

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 1025
HOUSE BILL 1190

AN ACT TO ESTABLISH POLICIES TO PRESERVE FARMLAND.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the North Carolina General Statutes is amended by adding a new Article 61 to read as follows:

"Article 61.

"Preservation of Farmland.

"§ 106-735. **Short title and purpose.**—(a) This Article shall be known as 'The Farmland Preservation Enabling Act'.

(b) The purpose of this Article is to authorize counties to undertake a series of programs to encourage the preservation of farmland as defined herein.

"§ 106-736. **Farmland preservation programs authorized.**—A county may by ordinance establish a farmland preservation program under this Article. The ordinance may authorize qualifying farms, as defined in G.S. 106-737, to take advantage of one or more of the benefits authorized by the remaining sections of this Article.

"§ 106-737. **Qualifying farmland.**—In order for farmland to qualify under this Article, it must be real property that:

- (1) Is participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7 or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3;
- (2) Is certified by the Soil Conservation Service of the United States Department of Agriculture as being a farm on which at least two-thirds of the land is composed of soils that (i) are best suited for providing food, seed, fiber, forage, timber, and oil seed crops, (ii) have good soil qualities, (iii) are favorable for all major crops common to the county where the land is located, (iv) have a favorable growing season, and (v) receive the available moisture needed to produce high yields an average of eight out of ten years; or on which at least two-thirds of the land has been actively used in agricultural, horticultural or forestry operations as defined in G.S. 105-277.2(1), (2), and (3) during each of the five previous years, measured from the date on which the determination must be made as to whether the land in question qualifies;

- (3) Is managed in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodable land; and
- (4) Is the subject of a conservation agreement, as defined in G.S. 121-35, between the county and the owner of such land that prohibits nonfarm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations.

"§ 106-737.1. **Revocation of conservation agreement.**—By written notice to the county, the landowner may revoke this conservation agreement. Such revocation shall result in loss of qualifying farm status.

"§ 106-738. **Voluntary agricultural districts.**—(a) An ordinance adopted under this Article shall provide:

- (1) For the establishment of voluntary agricultural districts consisting initially of at least the number of contiguous acres of qualifying farmland or the number of qualifying farms deemed appropriate by the board of county commissioners;
- (2) For the formation of such districts upon the execution by the owners of the requisite acreage of an agreement to sustain agriculture in the district;
- (3) That the form of this agreement must be reviewed and approved by an agricultural advisory board established under G.S. 106-739 or some other county board or official;
- (4) That each such district have a representative on the agricultural advisory board established under G.S. 106-739.

(b) The purpose of such agricultural districts shall be to increase identity and pride in the agricultural community and its way of life and to increase protection from nuisance suits and other negative impacts on properly managed farms. The county may take such action as it deems appropriate to encourage the formation of such districts and to further their purposes and objectives.

"§ 106-739. **Agricultural advisory board.**—An ordinance adopted under this Article shall provide for the establishment of an agricultural advisory board, organized and appointed as the county shall deem appropriate. The county may confer upon this advisory board authority to:

- (1) Review and make recommendations concerning the establishment and modification of agricultural districts;
- (2) Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption under this Article;
- (3) Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm;
- (4) Advise the board of county commissioners on projects, programs, or issues affecting the agricultural economy or way of life within the county;

- (5) Perform other related tasks or duties assigned by the board of county commissioners.

"§ 106-740. Public hearings on condemnation of farmland.—An ordinance adopted under this Article may provide that no State or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district until such agency has requested the local agricultural advisory board established under G.S. 106- 739 to hold a public hearing on the proposed condemnation.

- (1) Following a public hearing held pursuant to this section, the board shall prepare and submit written findings and a recommendation to the decision-making body of the agency proposing acquisition.
- (2) The board designated to hold the hearing shall have 30 days after receiving a request under this section to hold the public hearing and submit its findings and recommendations to the agency.
- (3) The agency may not formally initiate a condemnation action while the proposed condemnation is properly before the advisory board within these time limitations.

"§ 106-741. Record notice of proximity to farmlands.—(a) Any county that has a computerized land records system may require that such records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one-half mile of a voluntary agricultural district.

(b) In no event shall the county or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by any ordinance adopted under subsection (a).

(c) In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this Article.

"§ 106-742. Waiver of water and sewer assessments.—(a) A county may provide by ordinance that its water and sewer assessments be held in abeyance, with or without interest, for farms, whether inside or outside of a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.

(b) The ordinance may provide that, when the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

(c) Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

(d) If an ordinance is adopted under this section, then the assessment procedures followed under Article 9 of Chapter 153A shall conform to the terms of this ordinance with respect to qualifying farms that entered into conservation agreements while such ordinance was in effect.

(e) Nothing in this section is intended to diminish the authority of counties to hold assessments in abeyance under G.S. 153A-201.

"§ 106-743. **County ordinances.**—A county adopting an ordinance under this Article may consult with the North Carolina Commissioner of Agriculture or his staff before adoption, and shall record the ordinance with the Commissioner's office after adoption. Thereafter, the county shall submit to the Commissioner at least once a year, a written report including the status, progress and activities of the county's farmland preservation program under this Article."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.