

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 892

Short Title: Deed Tax/Natural Heritage Fund.

(Public)

Sponsors: Senators Basnight; and Daniel.

Referred to: Finance.

May 9, 1991

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE STAMP TAX ON TRANSFERS OF REAL PROPERTY TO GENERATE FUNDS FOR THE NATURAL HERITAGE TRUST FUND, TO ADD THREE MEMBERS TO THE TRUST FUND BOARD OF TRUSTEES, AND TO MAKE VARIOUS CHANGES REGARDING THE EXPENDITURE OF FUNDS FROM THE TRUST FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.30 reads as rewritten:

"§ 105-228.30. Imposition of excise stamp tax-tax; distribution of proceeds.

(a) There is hereby levied an excise tax on each deed, instrument or writing by which any lands, tenements or other realty shall be granted, assigned or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons. The tax imposed hereby shall be at the rate of ~~fifty cents (50¢)~~ one dollar (\$1.00) on each five hundred dollars (\$500.00) or fractional part thereof of the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale). The tax ~~hereby imposed and levied~~ shall be paid by the transferor ~~or transferors~~ to the county wherein the real estate is situated prior to recording the instrument of conveyance; provided that, if the instrument transfers any parcel of real estate lying in two or more counties, the tax shall be paid to the county wherein the greater part of the real estate with respect to value lies. ~~Except as otherwise hereinafter provided, the proceeds of the tax herein levied shall be retained by the county and placed in its general funds.~~

(b) The register of deeds of each county shall remit the proceeds of the tax levied by this section to the county finance officer to be distributed on a monthly basis as

1 follows: one-half of the net proceeds shall be retained by the county and placed in its
2 general fund; and one-half of the net proceeds shall be remitted to the State Treasurer
3 for credit to the Recreation and Natural Heritage Trust Fund created in Article 5A of
4 Chapter 113 of the General Statutes. The county finance officer shall make the monthly
5 distributions no later than 30 days after the end of the month in which the proceeds were
6 collected. As used in this section, the term 'net proceeds' means gross proceeds less the
7 cost to the county of collecting and administering the tax."

8 Sec. 2. G.S. 113-77.8(a) reads as rewritten:

9 "(a) Expenditures from the Fund shall be authorized by a ~~nine-member~~ twelve-
10 member Board of Trustees. ~~Three-Four~~ members shall be appointed by the Governor,
11 ~~three-four~~ by the ~~Lieutenant Governor, President Pro Tempore of the Senate,~~ and ~~three~~
12 four by the Speaker of the House of Representatives. Persons appointed shall be
13 knowledgeable in the acquisition and management of natural areas. Each appointing
14 officer shall designate one of his initial appointments to serve a two-year term, one to
15 serve a four-year term, and one to serve a six-year term. Thereafter, all appointments
16 shall be for six years, subject to reappointment. All initial appointments shall be made
17 on or before January 1, 1988. The Governor shall appoint one Trustee to serve as
18 Chairman of the Board. ~~The Secretary shall provide the Trustees with staff support and~~
19 ~~meeting facilities using expenditures from the Fund.~~ The Board of Trustees shall employ its
20 own staff and provide for its offices and meeting facilities, and the Board shall use
21 expenditures from the Fund to provide for the staff, offices, meeting facilities, and other
22 administrative support that the Board determines is necessary to carry out the provisions
23 of this Article. These administrative costs may not exceed three percent (3%) of the
24 funds credited to the Fund during the preceding fiscal year. The office of Trustee is
25 declared to be an office that may be held concurrently with any other executive or
26 appointive office, under the authority of Article VI, Sec. 9, of the North Carolina
27 Constitution."

28 Sec. 3. G.S. 113-77.9 reads as rewritten:

29 "**§ 113-77.9. Acquisition of lands—Land acquisition and historic preservation with**
30 **funds from the Recreation and Natural Heritage Trust Fund.**

31 (a) From time to time, but at least once each year, the Secretary, the Chairman of
32 the North Carolina Wildlife Resources Commission, ~~and~~ ~~the Commissioner of~~
33 ~~Agriculture—Agriculture,~~ and the Secretary of Cultural Resources shall propose to the
34 Trustees lands to be acquired from the Fund. In addition, any unit of local government
35 may propose to the Trustees lands to be acquired from the Fund. For each tract or
36 interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources
37 Commission, ~~and~~ ~~the Commissioner of Agriculture—Agriculture,~~ the Secretary of Cultural
38 Resources, and the unit of local government shall provide the Trustees with the
39 following information:

- 40 (1) The value of the land for recreation, forestry, fish and wildlife habitat,
41 and wilderness purposes, and its consistency with the plan developed
42 pursuant to the State Parks Act, the State's comprehensive plan for
43 outdoor recreation, parks, natural areas development, and wildlife
44 management goals and objectives;

- 1 (2) Any rare or endangered species on or near the land;
 2 (3) Whether the land contains a relatively undisturbed and outstanding
 3 example of a native North Carolina ecological community that is now
 4 uncommon;
 5 (4) Whether the land contains a major river or tributary, watershed,
 6 wetland, significant littoral, estuarine, or aquatic site, or important
 7 geologic feature;
 8 (5) The extent to which the land represents a type of landscape, natural
 9 feature, or natural area that is not currently in the State's inventory of
 10 parks and natural areas;
 11 (6) Other sources of funds that may be available to assist in acquiring the
 12 land;
 13 (7) The State department or division that will be responsible for managing
 14 the land; and
 15 (8) What assurances exist that the land will not be used for purposes other
 16 than those for which it is being acquired.
- 17 (b) The Trustees may authorize expenditures from the Fund to acquire land:
- 18 (1) That represents the ecological diversity of North Carolina, including
 19 natural features such as riverine, montane, coastal, and geologic
 20 systems and other natural areas to ensure their preservation and
 21 conservation for recreational, scientific, educational, cultural, and
 22 aesthetic purposes; and
 23 (2) As additions to the system of parks, State trails, State forests, aesthetic
 24 forests, fish and wildlife management areas, wild and scenic rivers,
 25 coastal reserves, public access to public waters, estuarine sanctuaries,
 26 gamelands, wildlife conservation areas, and natural areas for the
 27 beneficial use and enjoyment of the public.

28 The Trustees may designate managers or managing agencies of the lands so acquired to
 29 receive grants from the Fund's stewardship account. In authorizing expenditures from
 30 the Fund to acquire land pursuant to this Article, the Trustees shall be guided by any
 31 priorities established by the Secretary, the Chairman of the Wildlife Resources
 32 Commission, ~~and the Commissioner of Agriculture~~ Agriculture, and the Secretary of
 33 Cultural Resources in their proposals made pursuant to subsection (a), above.

34 (b1) Notwithstanding the provisions of subsection (a) of this section, the Trustees
 35 may accept proposals and authorize expenditures from the Fund for the preservation of
 36 historic, architectural, or archaeological structures and sites. The proposals for historic
 37 preservation projects shall include the following information:

- 38 (1) Whether the site or structure is historically authentic;
 39 (2) Whether the site or structure is of such educational, historical, or
 40 cultural significance as to be essential to the development of a
 41 balanced State program of historic, architectural, or archaeological
 42 properties;
 43 (3) The estimated costs of the project under consideration and the
 44 apportionment of these costs among State and non-State sources;

- 1 (4) Whether practical plans have been or can be developed for the funding
2 of any non-State portion of the costs;
3 (5) Whether practical plans have been developed for the continued
4 staffing, maintenance, and operation of the site or structure without
5 further State assistance; and
6 (6) Whether the owner or administrator of the site or structure is public or
7 private, profit or nonprofit, and whether the site or structure is open to
8 the public.

9 (c) The Trustees may authorize expenditures from the Fund to pay for the
10 inventory of natural areas by the Secretary's Natural Heritage Program conducted
11 pursuant to Chapter 113A, Article 9A, of the General Statutes. ~~Statutes~~ and to pay for
12 other protection planning activities pursuant to the Natural Heritage Program.

13 (d) The Department of Administration may, pursuant to G.S. 143-341, acquire by
14 purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to
15 this Article. Title to any land acquired pursuant to this Article shall be vested in the
16 State. State agencies with management responsibilities for lands acquired pursuant to
17 this Article may enter into management agreements in the form of leases with counties,
18 cities, and towns to aid in managing the lands, and such lease agreements shall be
19 executed by the Department of Administration pursuant to G.S. 143-341.

20 (e) The Secretary shall maintain and annually revise a list of acquisitions and
21 historic preservation projects made pursuant to this Article. ~~The~~ In the case of land
22 acquisitions, the list shall include the acreage of each tract, the county in which the tract
23 is located, the amount paid from the Fund to acquire the tract, and the State department
24 or division or unit of local government responsible for managing the tract. In the case
25 of historic preservation projects, the list shall include the county in which the site or
26 structure is located, the amount paid from the Fund for the project, and the State
27 department or division or unit of local government responsible for managing the project.
28 The Secretary shall furnish a copy of the list to each Trustee and to each House of the
29 General Assembly after each revision.

30 (e1) Each six months the Secretary shall report to the Joint Legislative Commission
31 on Governmental Operations. This report shall include an itemized list of all
32 expenditures from the Fund and from the Fund's stewardship account since the prior
33 report, the reason for each expenditure, and a projection of expenditures for the next six
34 months.

35 (f) No provision of this Article shall be construed to eliminate hunting and
36 fishing, as regulated by the laws of the State of North Carolina, upon properties
37 purchased pursuant to this Article."

38 Sec. 4. Notwithstanding the provisions of G.S. 113-77.8, as amended in
39 Section 2 of this act, the three additional appointments to the Recreation and Natural
40 Heritage Trust Fund Board of Trustees shall be made on or before January 1, 1992, and
41 the initial appointment made by the Governor shall serve a two-year term; the initial
42 appointment made by the Speaker of the House of Representatives shall serve a four-
43 year term; and the initial appointment made by the President Pro Tempore of the Senate
44 shall serve a six-year term.

1 Sec. 5. Section 1 of this act becomes effective July 1, 1991, and applies to
2 transfers made on or after that date. The remainder of this act is effective upon
3 ratification.