

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1005
SENATE BILL 1363

AN ACT TO MODIFY THE TIME ALLOWED FOR FILING CERTAIN PROPERTY TAX APPEALS, TO MAKE THE PENALTY FOR SUBMITTING A BAD CHECK IN PAYMENT OF PROPERTY TAXES THE SAME AS FOR SUBMITTING A BAD CHECK IN PAYMENT OF OTHER TAXES, AND TO MAKE TECHNICAL CORRECTIONS TO THE PROPERTY TAX STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-290(e) reads as rewritten:

"(e) Time Limits for Appeals. ~~A notice of appeal from an order of a board of equalization and review shall be filed with the Property Tax Commission within 30 days after the board of equalization and review has mailed a notice of its decision to the property owner. A notice of appeal from an order of a board of commissioners concerning the listing, appraisal, or assessment of property shall be filed with the Property Tax Commission within 30 days after the board of county commissioners enters the order.~~ A notice of appeal from an order of a board of county commissioners, other than an order adopting a uniform schedule of values, or from a board of equalization and review shall be filed with the Property Tax Commission within 30 days after the date the board mailed a notice of its decision to the property owner. A notice of appeal from an order adopting a schedule of values shall be filed within the time set in subsection (c)."

Sec. 2. G.S. 105-290(g) reads as rewritten:

"(g) What Constitutes Filing. ~~A notice of appeal is considered to be filed with the Property Tax Commission when it is received in the office of the Commission.~~ A notice of appeal submitted to the Property Tax Commission by a means other than United States mail is considered to be filed on the date it is received in the office of the Commission. A notice of appeal submitted to the Property Tax Commission by United States mail is considered to be filed on the date shown on the postmark stamped by the United States Postal Service. If an appeal submitted by United States mail is not postmarked or the postmark does not show the date of mailing, the appeal is considered to be filed on the date it is received in the office of the Commission. A property owner who files an appeal with the Commission has the burden of proving that the appeal is timely."

Sec. 3. G.S. 153A-149(c) reads as rewritten:

"(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to ~~an effective~~ a combined rate of one dollar and fifty cents (\$1.50) on the one hundred dollars (\$100.00) appraised value of property subject to ~~taxation~~

~~before the application of any assessment ratio. taxation. To find the actual rate limit for a particular county, divide the effective rate limit of one dollar and fifty cents (\$1.50) by the county assessment ratio.~~ Authorized purposes subject to the rate limitation are:

- (1) To provide for the general administration of the county through the board of county commissioners, the office of the county manager, the office of the county budget officer, the office of the county finance officer, the office of the county assessor, the office of the county tax collector, the county purchasing agent, and the county attorney, and for all other general administrative costs not allocated to a particular board, commission, office, agency, or activity of the county.
- (2) Agricultural Extension. – To provide for the county's share of the cost of maintaining and administering programs and services offered to agriculture by or through the Agricultural Extension Service or other agencies.
- (3) Air Pollution. – To maintain and administer air pollution control programs.
- (4) Airports. – To establish and maintain airports and related aeronautical facilities.
- (5) Ambulance Service. – To provide ambulance services, rescue squads, and other emergency medical services.
- (6) Animal Protection and Control. – To provide animal protection and control programs.
- (6a) Arts Programs and Museums. – To provide for arts programs and museums as authorized in G.S. 160A-488.
- (6b) Auditoriums, coliseums, and convention and civic centers. – To provide public auditoriums, coliseums, and convention and civic centers.
- (7) Beach Erosion and Natural Disasters. – To provide for shoreline protection, beach erosion control, and flood and hurricane protection.
- (8) Cemeteries. – To provide for cemeteries.
- (9) Civil Preparedness. – To provide for civil preparedness programs.
- (10) Debts and Judgments. – To pay and discharge any valid debt of the county or any judgment lodged against it, other than debts and judgments evidenced by or based on bonds and notes.
- (10a) Defense of Employees and Officers. – To provide for the defense of, and payment of civil judgments against, employees and officers or former employees and officers, as authorized by this Chapter.
- (10b) Economic Development. – To provide for economic development as authorized by G.S. 158-12.
- (11) Fire Protection. – To provide fire protection services and fire prevention programs.
- (12) Forest Protection. – To provide forest management and protection programs.

- (13) Health. – To provide for the county's share of maintaining and administering services offered by or through the county or district health department.
- (14) Historic Preservation. – To undertake historic preservation programs and projects.
- (15) Hospitals. – To establish, support and maintain public hospitals and clinics, and other related health programs and ~~facility,~~ facilities, or to aid any private, nonprofit hospital, clinic, related ~~facilities,~~ facility, or other health program or facility.
- (15a) Housing Rehabilitation. – To provide for personnel costs related to planning and administration of housing rehabilitation programs authorized by G.S. 153A-376. This subdivision only applies to counties with a population of 400,000 or more, according to the most recent decennial federal census.
- (16) Human Relations. – To undertake human relations programs.
- (16a) Industrial Development. – To provide for industrial development as authorized by G.S. 158-7.1.
- (17) Joint Undertakings. – To cooperate with any other county, city, or political subdivision in providing any of the functions, services, or activities listed in this subsection.
- (18) Law Enforcement. – To provide for the operation of the office of the sheriff of the county and for any other county law-enforcement agency not under the sheriff's jurisdiction.
- (19) Libraries. – To establish and maintain public libraries.
- (20) Mapping. – To provide for mapping the lands of the county.
- (21) Medical Examiner. – To provide for the county medical examiner or coroner.
- (22) Mental Health. – To provide for the county's share of the cost of maintaining and administering services offered by or through the area mental health, developmental disabilities, and substance abuse authority.
- (23) Open Space. – To acquire open space land and easements in accordance with Article 19, Part 4, Chapter 160A of the General Statutes.
- (24) Parking. – To provide off-street lots and garages for the parking and storage of motor vehicles.
- (25) Parks and Recreation. – To establish, support and maintain public parks and programs of supervised recreation.
- (26) Planning. – To provide for a program of planning and regulation of development in accordance with Article 18 of this Chapter and Article 19, Parts 3A and 6, of Chapter 160A of the General Statutes.
- (27) Ports and Harbors. – To participate in programs with the North Carolina Ports Authority and provide for harbor masters.

- (27a) Railway Corridor Preservation. – To acquire property for railroad corridor preservation as authorized by G.S. 160A-498.
- (28) Register of Deeds. – To provide for the operation of the office of the register of deeds of the county.
- (29) Sewage. – To provide sewage collection and treatment services as defined in G.S. 153A-274(2).
- (30) Social Services. – To provide for the public welfare through the maintenance and administration of public assistance programs not required by Chapters 108A and 111 of the General Statutes, and by establishing and maintaining a county home.
- (31) Solid Waste. – To provide solid waste collection and disposal services, and to acquire and operate landfills.
- (31a) Stormwater. – To provide structural and natural stormwater and drainage systems of all types.
- (32) Surveyor. – To provide for a county surveyor.
- (33) Veterans' Service Officer. – To provide for the county's share of the cost of services offered by or through the county veterans' service officer.
- (34) Water. – To provide water supply and distribution systems.
- (35) Watershed Improvement. – To undertake watershed improvement projects.
- (36) Water Resources. – To participate in federal water resources development projects.
- (37) Armories. – To supplement available State or federal funds to be used for the construction (including the acquisition of land), enlargement or repair of armory facilities for the North Carolina national guard.
- (38) Railway Corridor Preservation. – To acquire property for railroad corridor preservation as authorized by G.S. 160A-498."

Sec. 4. G.S. 153A-149(d) reads as rewritten:

"(d) With an approving vote of the people, any county may levy property taxes for any purpose for which the county is authorized by law to appropriate money. Any property tax levy approved by a vote of the people shall not be counted for purposes of the rate limitation imposed in subsection (c).

The county commissioners may call a referendum on approval of a property tax levy. The referendum may be held at the same time as any other referendum or election, but may not be otherwise held within the period of time beginning 30 days before and ending 10 days after any other referendum or election to be held in the county and already validly called or scheduled by law at the time the tax referendum is called. The referendum shall be conducted by the county board of elections. The clerk to the board of commissioners shall publish a notice of the referendum at least twice. The first publication shall be not less than 14 days and the second publication not less than seven days before the last day on which voters may register for the referendum. The notice shall state the date of the referendum, the purpose for which it is being held, and a

statement as to the last day for registration for the referendum under the election laws then in effect.

The proposition submitted to the voters shall be substantially in one of the following forms:

(1) Shall County be authorized to levy annually a property tax at ~~an effective~~ a rate not in excess of cents on the one hundred dollars (\$100.00) value of property subject to taxation for the purpose of

(2) Shall County be authorized to levy annually a property tax at a rate not in excess of that which will produce \$..... for the purpose of

(3) Shall County be authorized to levy annually a property tax without restriction as to rate or amount for the purpose of

If a majority of those participating in the referendum approve the proposition, the board of commissioners may proceed to levy annually a property tax within the limitations (if any) described in the proposition.

The board of elections shall canvass the referendum and certify the results to the board of commissioners. The board of commissioners shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended: 'Any action or proceeding challenging the regularity or validity of this tax referendum must be begun within 30 days after (date of publication).' The statement of results shall be filed in the clerk's office and inserted in the minutes of the board.

Any action or proceeding in any court challenging the regularity or validity of a tax referendum must be begun within 30 days after the publication of the results of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed herein.

Except for supplemental school taxes and except for tax referendums on functions not included in subsection (c) of this section, any referendum held before July 1, 1973, on the levy of property taxes is not valid for the purposes of this subsection. Counties in which such referendums have been held may support programs formerly supported by voted property taxes within the general rate limitation set out in subsection (c) at any appropriate level and are not subject to the former voted rate limitation."

Sec. 5. G.S. 153A-149(e) reads as rewritten:

"(e) With an approving vote of the people, any county may increase the property tax rate limitation imposed in subsection (c) and may call a referendum for that purpose. The referendum may be held at the same time as any other referendum or election, but may not be otherwise held within the period of time beginning 30 days before and ending 30 days after any other referendum or election. The referendum shall be conducted by the county board of elections.

The proposition submitted to the voters shall be substantially in the following form: 'Shall the ~~effective~~ property tax rate limitation applicable to County be increased

from on the one hundred dollars (\$100.00) value of property subject to taxation to on the one hundred dollars (\$100.00) value of property subject to taxation?'

If a majority of those participating in the referendum approve the proposition, the rate limitation imposed in subsection (c) shall be increased for the county."

Sec. 6. G.S. 160A-209(e) reads as rewritten:

"(e) With an approving vote of the people, any city may levy property taxes for any purpose for which the city is authorized by its charter or general law to appropriate money. Any property tax levy approved by a vote of the people shall not be counted for purposes of the rate limitation imposed in subsection (d).

The city council may call a referendum on approval of a property tax levy. The referendum may be held at the same time as any other city referendum or city election, but may not be otherwise held (i) on the day of any federal, State, district, or county election already validly called or scheduled by law at the time the tax referendum is called, or (ii) within the period of time beginning 30 days before and ending 10 days after the day of any other city referendum or city election already validly called or scheduled by law at the time the tax referendum is called. The referendum shall be conducted by the same board of elections that conducts regular city elections. A notice of referendum shall be published in accordance with G.S. 163-287. The notice shall state the date of the referendum, the purpose for which it is being held, and a statement as to the last day for registration for the referendum under the election laws then in effect.

The proposition submitted to the voters shall be substantially in one of the following forms:

(1) Shall the City/Town of be authorized to levy annually a property tax at ~~an effective a~~ rate not in excess of cents on the one hundred dollars (\$100.00) value of property subject to taxation for the purpose of

(2) Shall the City/Town of be authorized to levy annually a property tax at a rate not in excess of that which will produce \$ for the purpose of

(3) Shall the City/Town of be authorized to levy annually a property tax without restriction as to rate or amount for the purpose of

If a majority of those participating in the referendum approve the proposition, the city council may proceed to levy annually a property tax within the limitations (if any) described in the proposition. ~~Unless otherwise provided in the proposition submitted to the voters, a vote on a property tax levy not to exceed a specified rate per one hundred dollars (\$100.00) value of property subject to taxation is a vote on an effective rate per one hundred dollars (\$100.00) of appraised value of property before the application of any assessment ratio.~~

The board of elections shall canvass the referendum and certify the results to the city council. The council shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended: 'Any action or proceeding challenging the regularity or validity of this tax referendum must be begun within 30 days after (date of publication).' The statement of results shall be filed in the clerk's office and inserted in the minutes of the council.

Any action or proceeding in any court challenging the regularity or validity of a tax referendum must be begun within 30 days after the publication of the results of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed herein.

Except for tax referendums on functions not included in subsection (c) of this section, any referendum held before July 1, 1973, on the levy of property taxes is not valid for the purposes of this subsection. Cities in which such referendums have been held may support programs formerly supported by voted property taxes within the general rate limitations set out in subsection (d) at any appropriate level and are not subject to the former voted rate limitation."

Sec. 7. G.S. 160A-209(f) reads as rewritten:

"(f) With an approving vote of the people, any city may increase the property tax rate limitation imposed in subsection (c) and may call a referendum for that purpose. The referendum may be held at the same time as any other city referendum or election, but may not be otherwise held (i) on the day of any federal, State, district, or county election, or (ii) within the period of time beginning 30 days before and ending 30 days after the day of any other city referendum or city election. The election shall be conducted by the same board of elections that conducts regular city elections.

The proposition submitted to the voters shall be substantially in the following form: 'Shall the ~~effective~~ property tax rate limitation applicable to the City/Town of be increased from on the one hundred dollars (\$100.00) value of property subject to taxation to on the one hundred dollars (\$100.00) value of property subject to taxation?'

If a majority of those participating in the referendum approve the proposition, the rate limitation imposed in subsection (c) shall be increased for the city."

Sec. 8. G.S. 105-357(b)(2) reads as rewritten:

"(2) Penalty. – In addition to interest for nonpayment of taxes provided by G.S. 105-360 and in addition to any criminal penalties provided by law for the giving of worthless checks, the penalty for giving in payment of taxes a check that is returned because of insufficient funds or nonexistence of an account of the drawer ~~shall be~~ is ten percent (10%) of the amount of the ~~check~~ check, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). This penalty does not apply if the tax collector finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by inadvertance, the drawer of the check failed to draw the check on the account that had sufficient funds. This penalty shall be added to and collected in the same manner as the taxes for which the check was given."

Sec. 9. G.S. 105-236(1) reads as rewritten:

"(1) Penalty for Bad Checks. – When the bank upon which any uncertified check tendered to the Department of Revenue in payment of any obligation due to the Department, shall refuse payment upon such check on account of insufficient funds of the drawer in such bank, and such check shall be returned to the Department of Revenue, Department returns the check because of insufficient funds or the nonexistence of an account of the drawer, an additional tax shall be imposed, which additional tax shall be equal to ten percent (10%) of the obligation for the payment of which such check was tendered: Provided, however, that in no case shall the additional tax so imposed be less than one dollar (\$1.00) nor more than two hundred dollars (\$200.00). Provided, further, no additional tax shall be imposed if the Secretary of Revenue shall find that the drawer of such check, at the time it was presented to the drawee, had funds deposited to his credit in any bank of this State sufficient to pay such check, and, by inadvertence, failed to draw the check upon the bank in which he had such funds on deposit. check shall be imposed, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). This penalty does not apply if the Secretary of Revenue finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by inadvertence, the drawer of the check failed to draw the check on the account that had sufficient funds. The additional tax hereby imposed shall may not be waived or diminished by the Secretary of Revenue. This section shall apply subsection applies to all taxes levied or assessed by the State."

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1990.