lease or rental of heavy equipment is required to remit a tax imposed by this section to the county finance officer. The tax is payable quarterly and is due by the last day of the month following the end of the quarter. The tax is intended to be added to the amount charged for the short-term lease or rental of heavy equipment and paid to the heavy equipment business by the person to whom the heavy equipment is leased or rented.

(d) Enforcement. – The penalties and collection remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes apply to a tax imposed under this section. The county finance officer has the same authority as the Secretary of Revenue in imposing these penalties and remedies.

(e) Effective Date. – A tax imposed under this section becomes effective on the date set in the ~~resolution-ordinance~~ imposing the tax. The date must be the first day of a calendar quarter and may not be sooner than the first day of the calendar quarter that begins at least two months after the date the ~~resolution-ordinance~~ is adopted.

(f) Repeal. – A county may, by ~~resolution, ordinance,~~ repeal a tax imposed under this section. The repeal is effective on the date set in the ~~resolution-ordinance.~~ The date must be the first day of a calendar quarter and may not be sooner than the first day of the calendar quarter that begins at least two months after the date the ~~resolution-ordinance~~ is adopted."

SECTION 24.(b) G.S. 160A-215.2 reads as rewritten:

"**§ 160A-215.2. (For effective date, see note) Heavy equipment gross receipts tax in lieu of property tax.**

1 (a) Definitions. – The following definitions apply in this section:

2 (1) Heavy equipment. – Defined in G.S. 153A-156.1.

3 (2) Short-term lease or rental. – Defined in G.S. 105-187.1.

4 (b) Tax Authorized. – A city may, by ~~resolution, ordinance,~~ impose a tax at the rate of
5 eight tenths percent (0.8%) on the gross receipts from the short-term lease or rental of heavy
6 equipment by a person whose principal business is the short-term lease or rental of heavy
7 equipment at retail. The heavy equipment subject to this tax is exempt from property tax under
8 G.S. 105-275, and this tax provides an alternative to a property tax on the equipment. A person
9 is not considered to be in the short-term lease or rental business if the majority of the person's
10 lease and rental gross receipts are derived from leases and rentals to a person who is a related
11 person under G.S. 105-163.010.

12 The tax authorized by this section applies to gross receipts that are subject to tax under
13 G.S. 105-164.4(a)(2). Gross receipts from the short-term lease or rental of heavy equipment are
14 subject to a tax imposed by a city under this section if the place of business from which the
15 heavy equipment is delivered is located in the city.

16 (c) Payment. – A person whose principal business is the short-term lease or rental of
17 heavy equipment is required to remit a tax imposed by this section to the city finance officer.
18 The tax is payable quarterly and is due by the last day of the month following the end of the
19 quarter. The tax is intended to be added to the amount charged for the short-term lease or rental
20 of heavy equipment and paid to the heavy equipment business by the person to whom the heavy
21 equipment is leased or rented.

22 (d) Enforcement. – The penalties and collection remedies that apply to the payment of
23 sales and use taxes under Article 5 of Chapter 105 of the General Statutes apply to a tax
24 imposed under this section. The city finance officer has the same authority as the Secretary of
25 Revenue in imposing these penalties and remedies.

26 (e) Effective Date. – A tax imposed under this section becomes effective on the date set
27 in the ~~resolution ordinance~~ imposing the tax. The date must be the first day of a calendar
28 quarter and may not be sooner than the first day of the calendar quarter that begins at least two
29 months after the date the ~~resolution ordinance~~ is adopted.

30 (f) Repeal. – A city may, by ~~resolution, ordinance,~~ repeal a tax imposed under this
31 section. The repeal is effective on the date set in the ~~resolution ordinance~~. The date must be the
32 first day of a calendar quarter and may not be sooner than the first day of the calendar quarter
33 that begins at least two months after the date the ~~resolution ordinance~~ is adopted."

34 **SECTION 24.(c)** This section does not affect the rights or liabilities of a county or
35 city, a taxpayer, or another person arising under G.S. 160A-215.2 or G.S. 153A-156.1 before
36 the effective date of this section; nor does it affect the right to any refund or credit of a tax that
37 accrued under G.S. 160A-215.2 or G.S. 153A-156.1 before the effective date of this section.
38 All existing ordinances or resolutions enacted under G.S. 160A-215.2 or G.S. 153A-156.1 prior
39 to the effective date of this section shall continue in full force and effect until repealed,
40 modified, or amended.

41 **EFFECTIVE DATE**

42 **SECTION 25.** Except as otherwise provided, this act is effective when it becomes
43 law.
44