

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 1132*
Second Edition Engrossed 4/28/99

Short Title: Preserve Farmlands/Promote Small Farms.

(Public)

Sponsors: Representatives Insko; and Gardner.

Referred to: Agriculture.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE THE PRESERVATION OF FARMLAND, TO PROMOTE
3 SMALL, FAMILY-OWNED FARMS, AND TO CHANGE THE DEFINITION OF
4 SUBDIVISIONS SUBJECT TO REGULATION UNDER CHAPTER 153A OF THE
5 GENERAL STATUTES.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 106-737 reads as rewritten:

8 **"§ 106-737. Qualifying farmland.**

9 In order for farmland to qualify under this Article, it must be real property ~~that~~ that
10 satisfies all of the following conditions:

- 11 (1) Is participating in the farm present-use-value taxation program
12 established by G.S. 105-277.2 through 105-277.7 or is otherwise
13 determined by the county to meet all the qualifications of this program
14 set forth in ~~G.S. 105-277.3;~~ G.S. 105-277.3.
- 15 (2) Is certified by the Soil Conservation Service of the United States
16 Department of Agriculture as being a farm on which at least two-thirds
17 of the land is composed of soils that (i) are best suited for providing
18 food, seed, fiber, forage, timber, and oil seed crops, (ii) have good soil
19 qualities, (iii) are favorable for all major crops common to the county

1 where the land is located, (iv) have a favorable growing season, and (v)
2 receive the available moisture needed to produce high yields an average
3 of eight out of 10 years; or on which at least two-thirds of the land has
4 been actively used in agricultural, horticultural or forestry operations as
5 defined in G.S. 105-277.2(1), (2), and (3) during each of the five
6 previous years, measured from the date on which the determination
7 must be made as to whether the land in question ~~qualifies;~~ qualifies.

8 (3) Is managed in accordance with the Soil Conservation Service defined
9 erosion control practices that are addressed to highly erodable ~~land;~~ and
10 land.

11 (4) Is the subject of a conservation agreement, as defined in G.S. 121-35,
12 between the county and the owner of such land that prohibits nonfarm
13 use or development of such land for a period of at least 10 years, except
14 for the creation of not more than three lots that meet applicable county
15 zoning and subdivision regulations.

16 (5) Is not a farm that has an animal waste management system having a
17 design capacity of 600,000 pounds steady state live weight or more."

18 Section 2. G.S. 106-744(c) reads as rewritten:

19 "(c) There is established a 'North Carolina Farmland Preservation Trust Fund' to be
20 administered by the Commissioner of Agriculture. The Trust Fund shall consist of all
21 monies received for the purpose of purchasing agricultural conservation easements or
22 farmland development rights or transferred from counties or private sources. The Trust
23 Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3. The
24 Commissioner of Agriculture shall use Trust Fund monies to match any county funds to
25 establish and support a county agricultural economic development director to promote
26 agricultural economic development in that county and to improve the economics of
27 farming in that county by farmers of small, family-owned farms. The Commissioner ~~shall~~
28 may use Trust Fund monies for the purchase of agricultural conservation ~~easements,~~
29 easements and farm development rights, including transaction ~~costs,~~ costs for both, and
30 ~~shall may~~ distribute Trust Fund monies ~~to counties and private nonprofit conservation~~
31 ~~organizations~~ for such purchases, including transaction ~~costs,~~ costs, as follows:

32 (1) To private nonprofit conservation organizations.

33 (2) To counties according to the match requirements under subsection (c1)
34 of this section.

35 (c1) A county that has prepared a countywide farmland protection plan and zoned
36 areas in the county for long-term agriculture use shall match twenty-five percent (25%)
37 of the Trust Fund monies it receives with county funds. A county that has either prepared
38 a countywide farmland protection plan or zoned areas in the county for long-term
39 agriculture use shall match forty percent (40%) of the Trust Fund monies it receives with
40 county funds. A county that has neither prepared a countywide farmland protection plan
41 nor zoned areas in the county for long-term agriculture use shall match fifty percent
42 (50%) of the Trust Fund monies it receives with county funds.

1 (c2) The Commissioner of Agriculture shall adopt rules ~~and regulations~~ governing
2 the use, distribution, investment, and management of Trust Fund monies."

3 Section 3. G.S. 106-744 is amended by adding a new subsection to read:

4 "(c3) Farmers of small, family-owned farms in voluntary agriculture districts shall
5 have priority in receiving technical assistance from any agricultural economic
6 development director paid in part with Trust Fund monies under subsection (c) of this
7 section."

8 Section 4. G.S. 106-744 is amended by adding a new subsection to read:

9 "(e) As used in subsection (c1) of this section, a countywide farmland protection
10 plan means a plan that satisfies all of the following requirements:

11 (1) The countywide farmland protection plan shall contain a list and
12 description of existing agricultural activity in the county.

13 (2) The countywide farmland protection plan shall contain a list of existing
14 challenges to continued family farming in the county.

15 (3) The countywide farmland protection plan shall contain a list of
16 opportunities for maintaining or enhancing small, family-owned farms
17 and the local agricultural economy.

18 (4) The countywide farmland protection plan shall describe how the county
19 plans to maintain a viable agricultural community and shall address
20 farmland preservation tools, such as agricultural economic development,
21 including farm diversification and marketing assistance; other kinds of
22 agricultural technical assistance, such as farm infrastructure financing,
23 farmland purchasing, linking with younger farmers, and estate planning;
24 the desirability and feasibility of donating agricultural conservation
25 easements, entering into voluntary agricultural districts, transferring
26 development rights, and zoning for long-term agricultural use areas."

27 Section 5. G.S. 153A-335 reads as rewritten:

28 **"§ 153A-335. 'Subdivision' defined.**

29 For purposes of this Part, 'subdivision' means all divisions of a tract or parcel of land
30 into two or more lots, building sites, or other divisions for the purpose of sale or building
31 development (whether immediate or future) and includes all division of land involving
32 the dedication of a new street or a change in existing streets; however, the following is
33 not included within this definition and is not subject to any regulations enacted pursuant
34 to this Part:

35 (1) The combination or recombination of portions of previously subdivided
36 and recorded lots if the total number of lots is not increased and the
37 resultant lots are equal to or exceed the standards of the county as
38 shown in its subdivision regulations;

39 (2) The division of land into parcels greater than ~~40~~ 50 acres if no street
40 right-of-way dedication is involved;

41 (3) The public acquisition by purchase of strips of land for widening or
42 opening streets; and

1 (4) The division of a tract in single ownership the entire area of which is no
2 greater than two acres into not more than three lots, if no street right-of-
3 way dedication is involved and if the resultant lots are equal to or
4 exceed the standards of the county as shown by its subdivision
5 regulations."

6 Section 5.1. Part 2 of Article 18 of Chapter 153A of the General Statutes is
7 amended by adding a new section to read:

8 "**§ 153A-335.1. Fees to support farmland protection.**

9 A county that has prepared and adopted a countywide farmland protection plan
10 containing all the elements set forth in G.S. 106-744(e) may adopt an ordinance imposing
11 a fee of no more than ten dollars (\$10.00) for each subdivision plat required to be filed
12 with the register of deeds for recordation. The monies collected pursuant to this section
13 shall be used to meet the county match requirements for obtaining funding from the
14 North Carolina Farmland Preservation Trust Fund."

15 Section 6. Sections 1 through 4 and Section 5.1 of this act become effective
16 July 1, 1999. The remainder of this act is effective when it becomes law.