

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

3

HOUSE BILL 1105
Committee Substitute Favorable 6/19/12
Third Edition Engrossed 6/21/12

Short Title: Modify Taxation of HOA Property.

(Public)

Sponsors:

Referred to:

May 24, 2012

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY THE COLLECTION OF PROPERTY TAXES THAT ARE DUE ON
PROPERTY OWNED BY CERTAIN NONPROFIT HOMEOWNERS ASSOCIATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.8 reads as rewritten:

"§ 105-277.8. Taxation of property of nonprofit homeowners' association.

(a) ~~The~~ Except as provided in subsection (a1) of this section, the value of real and personal property owned by a nonprofit homeowners' association shall be included in the appraisals of property owned by members of the association and shall not be assessed against the association ~~if~~ if each of the following requirements is met:

- (1) All property owned by the association is held for the use, benefit, and enjoyment of all members of the association ~~equally~~; equally.
- (2) Each member of the association has an irrevocable right to use and enjoy, on an equal basis, all property owned by the association, subject to any restrictions imposed by the instruments conveying the right or the rules, regulations, or bylaws of the ~~association~~; and association.
- (3) Each irrevocable right to use and enjoy all property owned by the association is appurtenant to taxable real property owned by a member of the association.

The assessor may allocate the value of the association's property among the property of the association's members on any fair and reasonable basis.

(a1) The value of extraterritorial common property shall be subject to taxation only in the jurisdiction in which it is entirely contained and only in the amount of the local tax of the jurisdiction in which it is entirely contained. The value of any property taxed pursuant to this subsection, as determined by the latest schedule of values, shall not be included in the appraisals of property owned by members of the association that are referenced in subsection (a) of this section or otherwise subject to taxation. The assessor for the jurisdiction that imposes a tax pursuant to this subsection shall provide notice of the property, the value, and any other information to the assessor of any other jurisdiction so that the real properties owned by the members of the association are not subject to taxation for that value. The governing board of a nonprofit homeowners' association with property subject to taxation under this subsection shall provide annually to each member of the association the amount of tax due on the property, the value of the property, and, if applicable, the means by which the association will recover the tax due on the property from the members.



* H 1 1 0 5 - V - 3 *

1 (b) As used in this section, "nonprofit homeowners' association" means a homeowners'
2 association as defined in § 528(c) of the Internal Revenue ~~Code~~ Code, and "extraterritorial
3 common property" means real property that is (i) owned by a nonprofit homeowners
4 association that meets the requirements of subdivisions (1) through (3) of subsection (a) of this
5 section and (ii) entirely contained within a taxing jurisdiction that is different from that of the
6 taxable real property owned by members of the association and providing the appurtenant
7 rights to use and enjoy the association property."

8 **SECTION 2.** G.S. 47C-1-105 is amended by adding a new subsection to read:

9 "(e) Except as provided in subsection (c) of this section, extraterritorial common
10 property taxed pursuant to G.S. 105-277.8 shall be assessed, pro rata, among the unit owners
11 based on the number of the units in the association."

12 **SECTION 3.** Article 3 of Chapter 47F of the General Statutes is amended by
13 adding a new section to read:

14 "**§ 47F-1-105. Taxation.**

15 Extraterritorial common property taxed pursuant to G.S. 105-277.8 shall be assessed, pro
16 rata, among the lot owners based on the number of lots in the association."

17 **SECTION 4.** Section 1 of this act is effective for taxes imposed for taxable years
18 beginning on or after July 1, 2012. Sections 2 and 3 of this act become effective July 1, 2012,
19 and apply to extraterritorial common property acquired on or after that date. The remainder of
20 this act is effective when it becomes law.