



HOUSE BILL 168: Exempt Builders' Inventory

2015-2016 General Assembly

Committee:
Introduced by:
Analysis of: S.L. 2015-223

Date:
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SUMMARY: *S.L. 2015-223 exempts the increase in value of certain improvements to real property held for sale by a builder:*

- *For residential real property, a builder may exclude for 3 years the increase in value due to subdivision, improvements, and buildings that are either a new single-family residence or a duplex.*
- *For commercial property, a builder may exclude for 5 years the increase in value due to subdivision and improvements - excluding buildings.*

To qualify as a builder, the property owner must be in the business of buying real property, making improvements to it, and then reselling it. The owner is not required to be licensed as a general contractor.

S.L. 2015-223 will become effective for taxes imposed for taxable years beginning on July 1, 2016, and apply to subdivision of or other improvements made on or after July 1, 2015.

CURRENT LAW:

G.S. 105-273(3a) defines "builder" to mean a taxpayer licensed as a general contractor who is engaged in the business of buying real property, making improvements to it, and then reselling it.

Former G.S. 105-277.1D provided a deferral of property tax on a residence constructed by a builder. The term "residence" was limited to a new structure that is intended to be sold and used as an individual's residence, that is unoccupied, and that has a certificate of occupancy. The section allowed an optional deferral of property tax for the increase in value of the property attributable to the construction of a residence. The deferred taxes became a lien on the property. The deferred taxes were due when the property loses its eligibility for deferral because: (1) the builder transferred the residence, (2) the residence was occupied, (3) five years from the time the improved property was first subject to being listed for taxation by the owner, or (4) three years from the time the improved property first received the property tax deferral.¹

G.S. 105-277.15A provides a deferral of property tax on site infrastructure land. Site infrastructure land must consist of at least 100 contiguous acres and must be zoned for industrial use, office use, or both. The land must not have a primary building, and a building permit for a primary building must not have been issued for the land.

¹ S.L. 2009-308 enacted former G.S. 105-277.1D effective for taxes imposed for taxable years beginning on or after July 1, 2010 and repealed effective for taxes imposed for taxable years beginning on or after July 1, 2013. However, S.L. 2010-95 amended S.L. 2009-308 to extend the deferral after the repeal of the section for residences receiving the property tax deferral in the year immediately prior to the repeal. These residences remain eligible for continued deferral for subsequent taxable years until a disqualifying event.

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An owner of site infrastructure land may defer property tax that represents the sum of the following: the increase in value attributable to improvements made to the land and the difference between the value of the land as currently zoned and the value of the land as zoned in the calendar year prior to the application for property tax relief.

The deferred taxes are a lien on the site infrastructure land. The deferred taxes are carried forward until one of the following disqualifying events:

- Minimum Investment Requirement – The deferred taxes for the preceding 5 years are due if an amount equal to the deferred taxes is not invested in improvements to make the land suitable for industrial use, office use, or both within 5 years from the time the property first received a tax deferral.
- 10-Year Maximum Deferral – The deferred taxes for the preceding 5 years are due if the land has deferred taxes for 10 years.
- Rezoned – All deferred taxes are due if any of the land is rezoned for a use other than industrial use, office use, or both.
- Transfer or Construction – The deferred taxes for the preceding year are due if the land is transferred or if a building permit for a primary building is issued.

G.S. 105-285(d) makes exempt property taxable for the fiscal year beginning on July 1 of the prior year when the property is acquired between January 1 and July 1. This subsection effectively taxes property when the property moves from an exempt owner to a nonexempt owner. If the transfer occurs before January 1, the property will be listed for tax because the nonexempt owner held the property on the listing date. If the transfer occurs after January 1, the nonexempt owner still pays the property tax under G.S. 105-285(d).

BILL ANALYSIS: S.L. 2015-223 allows a property tax exemption for any increase in the value of certain real property held for sale by a builder. The act reenacts the definition of builder from former law and deletes the requirement that the builder hold a general contractor's license. The definition of builder requires the person be engaged in the business of buying real property, making improvements, and reselling the property.

Residential real property is real property intended to be sold and used as an individual's residence. The excluded value must be attributable to subdivision, improvements other than buildings, new single-family residence, or duplex.

Commercial real property is real property intended to be sold and used for commercial purposes. The excluded value must be attributable to subdivision or improvements other than buildings.

The builder must continuously hold the property for sale. The exclusion is allowed starting at the time property is improved and should be listed for taxation by the builder. The exclusion ends when the property is sold or 3 years for residential (5 years for commercial) from the time the builder should have listed the property. The builder must apply for this exclusion annually.

EFFECTIVE DATE: S.L. 2015-223 will become effective for taxes imposed for taxable years beginning on July 1, 2016, and apply to subdivision of or other improvements made on or after July 1, 2015. Therefore, the act will apply to subdivision or improvements to real property as of January 1, 2016, assuming the requirements of the act are met.