

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1249  
Senate Commerce Committee Substitute Adopted 6/1/10  
Proposed Conference Committee Substitute H1249-PCCS11147-MC-1

Short Title: Homebuilder Property Tax Deferral Change.

(Public)

Sponsors:

Referred to:

April 9, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE INVENTORY PROPERTY TAX DEFERRAL.

3 The General Assembly of North Carolina enacts:

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

5 "**§ 105-277.1D. Inventory property tax deferral.**

6 (a) Classification. – A residence ~~owned and~~ constructed by a builder and owned by the  
7 builder or a business entity of which the builder is a member, as defined in G.S. 105-277.2, is  
8 designated a special class of property under Section 2(2) of Article V of the North Carolina  
9 Constitution and is taxable in accordance with this section. For purposes of this section, a  
10 "residence" is an improvement, other than remodeling, renovating, rehabilitating, or refinishing,  
11 by a builder to real property that is intended to be sold and used as an individual's residence,  
12 that is unoccupied, and for which a certificate of occupancy authorized by law has been issued.

13 (b) Deferred Taxes. – ~~A builder~~An owner may defer the portion of tax imposed on real  
14 property that represents the increase in value of the property attributable solely to  
15 improvements resulting from the construction by the builder of a residence on the property. The  
16 difference between the taxes due under this section and the taxes that would have been payable  
17 in the absence of this section are a lien on the real property of the taxpayer as provided in  
18 G.S. 105-355(a). The difference in taxes for the fiscal years preceding the current tax year shall  
19 be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes  
20 are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility  
21 for deferral because of the occurrence of a disqualifying event. A disqualifying event occurs at  
22 the earliest of (i) when the ~~builder-owner~~ transfers the residence, (ii) when the residence is  
23 occupied by the ~~builder-owner~~ or by someone other than the ~~builder-owner~~ with the ~~builder's~~  
24 owner's consent, (iii) five years from the time the improved property was first subject to being  
25 listed for taxation by the ~~builder-owner~~, or (iv) three years from the time the improved property  
26 first received the property tax benefit provided by this section. On or before September 1 of  
27 each year, the collector shall notify each ~~builder-owner~~ to whom a tax deferral has previously  
28 been granted of the accumulated sum of deferred taxes and interest.

29 (c) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by  
30 the ~~builder-owner~~ subject to a mortgage or deed of trust does not acquire a right to foreclose as  
31 a result of the election. Except for requirements dictated by federal law or regulation, any  
32 provision in a mortgage, deed of trust, or other agreement that prohibits the ~~builder-owner~~ from  
33 deferring taxes on property under this section is void.



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

3 (e) Application. – An application for property tax relief provided by this section should  
4 be filed during the regular listing period but may be filed after the regular listing period upon a  
5 showing of good cause by the applicant for failure to make a timely application, as determined  
6 and approved by the board of equalization and review or, if that board is not in session, by the  
7 board of county commissioners. An untimely application approved under this subsection  
8 applies only to property taxes levied by the county or municipality in the calendar year in  
9 which the untimely application is filed. Decisions of the county board may be appealed to the  
10 Property Tax Commission. Persons may apply for this property tax relief by entering the  
11 appropriate information on a form made available by the assessor under G.S. 105-282.1."

12 **SECTION 2.** This act is effective for taxes imposed for taxable years beginning on  
13 or after July 1, 2010.