

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1203

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

Sponsors: Senators Nesbitt, Goss, Queen, Snow, Boseman, Clodfelter; Atwater, Bingham, Graham, Hartsell, Kinnaird, Stevens, and Tillman.

Referred to: Finance.

March 26, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR QUALIFYING WILDLIFE
3 CONSERVATION LAND, TO REDUCE THE ACREAGE REQUIREMENT FOR
4 AGRICULTURAL LAND, AND TO CLARIFY THE PRESENT-USE
5 VALUATION OF PROPERTY SUBJECT TO A CONSERVATION EASEMENT.

6 The General Assembly of North Carolina enacts:

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

8 "(1) Agricultural land. – Individually owned agricultural land consisting of
9 one or more tracts, one of which consists of at least ~~10~~five acres that
10 are in actual production and that, for the three years preceding January
11 1 of the year for which the benefit of this section is claimed, have
12 produced an average gross income of at least one thousand dollars
13 (\$1,000). Gross income includes income from the sale of the
14 agricultural products produced from the land, any payments received
15 under a governmental soil conservation or land retirement program,
16 and the amount paid to the taxpayer during the taxable year pursuant to
17 P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of
18 2004. Land in actual production includes land under improvements
19 used in the commercial production or growing of crops, plants, or
20 animals."

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

23 **"§ 105-277.14. Taxation of land used for wildlife conservation.**

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

27 (b) Contents of Application. – Property is eligible for classification under this
28 section if a timely and proper application is filed with the assessor of the county in

1 which the property is located. The application must show that the property meets the
2 following requirements and must also contain any other relevant information required
3 by the assessor to properly appraise the property:

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

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

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

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

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

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

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

41 (f) Deferred Taxes. – Land meeting the conditions for classification under this
42 section must be taxed on the basis of the value of the land for its present use as defined
43 in subsection (e) of this section. The difference between the taxes due on the present-use
44 basis and the taxes that would have been payable in the absence of this classification,

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

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

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

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

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

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

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

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

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

39 "(d1) Exception for Easements on Qualified Conservation Lands Previously
40 Appraised at Use Value. – Property that is appraised at its present-use value under
41 G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as
42 provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject
43 to an enforceable conservation easement that would qualify for the conservation tax
44 credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual

1 production or income requirements of this ~~section~~-section; and (ii) the taxpayer received
2 no more than fifty percent (50%) of the fair market value of the donated property
3 interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent
4 transfer of the property does not extinguish its present-use value eligibility as long as
5 the property remains subject to an enforceable conservation easement that qualifies for
6 the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. The
7 exception provided in this subsection applies only to that part of the property that is
8 subject to the easement."

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