

**Durham County Potential Tax Relief Options for Longtime Residents
With a Household Income at or Below 30% AMI**

Key Definitions and Terms

Household Income: All monies received from the prior calendar year, as reported on IRS tax forms (tax return, 1099's, etc.) of all members of a household.

AMI: Area Median Income as defined by the Department of Housing and Urban Development (HUD)

Household: A group of people living together in the same residence.

Determination date: January 1st of the subject tax year.

Appeal Board: Board of Equalization and Review.

Tax: Property taxes levied by Durham County, City of Durham and Durham County Fire Districts.

Principal Residence: The residence in which the taxpayer lives for a majority of the subject tax year.

Applicant: Legal owner of the subject property.

Application Deadline: The deadline for a timely application is September 1, for fiscal year 2020-21. Future application submissions should be received by June 1 of any given year. However, applications can be submitted through December 31 each year pending approval by the Board of Equalization and Review for late filing.

The Longtime Low-Income Homeowner Tax Assistance Program Highlights

(Coalition for Affordable Housing & Transit Grant Program as Modified)

Program Qualifications

- (1) The household income was 30% or less of the Area Median Income for the preceding calendar year
- (2) Applicant meets one of the following criteria:
 - (a) Owns and has used the property as the primary residence for at least ten (10) years,
Or
 - (b) Is at least 65 years of age or permanently and totally disabled,
Or
 - (c) Acquired the residence through an affordable housing program or organization.
Or
 - (d) Acquired the residence through inheritance and the property has been owner-occupied by for ten (10) years.

Program Summary

The program would allow qualifying applicants to pay a maximum of 1% of their defined household income in property taxes. The difference between the required payment of qualifying applicant(s) and the full tax bill for a participating jurisdiction would be covered through a grant. In this case, the participating jurisdiction would remit a grant payment to Durham County Tax Administration that would

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exhaust that jurisdiction's levied taxes for the subject year. Absent extenuating circumstances, grant payments will be submitted to DCo Tax by the participating jurisdiction within 30 days of application approval. It is expected that grants will be submitted as a monthly lump-sum payment.

Estimated annual costs of this program would include the below.

1. **Forgone revenue** calculated as the full tax bill less the estimated 1% paid by taxpayer – Durham County = \$1,767,000; City of Durham = \$1,333,000; Total = **\$3,100,000**. The Durham County staff projections are based on an assumption that a larger percentage of residents will apply and be eligible for the Tax Assistance Grant program due to the increased marketing strategies and public awareness campaigns for current exemption programs.

It is important to note the Coalition for Affordable Housing and Transit proposal had a lower cost for forgone revenue totaling \$2,119,834.

2. **Administrative costs** including 7 staff members processing applications, one outreach position and one supervisory position managing the operation plus benefits and operational expenses - **\$604,350**.

The Coalition's proposal had a lower projected operating cost for program administration totaling \$243,027.

3. **Annual operating expenses** are estimated at 15% for an additional expense of **\$59,250**. Total estimate program cost totaled: **\$3,763,600**.

Additional program notes:

- Any appeal of program qualification would be directed to the Board of Equalization and Review. Since this is not a State program, no appeal beyond the local level is allowed.
- Calculation of a qualifying taxpayer's 1% payment of property taxes in participating jurisdictions would apply to property taxes only. Solid waste, stormwater and other fees do not apply, and these fees may exceed the calculated 1% property tax payment.
- Participating jurisdictions include the Durham County, the City of Durham and Durham County Fire Districts. Taxes levied for the City of Raleigh, Town of Chapel Hill, and Town of Morrisville do not qualify for this program.
- Each household member must be re-evaluated each year as incomes often change annually, thereby changing the calculation of 1%.
- Should a qualifying applicant's property be encumbered by a mortgage, further research is needed to determine the best method(s) to administer these situations.
- An applicant qualifying for multiple tax relief programs, whether State or local, may participate in only one program.
- Grant award submitted by a participating jurisdiction may be considered as "income" under IRS guidelines. Individual applicants are encouraged to research this as it applies to the specifics of any one person's situation. In addition, further research is required to determine whether or not a participating jurisdiction will be required to provide a 1099 to qualifying applicants.

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Long-Term Payment Plan Deferral Program Highlights

One area where the Tax Administrator is permitted a great deal of latitude by State law is in the establishment of payment plans. Each year during the annual settlement process the governing body charges the Tax Administrator with a duty to collect taxes in the best interests of the jurisdiction. Those community residents having a household income below 30% AMI may warrant special consideration for payment of property taxes. The following proposal allows us to provide a deferral benefit to a population not captured by a current State program such as the Homestead Exclusion and Circuit Breaker Deferment. This program does not compete with current State programs as the benefit to a qualifying applicant would likely be greater in the State program. However, those, for example, not meeting the 65 year of age requirement for a State program may wish to take advantage of this program to defer taxes until a later date.

Under this proposal, a Durham County property owner who has a household income of 30% or less of AMI may file an agreement with Durham County Tax Administration (DCo Tax) for a perpetual payment plan. Once a qualifying household income is brought forth and verified, DCo Tax will establish a payment agreement with the qualifying owner that limits the amount of property taxes paid to 4% of annual household income. The Circuit Breaker Deferment limits the property taxes paid of qualifying applicants to 4% of income (if less than \$31,500), therefore, for equity the Long-Term Payment Plan Deferral Program uses 4% of income as a basis for annual property taxes as well.

The payment plan would continue until a disqualifying event occurs, whichever occurs first:

1. The property is sold, except for inheritance;
2. 10 years from the due date of the first year of taxes under the agreement.

Upon a disqualifying event, the full balance of all deferred taxes, interest and fees accrued becomes due and payable within 60 days from notification by DCo Tax. All years would be covered if the house is sold, but only the deferred amount and interest from year one of the agreement has to be repaid after ten years, in addition to the standard, recurring payment of 4% of income. This would be repeated for each additional year with a deferral.

While the thought of having to pay back many years of accrued interest and fees may seem daunting, it may be a worthy cause to encourage private funding that would help cover the cost of interest and fees upon a disqualifying event so that any given taxpayer may pay only the original principal balance. Given that Durham County has approximately 120,000 parcels of land, should the community experience even only a 10% contribution rate whereby each participate contributed only \$10/annually towards a private fund, staff believes this would go a long towards covering the annual expenditure of deferred interest and fees.

Under this program the need for additional staff resources shifts to a different division: Collections. Establishing payment agreements would be a less-involved annual process. Setting up the initial payment agreement would be most time consuming, then annual flagging in our system, monitoring the situation and applying the more frequent monthly payments would be necessary.

Estimated costs and loss in revenue can be found below:

1. Revenue loss: while each year Durham County will experience a lower amount of revenue for those participating in this program, the overall revenue loss is **\$0**. Upon a disqualifying event the full balance is due and payable.

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2. Additional staff needed to administer this program is estimated at three (3) additional delinquent collectors. Salary and benefits of these three positions is estimated to be **\$186,300**.
3. Ongoing operational costs are estimated at 15% of base salary for an additional **\$20,250**.

Total estimate program costs: **\$206,550**.

Estimated annual revenue loss: **Durham County = \$570,000; City of Durham = \$430,000; Total = \$1,000,000**. Although no loss in revenue from a long-term perspective.

To provide a visual financial perspective of how this may look for a hypothetical taxpayer, please review the three analyses below. Each analysis provides financial for both a 4% and 1% cap. The calculation of interest and fees is very much an estimate as many variables factor into the final amount.

Scenario 1: \$25,000 Income, \$150,000 Property Value

Category	Without Assistance	Payment Plan Deferral @ 4%	Payment Plan Deferral @ 1%
2019 Household Income	\$ 25,000	\$ 25,000	\$ 25,000
Property Tax Cap	NA	\$ 1,000	\$ 250
Tax Value of Residence	\$ 150,000	\$ 150,000	\$ 150,000
Durham County Tax Paid	\$ 1,068	\$ 570	\$ 143
Durham County Tax Deferred	N/A	\$ 498	\$ 926
City of Durham Tax Paid	\$ 798	\$ 430	\$ 108
City of Durham Tax Deferred	N/A	\$ 368	\$ 690
Total Tax Paid	\$ 1,866	\$ 1,000	\$ 250
Total Tax Deferred	N/A	\$ 866	\$ 1,616
Percent of Income Paid in Tax Annually	7.46%	4.00%	1.00%
Taxpayer Balances After 10 Years			
Combined Principal Tax		\$ 8,659	\$ 16,159
Total Interest & Fees*		\$ 4,648	\$ 8,561
Total Balance		\$ 13,307	\$ 24,720

**The deferral proposal includes a fundraising effort to mitigate interest & fees associated with the Proposed Long-term Homeowner Tax Deferral Program for Residents at or below 30% of AMI.*

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Scenario 2: \$27,000 Income, \$100,000 Property Value

Category	Without Assistance	Payment Plan Deferral @ 4%	Payment Plan Deferral @ 1%
2019 Household Income	\$ 27,000	\$ 27,000	\$ 27,000
Property Tax Cap	NA	\$ 1,080	\$ 270
Tax Value of Residence	\$ 100,000	\$ 100,000	\$ 100,000
Durham County Tax Paid	\$ 712	\$ 616	\$ 154
Durham County Tax Deferred	N/A	\$ 97	\$ 558
City of Durham Tax Paid	\$ 532	\$ 464	\$ 116
City of Durham Tax Deferred	N/A	\$ 67	\$ 416
Total Tax Paid	\$ 1,244	\$ 1,080	\$ 270
Total Tax Deferred	N/A	\$ 164	\$ 974
Percent of Income Paid in Tax Annually	4.61%	4.00%	1.00%
Taxpayer Balances After 10 Years			
Combined Principal Tax		\$ 1,639	\$ 9,739
Total Interest & Fees*		\$ 985	\$ 5,212
Total Balance		\$ 2,624	\$ 14,951

**The deferral proposal includes a fundraising effort to mitigate interest & fees associated with the Proposed Long-term Homeowner Tax Deferral Program for Residents at or below 30% of AMI.*

Scenario 3: \$20,000 Income, \$200,000 Property Value

Category	Without Assistance	Payment Plan Deferral @ 4%	Payment Plan Deferral @ 1%
2019 Household Income	\$ 20,000	\$ 20,000	\$ 20,000
Property Tax Cap	NA	\$ 800	\$ 200
Tax Value of Residence	\$ 200,000	\$ 200,000	\$ 200,000
Durham County Tax Paid	\$ 1,424	\$ 456	\$ 114
Durham County Tax Deferred	N/A	\$ 968	\$ 1,310
City of Durham Tax Paid	\$ 1,063	\$ 344	\$ 86
City of Durham Tax Deferred	N/A	\$ 719	\$ 977
Total Tax Paid	\$ 2,488	\$ 800	\$ 200
Total Tax Deferred	N/A	\$ 1,688	\$ 2,288
Percent of Income Paid in Tax Annually	12.44%	4.00%	1.00%
Taxpayer Balances After 10 Years			
Combined Principal Tax		\$ 16,878	\$ 22,878
Total Interest & Fees*		\$ 8,937	\$ 12,068
Total Balance		\$ 25,815	\$ 34,946

**The deferral proposal includes a fundraising effort to mitigate interest & fees associated with the Proposed Long-term Homeowner Tax Deferral Program for Residents at or below 30% of AMI.*

Key Takeaways:

1. Full legal support for this program;
2. No loss in revenue from a long-term perspective;
3. Captures a population not covered by current State programs;
4. Property taxes are reduced for qualifying owners annually, but the balance is paid in full once the increase in wealth is realized;

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5. Could be an opportunity for a community organization to establish a fund that assists or covers in full the accrued interest and fees due upon a disqualifying event.
6. Current year collection percentage would be impacted, which in turn controls the percentage that can be used in establishing the following year's budget. For example, if we end Year 1 at 98.20% collection rate then our property tax revenue budget for Year 2 can assume no higher than a 98.20% collection rate.

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Expand Durham Community Land Trust Participation

As an affordable housing initiative, there may be an opportunity to work with an already established non-profit in the Durham Community Land Trust (DCLT). Special appraisal principles apply to properties falling into this category. Such a program is already authorized by State law, and it denotes properties as affordable housing in perpetuity.

This State-approved program is covered by NC General Statute 105-277.17. Few counties in North Carolina have a local non-profit setup in their jurisdiction that administers this program. The Tax Administrator has many years of experience in administering this statute in a North Carolina county where several hundred properties gained special treatment in tax assessments.

A community land trust is a nonprofit organization that retains ownership of the land, ensuring the future affordability of housing in perpetuity. Purchasers buy DCLT homes and lease the underlying parcel of land. DCLT's land is leased to homeowners for 99 years (renewable) at a low monthly fee.

If a homeowner decides to sell, DCLT retains an option to repurchase the home to sell or rent to a future low-income resident or to assist the homeowner in identifying a new, income-eligible purchaser. Homeowners share the equity they earn on their homes with future buyers, thus, fostering long-term affordability even as surrounding neighborhood property values grow. Homeowners may also leave the home to their children.

On the surface it may seem that this does not meet the overall goal of keeping our longtime residents in their homes. However, it seems well worth considering a funding partnership with DCLT. The tax benefits may be worth it for current potentially qualifying property owners selling their land to DCLT to enter into the program and ensure their property's affordable housing continuity. Should such a process work, it would keep our longtime residents in their same home at a potentially reduced, statutorily supported tax assessment. Staff will provide the Board additional information on this concept in August.

Key Takeaways:

1. Such a program is already in operation in Durham County;
2. It has its own statute under North Carolina property tax law;
3. It seems likely that we could keep longtime residents in their home;
4. Provided the assumed necessary deed restrictions combined with the required appraisal methodology outlined in NCGS 105-277.17, a reduced tax assessment is likely.

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Staff Recommendation(s)

Durham County staff has researched available options for tax relief to low-income homeowners including a proposed Tax Assistance Grant Program initiated by the Coalition for Affordable Housing and Transit, a Long-term Tax Payment Deferral Program for Residents at or Below 30% of the Area Median Income and the potential to bolster participation in the Durham Community Land Trust program. Staff recommends the Board move forward with tax relief options that align with authorization currently available to counties by the NC General Statutes. While the Tax Assistance Grant program would offer assistance through local tax dollars, there is no local authorizing authority or case law to support the program. If legal opposition occurred to the program and the courts determined it was improper, the elected officials could be personally liable for all improperly administered taxes per NCGS §105-380.

Durham County staff recommends that the Board of County Commissioners consider the Long-term Payment Deferral Program and to explore approaches to bolster participation in the Durham Community Land Trust program. Further, staff also recommends that the BOCC explore a collaboration with the City of Durham to allocate funds for a housing repair program for long-term homeowners with a household income at or below 30% AMI. While this option does not provide direct tax relief, it would help some longtime residents address home repairs that go undone due to a lack of resources, thus freeing up dollars to support outstanding property taxes. County staff will explore this option further and bring additional information to the Board after collaboration with the City of Durham staff. We believe a toolbox of these options will provide great benefit to the community and moves Durham County forward with its goal of maintaining affordable housing.