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(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Affordable Housing Exemption Mods.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE AND MODIFY THE NONPROFIT LOW- OR MODERATE-INCOME
3 HOUSING PROPERTY TAX EXEMPTION.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 105-278.6 reads as rewritten:

6 "§ 105-278.6. Real and personal property used for charitable ~~purposes;~~purposes by certain
7 entities.

8 (a) Real and personal property owned ~~by;~~by an entity listed in this subsection is exempt
9 from taxation if: (i) as to real property, it is actually and exclusively occupied and used, and as
10 to personal property, it is entirely and completely used, by the owner for a charitable purpose;
11 and (ii) the owner is not organized or operated for profit. The entities are:

12 (1) A Young Men's Christian Association or similar ~~organization;~~organization.

13 (2) A home for the aged, sick, or ~~infirm;~~infirm.

14 (3) An orphanage or similar ~~home;~~home.

15 (4) A Society for the Prevention of Cruelty to ~~Animals;~~Animals.

16 (5) A reformatory or correctional ~~institution;~~institution.

17 (6) A monastery, convent, or ~~unnery;~~unnery.

18 (7) A nonprofit, life-saving, first aid, or rescue squad ~~organization;~~organization.

19 (8) A nonprofit organization providing housing for individuals or families with
20 low or moderate ~~incomes;~~incomes, other than rental housing, which is subject
21 to G.S. 105-278.7A.

22 ~~shall be exempted from taxation if: (i) As to real property, it is actually and exclusively occupied~~
23 ~~and used, and as to personal property, it is entirely and completely used, by the owner for~~
24 ~~charitable purposes; and (ii) the owner is not organized or operated for profit.~~

25 (b) A charitable purpose within the meaning of this section is one that has humane and
26 philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited
27 segment of the community without expectation of pecuniary profit or reward. The humane
28 treatment of animals is also a charitable purpose.

29 (c) The fact that a building or facility is incidentally available to and patronized by the
30 general public, so long as there is no material amount of business or patronage with the general
31 public, ~~shall~~does not defeat the exemption granted by this section.

32 (d) Notwithstanding the ~~exclusive use~~exclusive use requirements of this section, if part
33 of a property that otherwise meets the section's requirements is used for a purpose that would



1 require exemption under subsection (a), above, if the entire property were so used, the valuation
2 of the part so used ~~shall be exempted~~ is exempt from taxation.

3 (e) Real property held by an organization described in subdivision (a)(8) for a charitable
4 purpose under this section as a future site for ~~housing~~ housing, other than affordable rental
5 housing as defined in G.S. 105-278.7A, for individuals or families with low or moderate incomes
6 may be classified under this section for no more than ~~10~~ five years. The taxes that would otherwise
7 be due on real property exempt under this subsection ~~shall be~~ are a lien on the property as
8 provided in G.S. 105-355(a). The taxes ~~shall be~~ are carried forward in the records of the taxing
9 unit as deferred taxes. The deferred taxes are due and payable in accordance with
10 G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying
11 event. A disqualifying event occurs when the property ~~was~~ is not used for low- or
12 moderate-income housing within ~~10~~ five years from the first day of the fiscal year the property
13 was classified under this subsection. In addition to the provisions in G.S. 105-277.1F, all liens
14 arising under this subdivision are extinguished when the property is used for low- or
15 moderate-income housing within the time period allowed under this subsection."

16 **SECTION 2.** Article 12 of Chapter 105 of the General Statutes is amended by adding
17 the following new section to read:

18 **"§ 105-278.7A. Real and personal property owned, in whole or in part, by a charitable**
19 **nonprofit and used for affordable rental housing.**

20 (a) Exemption Generally. – Real and personal property owned by an eligible owner and
21 used for a charitable purpose in the operation of affordable rental housing is exempt from taxation
22 to the extent provided in this section if the requirements of this section are met.

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

24 (1) Affiliate. – Defined in G.S. 105-130.2.

25 (2) Affordable rental housing. – A rental housing development consisting of land
26 and improvements in which more than fifty percent (50%) of the units are
27 qualifying units.

28 (3) Charitable purpose. – A charitable purpose within the meaning of this section
29 is one that has humane and philanthropic objectives; it is an activity that
30 benefits humanity or a significant rather than limited segment of the
31 community without expectation of pecuniary profit or reward.

32 (4) Eligible joint venture. – A limited partnership, limited liability company, or a
33 limited liability partnership in which a general partner or limited liability
34 company managing member is an eligible nonprofit corporation.

35 (5) Eligible nonprofit corporation. – A nonprofit described in 501(c)(3) of the
36 Code that (i) is exempt from federal income taxation under section 501(a) of
37 the Code, (ii) is incorporated under a certificate of existence or admitted under
38 a certificate of authority under the North Carolina Nonprofit Corporation Act
39 as provided in Chapter 55A of the General Statutes, and (iii) has day-to-day
40 control of the operations of and decisions for the affordable rental housing and
41 has not delegated any decision-making authority other than to a property
42 manager serving under the direction of the eligible owner. The term includes
43 a single-purpose entity wholly-owned by an eligible nonprofit corporation.

44 (6) Eligible owner. – An eligible joint venture or an eligible nonprofit corporation.

45 (7) Income limit. – Eighty percent (80%) of area median income, adjusted for
46 family size, as set and most recently published by the U.S. Department of
47 Housing and Urban Development.

48 (8) Qualifying unit. – An affordable rental housing unit for which both of the
49 following conditions are met:

50 a. The rent charged for an occupied unit or the published rent for a vacant
51 unit is at or below the rent limit.

- 1 b. It is occupied by, or set aside for, a tenant whose income is at or below
2 the income limit.
- 3 (9) Rent limit. – Rent, plus a utility allowance calculated in accordance with the
4 requirements of the North Carolina Housing Finance Agency, that does not
5 exceed thirty percent (30%) of the income limit.
- 6 (c) Requirements For Government-Supported Affordable Rental Housing. – Real and
7 personal property that provides government-supported affordable rental housing is exempt from
8 property taxation in any year in which all of the conditions listed in this subsection are met. For
9 purposes of this section, the term "government-supported" means that the property is financed as
10 described in sub-subdivision a. or b. of subdivision (2) of this subsection. The conditions are:
- 11 (1) The property is owned and operated by an eligible nonprofit corporation or an
12 eligible joint venture.
- 13 (2) Either of the following applies:
- 14 a. The eligible owner is an eligible joint venture that receives
15 low-income housing credits pursuant to section 42 of the Code and
16 that is in compliance with any applicable regulatory requirements as
17 determined by the North Carolina Housing Finance Agency. Ownership is determined as of the date the certificate of occupancy is
18 issued.
- 19 b. The eligible owner finances the acquisition, rehabilitation,
20 development, or operation of the property, or any combination thereof,
21 with tax-exempt mortgage revenue bonds, qualified 501(c)(3) bonds,
22 federal direct loans or grants, State loans or grants, or loans or grants
23 provided by a local jurisdiction in which the property is located. Such
24 government support must require the execution of a deed restriction or
25 enforceable, verifiable agreement with a public agency requiring that
26 the property be operated as affordable rental housing in accordance
27 with this section for a period of at least 15 years from the date the
28 financing or financial assistance was initially provided. Government
29 support does not include payments made to the owner under the federal
30 Housing Choice Voucher Program or other local, State, or federal
31 voucher program.
- 32 (d) Requirements for Non-Government-Supported Affordable Rental Housing. – Real
33 and personal property that provides non-government-supported affordable rental housing is
34 exempt from property taxation in any year in which all of the conditions listed in this subsection
35 are met. For purposes of this subsection, the term "non-government-supported" means that the
36 property is not financed as described in sub-subdivision a. or b. of subdivision (2) of subsection
37 (c) of this section. The conditions are:
- 38 (1) The property is one hundred percent (100%) owned and operated by an
39 eligible nonprofit corporation that has owned and operated affordable rental
40 housing for at least five years.
- 41 (2) The eligible nonprofit corporation, including any of its subsidiaries or
42 nonprofit affiliates, does not receive any funding or financial assistance, other
43 than grants, from a for-profit affiliate.
- 44 (3) The eligible nonprofit corporation does not lease the affordable rental housing
45 land or improvements to another entity. This subdivision does not apply to the
46 leasing of affordable rental housing units to tenants.
- 47 (4) The eligible nonprofit corporation has executed a deed restriction in favor of
48 the county and any municipality in which the property is located requiring that
49 the property be operated as affordable rental housing in accordance with this
50 section for a period of at least 15 years from the date of application. The
51 section for a period of at least 15 years from the date of application. The

1 restriction must require that the owner provide the reporting required under
2 subsection (g) of this section annually to all grantees for the term of the deed
3 restriction. The deed restriction must state that any grantee, or its assigns, has
4 the right to enforce the terms of the restriction.

5 (e) Exemption Amount. – The exemption amount is the percentage of the appraised value
6 that is equal to the percentage of qualifying units unless the eligible owner meets the requirements
7 of the safe harbor in Section 3 of Internal Revenue Service Rev. Proc. 96-32, in which case the
8 exemption amount is one hundred percent (100%) of the appraised value of the property. A
9 transition period of one taxable year applies to improved and occupied rental housing property
10 purchased by an eligible owner for which the eligible owner cannot provide the total household
11 income for each qualifying unit at the time of application but that otherwise meets the
12 requirements of this section. During the transition period, a "qualifying unit" is an affordable
13 rental housing unit for which the rent charged is at or below the rent limit for purposes of
14 determining the exemption amount.

15 (f) Application. – To be eligible for an exemption under this section, an eligible owner
16 must submit an application in accordance with G.S. 105-282.1. The application form shall require
17 the applicant to provide the following information:

18 (1) Whether the applicant is applying for the exemption under subsection (c) or
19 subsection (d) of this section, along with documentation supporting that the
20 applicant is an eligible owner for the subsection under which it is applying;
21 evidence of government support pursuant to sub-subdivision a. or b. of
22 subdivision (2) of subsection (c) of this section, if applicable; and a copy of
23 the applicable deed restriction or regulatory agreement.

24 (2) Whether the property is subject to a transition period as described in
25 subsection (e) of this section.

26 (3) Either of the following, as of last day of the month immediately preceding
27 January 1 of the year of application:

28 a. If the applicant is applying for an exemption amount based on the
29 percentage of qualifying units, the percentage of qualifying units by
30 providing the following items:

31 1. The rent amount received by the owner for each qualifying unit
32 as evidenced by an anonymized rent roll. The applicant must
33 provide evidence of the published rent if a unit is vacant.

34 2. The total household income for each occupied qualifying unit,
35 except during the transition period, evidenced in an
36 anonymized manner.

37 b. If the applicant is applying for an exemption amount based on meeting
38 the requirements of the safe harbor in Section 3 of Internal Revenue
39 Service Rev. Proc. 96-32, evidence demonstrating the affordable
40 rental housing meets those requirements.

41 (4) Certification that the applicant is in compliance with any applicable deed
42 restriction or regulatory agreement and the requirements of this section.

43 (g) Compliance. – An eligible owner that has been granted an exemption under this
44 section must, on an annual basis by January 31 following the initial exemption, certify that it
45 remains in compliance with this section and provide to the taxing unit the items listed in
46 subdivision (3) of subsection (f) of this section, as of the previous December 31, including any
47 supporting documentation required by the taxing unit. Failure to meet these requirements within
48 the time limits subjects the property to discovery under G.S. 105-312. For purposes of satisfying
49 this requirement, the household income provided for each qualifying unit must be verified every
50 two years following initial verification of the tenant's income.

1 (h) Future Site. – Real property held by an eligible owner as a future site for affordable
2 rental housing may be classified under this section for no more than five years. The taxes that
3 would otherwise be due on real property exempt under this subsection are a lien on the property
4 as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing
5 unit as deferred taxes. The deferred taxes are due and payable in accordance with
6 G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying
7 event. A disqualifying event occurs when the property is not used for affordable rental housing
8 that is in compliance with this section within five years from the first day of the fiscal year the
9 property was classified under this subsection. In addition to the provisions in G.S. 105-277.1F,
10 all liens arising under this subdivision are extinguished when the property is used for affordable
11 rental housing within the time period allowed under this subsection. For purposes of this
12 subsection, the term "future site" means unimproved real property or improved real property that
13 is not occupied as of the date of the application for exemption under this section.

14 (i) Ineligible Property. – Property that has been designated a special class of property
15 under G.S. 105-277.16 and assessed accordingly is not eligible for exemption under this section.

16 **SECTION 3.** G.S. 105-277.1F(a) reads as rewritten:

17 "(a) Scope. – This section applies to the following deferred tax programs:

- 18 (1) G.S. 105-275(12), real property owned by a nonprofit corporation held as a
19 protected natural area.
20 (1a) G.S. 105-275(29a), historic district property held as future site of historic
21 structure.
22 (2) G.S. 105-277.1B, the property tax homestead circuit breaker.
23 (2a) **(See note for repeal)** G.S. 105-277.1D, the inventory property tax deferral.
24 (3) G.S. 105-277.4(c), present-use value property.
25 (4) G.S. 105-277.14, working waterfront property.
26 (4a) G.S. 105-277.15, wildlife conservation land.
27 (4b) G.S. 105-277.15A, site infrastructure land.
28 (5) G.S. 105-278(b), historic property.
29 (6) G.S. 105-278.6(e), nonprofit property held as future site of low- or
30 moderate-income ~~housing-housing~~, other than affordable rental housing as
31 defined under G.S. 105-278.7A.
32 (7) G.S. 105-278.7A(h), nonprofit property held as future site of affordable rental
33 housing."

34 **SECTION 4.** This act is effective for taxes imposed for taxable years beginning on
35 or after July 1, 2026, and, with respect to property held as a future site under G.S. 105-278.6(e)
36 or G.S. 105-278.7A(h), as enacted by this act, applies to real property classified under those
37 provisions on or after that date. Notwithstanding G.S. 105-282.1(a)(2)a., an owner of low- or
38 moderate-income rental housing property that is exempt under G.S. 105-278.6(a)(8) as of the
39 effective date of this act must, by December 31, 2026, reapply for the exemption, providing the
40 assessor of the taxing unit with any necessary documentation for compliance consistent with this
41 act. Reapplication under this section is considered an application under subsection (f) of this act.
42 Failure to meet this requirement within the time limit subjects the property to discovery under
43 G.S. 105-312.