A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE REMEDIES AVAILABLE IN PRIVATE NUISANCE ACTIONS AGAINST AGRICULTURAL AND FORESTRY OPERATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 57 of Chapter 106 of the General Statutes is amended by adding a new section to read:

“§ 106-702. Limitations on private nuisance actions against agricultural and forestry operations.

(a) The compensatory damages that may be awarded to a plaintiff for a private nuisance action where the alleged nuisance emanated from an agricultural or forestry operation shall be as follows:

(1) If the nuisance is a permanent nuisance, compensatory damages shall be measured by the reduction in the fair market value of the plaintiff’s property caused by the nuisance, but not to exceed the fair market value of the property.

(2) If the nuisance is a temporary nuisance, compensatory damages shall be limited to the diminution of the fair rental value of the plaintiff’s property caused by the nuisance.

(b) If any plaintiff or plaintiff’s successor in interest brings a subsequent private nuisance action against any agricultural or forestry operation, the combined recovery from all such actions shall not exceed the fair market value of his or her property. This limitation applies regardless of whether the subsequent action or actions were brought against a different defendant than the preceding action or actions.

(c) This Article shall apply to any private nuisance claim brought against any party based on that party’s contractual or business relationship with an agricultural or forestry operation.”

SECTION 2.(a) This act is effective when it becomes law and applies to actions filed, arising, or pending on or after that date.

SECTION 2.(b) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.