

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS55358-LAx-8 (3/2)

Short Title: Present-Use Value Changes. (Public)

Sponsors: Senators Nesbitt, Goss, Queen, Snow, Boseman, and Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR QUALIFYING WILDLIFE  
CONSERVATION LAND, TO REDUCE THE ACREAGE REQUIREMENT FOR  
AGRICULTURAL LAND, AND TO CLARIFY THE PRESENT-USE  
VALUATION OF PROPERTY SUBJECT TO A CONSERVATION EASEMENT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-277.3(a)(1) reads as rewritten:

"(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which consists of at least ~~10~~ five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals."

**SECTION 2.** Article 12 of Subchapter II of Chapter 105 of the General States is amended by adding the following new section to read:

**"§ 105-277.14. Taxation of land used for wildlife conservation.**

**(a) Classification. – Land qualifying as wildlife conservation land is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section.**

1        (b) Contents of Application. – Property is eligible for classification under this  
2 section if a timely and proper application is filed with the assessor of the county in  
3 which the property is located. The application must show that the property meets the  
4 following requirements and must also contain any other relevant information required  
5 by the assessor to properly appraise the property:

6            (1) The land is managed and maintained under a written sound  
7 management plan that has been certified by the North Carolina  
8 Wildlife Commission.

9            (2) The land contains priority wildlife habitats identified in the North  
10 Carolina Wildlife Action Plan, supports State or federally listed  
11 threatened or endangered wildlife species, or is operated under a State  
12 or federal natural resources management plan for which wildlife  
13 habitat is its primary objective.

14            (3) The land consists of at least 10 acres.

15            (4) The land is owned by a natural person or by a family business entity.

16        (c) Timely Application Required. – An initial application must be filed during  
17 the regular listing period of the year for which the benefit of this classification is first  
18 claimed or within 30 days of the date shown on a notice of change in valuation made  
19 pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be  
20 submitted unless the property is transferred or becomes ineligible for use-value  
21 appraisal because of a change in use or acreage. An application required due to transfer  
22 of the land may be submitted at any time during the calendar year but must be submitted  
23 within 60 days of the date of the property's transfer. Notwithstanding this subsection, a  
24 late application may be approved by the board of equalization and review upon a  
25 showing of good cause. If the board of equalization and review is not in session, then  
26 the board of county commissioners may approve the late application. An untimely  
27 application approved under this subsection applies only to property taxes levied by the  
28 county or municipality in the calendar year in which the untimely application is filed.  
29 Decisions of the county board may be appealed to the Property Tax Commission.

30        (d) Appeal. – Decisions of the assessor regarding the qualifications or appraisal  
31 of property under this section may be appealed to the county board of equalization and  
32 review or, if that board is not in session, to the board of county commissioners. An  
33 appeal must be made within 60 days after the decision of the assessor. If the owner  
34 submits additional information to the assessor under G.S. 105-296(j), the appeal must be  
35 made within 60 days after the assessor's decision based on the additional information.  
36 Decisions of the county board may be appealed to the Property Tax Commission.

37        (e) Appraisal at Present-Use Value. – Upon receipt of a properly executed  
38 application, the assessor must appraise the property at its present-use value. If the  
39 majority of the property is woodland, then the property will be appraised as if it were  
40 classified as forestland under G.S. 105-277.3. If the majority of the property is open  
41 land, then the property will be appraised as if it were classified as agricultural land  
42 under G.S. 105-277.3.

43        (f) Deferred Taxes. – Land meeting the conditions for classification under this  
44 section must be taxed on the basis of the value of the land for its present use as defined

1 in subsection (e) of this section. The difference between the taxes due on the present-use  
2 basis and the taxes that would have been payable in the absence of this classification,  
3 together with any interest, penalties, or costs that may accrue thereon, is a lien on the  
4 real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes  
5 must be carried forward in the records of the taxing unit or units as deferred taxes. Other  
6 than a change in the use of the land that qualifies the land for present-use value as  
7 forestland, the taxes become due and payable when the land fails to meet any condition  
8 or requirement for classification under this section. Failure to have an application  
9 approved is ground for disqualification. The tax for the fiscal year that opens in the  
10 calendar year in which deferred taxes become due is computed as if the land had not  
11 been classified for that year, and taxes for the preceding three fiscal years that have been  
12 deferred are immediately payable, together with interest as provided in G.S. 105-360 for  
13 unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on  
14 the dates on which they originally became due. If only a part of the qualifying tract of  
15 land fails to meet a condition or requirement for classification, the assessor must  
16 determine the amount of deferred taxes applicable to that part and that amount becomes  
17 payable with interest as provided above. Upon the payment of any taxes deferred under  
18 this section for the three years immediately preceding a disqualification, all liens arising  
19 under this subsection are extinguished. The deferred taxes for any given year may be  
20 paid in that year without the qualifying tract of land becoming ineligible for deferred  
21 status.

22 (g) Exceptions. – Notwithstanding the provisions in subsection (f) of this section,  
23 if property loses its eligibility for present-use value classification solely due to one of  
24 the following reasons, no deferred taxes are due, and the lien for the deferred taxes is  
25 extinguished:

26 (1) The property is conveyed by gift to a nonprofit organization and  
27 qualifies for exclusion from the tax base under G.S. 105-275(12) or  
28 G.S. 105-275(29).

29 (2) The property is conveyed by gift to the State, a political subdivision of  
30 the State, or the United States.

31 (h) Definitions. – The following definitions apply in this section:

32 (1) Family business entity. – A corporation, a general partnership, or a  
33 limited liability company whose members are all natural persons. Each  
34 member must either be a relative of another member or a relative of  
35 and have inherited the membership from a decedent who was a  
36 member of the entity.

37 (2) Member. – A shareholder of a corporation, a partner of a general or  
38 limited partnership, or a member of a limited liability company.

39 (3) Relative. – Defined in G.S. 105-277.2(5a).

40 **SECTION 3.** G.S. 105-277.3(d1) reads as rewritten:

41 "(d1) Exception for Easements on Qualified Conservation Lands Previously  
42 Appraised at Use Value. – Property that is appraised at its present-use value under  
43 G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as  
44 provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject

1 to an enforceable conservation easement that would qualify for the conservation tax  
2 credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual  
3 production or income requirements of this ~~section~~-section; and (ii) the taxpayer received  
4 no more than fifty percent (50%) of the fair market value of the donated property  
5 interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent  
6 transfer of the property does not extinguish its present-use value eligibility as long as  
7 the property remains subject to an enforceable conservation easement that qualifies for  
8 the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. The  
9 exception provided in this subsection applies only to that part of the property that is  
10 subject to the easement."

11 **SECTION 4.** This act is effective for taxes imposed for taxable years  
12 beginning on or after July 1, 2008.