

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 273

Short Title: Farm Use-value Rollback Change.

(Public)

Sponsors: Senator Speed.

Referred to: Agriculture.

February 23, 1989

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE ROLLBACK OF DEFERRED TAXES WHEN
FARMLAND IS SOLD BUT REMAINS IN USE AS FARMLAND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.3 reads as rewritten:

"§ 105-277.3. Agricultural, horticultural and forestland – Classifications.

(a) The following classes of property are hereby designated special classes of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution and shall be appraised, assessed and taxed as hereinafter provided:

(1) Individually owned agricultural land consisting of one or more tracts, one of which consists of at least 10 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 and any payments received under a governmental soil conservation or land retirement program. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

(2) Individually owned horticultural land consisting of one or more tracts, one of which consists of at least 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

1 includes income from the sale of the horticultural products produced
2 from the land and any payments received under a governmental soil
3 conservation or land retirement program. Land in actual production
4 includes land under improvements used in the commercial production
5 or growing of fruits or vegetables or nursery or floral products.

6 (3) Individually owned forestland consisting of one or more tracts, one of
7 which consists of at least 20 acres that are in actual production and are
8 not included in a farm unit.

9 (b) ~~It~~ Except as provided in subsection (c) below, in order to come within a
10 classification described in subdivision (a)(1), (2) or (3), above, the property must, if
11 owned by natural persons, also:

12 (1) Be the owner's place of residence; or

13 (2) Have been owned by the current owner or a relative of the current
14 owner for the four years preceding January 1 of the year for which the
15 benefit of this section is claimed.

16 ~~It~~ Except as provided in subsection (c) below, if owned by a corporation, the
17 property must have been owned by the corporation or by one or more of its principal
18 shareholders as defined in G.S. 105-277.2(4)b for the four years immediately preceding
19 January 1 of the year for which the benefit of this section is claimed. Notwithstanding
20 the provisions of G.S. 105-277.2(4)b, above, a corporation qualifying for a classification
21 described in G.S. 105-277.3 shall not lose the benefit of the classification by reason of
22 the death of one of the principal shareholders provided the decedent's ownership passes
23 to and remains in a relative of the decedent.

24 (c) In addition, notwithstanding the provisions of subsection (b) above, property
25 may come within the classification described in subdivision (a)(1) or (2) above, if ~~(1)~~ it
26 was appraised at its present use value or was eligible for appraisal at its present use
27 value pursuant to that ~~section~~ subdivision at the time title to the property passed to the
28 present owner and the land otherwise remains eligible for appraisal at its present use
29 value. ~~owner, and (2) at the time title to the property passed to the present owner he owned~~
30 ~~other property classified under subdivision (a)(1) or (2) above. Classification pursuant to this~~
31 ~~subsection shall not affect any liability for deferred taxes under G.S. 105-277.4(c) if such taxes~~
32 ~~were otherwise due at the time title passed to the present owner.~~

33 (d) Enrollment in the federal Conservation Reserve Program authorized by Title
34 XII of the Food Security Act of 1985 (Pub. L. 99-198), as amended, shall not preclude
35 eligibility of land for present use value treatment solely on the grounds that the land is
36 no longer in actual production, and income derived from participation in the federal
37 Conservation Reserve Program may be used in meeting the minimum income
38 requirements of this section either separately or in combination with income from actual
39 production. Land enrolled in the federal Conservation Reserve Program shall be
40 assessed as agricultural land if it is planted in vegetation other than trees, or as ~~forest~~
41 ~~land-forestland~~ if it is planted in trees."

42 Sec. 3. G.S. 105-277.4(c) reads as rewritten:

43 "(c) Property meeting the conditions herein set forth shall be taxed on the basis of
44 the value of the property for its present use. The difference between the taxes due on

1 the present-use basis and the taxes which would have been payable in the absence of
2 this classification, together with any interest, penalties or costs that may accrue thereon,
3 shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The
4 difference in taxes shall be carried forward in the records of the taxing unit or units as
5 deferred taxes, but shall not be payable, unless and until (i) ~~the owner conveys the property~~
6 ~~to anyone other than a relative of the owner, or (ii) ownership of the property passes to anyone~~
7 ~~other than a relative by will or intestacy, or (iii) ownership of the property passes to a~~
8 ~~corporation as defined in G.S. 105-277.2(4)b from anyone other than its principal shareholders~~
9 ~~or from such a corporation to anyone other than its principal shareholders, or (iv) the property~~
10 ~~loses its eligibility for the benefit of this classification.~~ classification for some other
11 ~~reason.~~—The tax for the fiscal year that opens in the calendar year in which a
12 disqualification occurs shall be computed as if the property had not been classified for
13 that year, and taxes for the preceding three fiscal years which have been deferred as
14 provided herein, shall immediately be payable, together with interest thereon as
15 provided in G.S. 105-360 for unpaid taxes which shall accrue on the deferred taxes due
16 herein as if they had been payable on the dates on which they originally became due. If
17 only a part of the qualifying tract of land loses its eligibility, a determination shall be
18 made of the amount of deferred taxes applicable to that part and that amount shall
19 become payable with interest as provided above. Upon the payment of any taxes
20 deferred in accordance with this section for the three years immediately preceding a
21 disqualification, all liens arising under this subsection shall be extinguished."

22 Sec. 4. This act is effective for taxable years beginning on or after January 1,
23 1989.