

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1054

Short Title: Ownership Requirements for Use Value.

(Public)

Sponsors: Senator Hartsell.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO EXPAND PRESENT-USE VALUE CLASSIFICATION TO CERTAIN BUSINESS ENTITIES AND TO CLARIFY THE OWNERSHIP REQUIREMENTS FOR PRESENT-USE VALUE CLASSIFICATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.2(4) is repealed.

Section 2. G.S. 105-277.3 reads as rewritten:

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

(a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and shall be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7. To come within one of these classifications, the property must meet one of the ownership requirements in G.S. 105-277.3A.

(1) Agricultural land. — ~~Individually owned agricultural~~ 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

1 under a governmental soil conservation or land retirement program.  
2 Land in actual production includes land under improvements used in the  
3 commercial production or growing of crops, plants, or animals.

4 (2) Horticultural land. —~~Individually owned horticultural~~ Horticultural land  
5 consisting of one or more tracts, one of which consists of at least five  
6 acres that are in actual production and that, for the three years preceding  
7 January 1 of the year for which the benefit of this section is claimed,  
8 have met the applicable minimum gross income requirement. Land in  
9 actual production includes land under improvements used in the  
10 commercial production or growing of fruits or vegetables or nursery or  
11 floral products. Land that has been used to produce evergreens intended  
12 for use as Christmas trees must have met the minimum gross income  
13 requirements established by the Department of Revenue for the land.  
14 All other horticultural land must have produced an average gross  
15 income of at least one thousand dollars (\$1,000). Gross income includes  
16 income from the sale of the horticultural products produced from the  
17 land and any payments received under a governmental soil conservation  
18 or land retirement program.

19 (3) Forestland. —~~Individually owned forestland~~ Forestland consisting of one  
20 or more tracts, one of which consists of at least 20 acres that are in  
21 actual production and are not included in a farm unit.

22 (b) ~~Natural Person Ownership Requirements.~~ — ~~In order to come within a~~  
23 ~~classification described in subsection (a) of this section, the land must, if owned by a~~  
24 ~~natural person, also satisfy one of the following conditions:~~

25 (1) ~~It is the owner's place of residence.~~

26 (2) ~~It has been owned by the current owner or a relative of the current~~  
27 ~~owner for the four years preceding January 1 of the year for which the~~  
28 ~~benefit of this section is claimed.~~

29 (3) ~~At the time of transfer to the current owner, it qualified for classification~~  
30 ~~in the hands of a business entity or trust that transferred the land to the~~  
31 ~~current owner who was a member of the business entity or a beneficiary~~  
32 ~~of the trust, as appropriate.~~

33 (b1) ~~Entity Ownership Requirements.~~ — ~~In order to come within a classification~~  
34 ~~described in subsection (a) of this section, the land must, if owned by a business entity or~~  
35 ~~trust, have been owned by the business entity or trust or by one or more of its members~~  
36 ~~or creators, respectively, for the four years immediately preceding January 1 of the year~~  
37 ~~for which the benefit of this section is claimed.~~

38 (b2) ~~Exception to Ownership Requirements.~~ — ~~G.S. 105-277.4(c) provides that~~  
39 ~~deferred taxes are payable if land fails to meet any condition or requirement for~~  
40 ~~classification. Accordingly, if land fails to meet an ownership requirement due to a~~  
41 ~~change of ownership, G.S. 105-277.4(c) applies. Despite this failure and the resulting~~  
42 ~~liability for taxes under G.S. 105-277.4(c), the land may qualify for classification in the~~  
43 ~~hands of the new owner if both of the following conditions are met, even if the new~~

owner does not meet all of the ownership requirements of subsections (b) and (b1) of this section with respect to the land:

(1) ~~The land was appraised at its present use value or was eligible for appraisal at its present use value at the time title to the land passed to the new owner.~~

(2) ~~At the time title to the land passed to the new owner, the owner owned other land classified under subsection (a).~~

(c) Repealed by Session Laws 1995, c. 454, s. 2.

(d) Exception for Conservation Reserve Program. – Land enrolled in the federal Conservation Reserve Program authorized by 16 U.S.C. § 1381 is considered to be in actual production, and income derived from participation in the federal Conservation Reserve Program may be used in meeting the minimum gross income requirements of this section either separately or in combination with income from actual production. Land enrolled in the federal Conservation Reserve Program shall be assessed as agricultural land if it is planted in vegetation other than trees, or as forestland if it is planted in trees.

(e) Exception for Turkey Disease. – Agricultural land that meets all of the following conditions is considered to be in actual production and to meet the minimum gross income requirements:

(1) The land was in actual production in turkey growing within the preceding two years and qualified for present use value treatment while it was in actual production.

(2) The land was taken out of actual production in turkey growing solely for health and safety considerations due to the presence of Poult Enteritis Mortality Syndrome among turkeys in the same county or a neighboring county.

(3) The land is otherwise eligible for present use value treatment."

Section 3. Chapter 105 of the General Statutes is amended by adding a new section to read:

**§ 105-277.3A. Agricultural, horticultural, and forestland – Ownership requirements.**

(a) Natural Person. – The property may come within one of the classifications in G.S. 105-277.3 if it is owned by a natural person. For the purposes of this subsection, property owned as tenants by the entirety, tenants in common, and any other similar type of ownership would qualify as long as the ownership consisted solely of natural persons.

For the purposes of this subsection, a natural person who is an income beneficiary of a trust that owns land may elect to treat the person's beneficial share of the land as owned by that person. If the person's beneficial interest is not an identifiable share of land but can be established as a proportional interest in the trust income, the person's beneficial share of land is a percentage of the land owned by the trust that corresponds to the beneficiary's proportional interest in the trust income.

If the property is owned by a natural person, it must also satisfy one of the following conditions:

(1) It is the owner's place of residence.

1           (2)   It has been owned by the current owner or a relative of the current  
2           owner for the four years preceding January 1 of the year for which the  
3           benefit of this section is claimed.

4           (3)   At the time of transfer to the current owner, it qualified for classification  
5           in the hands of a business entity or trust that transferred the land to the  
6           current owner who was a member of the business entity or a beneficiary  
7           of the trust, as appropriate.

8           (b)   Business Entity. – The property may come within one of the classifications in  
9           G.S. 105-277.3 if it is owned by a business entity that meets all of the following  
10          conditions:

11          (1)   Its principal business is agricultural land, horticultural land, or  
12          forestland.

13          (2)   Its members are all either a natural person actively engaged in the  
14          business of the entity or a relative of a member who is actively engaged  
15          in the business of the entity.

16          (3)   It has owned the land, or one or more of its members has owned the  
17          land, for the four years immediately preceding January 1 of the year for  
18          which the benefit of G.S. 105-277.3 is claimed.

19          For the purposes of this subsection, a natural person who is a member of a business  
20          entity, other than a corporation, that owns land may elect to treat the person's share of the  
21          land as owned by that person. The person's share is a percentage of the land owned by  
22          the business entity that corresponds to the person's percentage of ownership in the entity.

23          (c)   A Trust. – The property may come within one of the classifications in G.S.  
24          105-277.3 if it is owned by a trust that meets all of the following conditions:

25          (1)   It was created by a natural person who transferred land to the trust.

26          (2)   The land was owned by the trust or by one or more of its creators for the  
27          four years immediately preceding January 1 of the year for which the  
28          benefit of G.S. 105-277.3 is claimed.

29          (3)   Each of the trust's beneficiaries who is currently entitled to receive  
30          income or principal meets one of the following conditions:

31               a.   Is the creator of the trust or the creator's relative.

32               b.   Is a second trust whose beneficiaries who are currently entitled to  
33               receive income or principal are all either the creator of the first  
34               trust or the creator's relatives.

35          (d)   A Testamentary Trust. – The property may come within one of the  
36          classifications in G.S. 105-277.3 if it is owned by a testamentary trust that meets all of  
37          the following conditions:

38          (1)   It was created by a natural person who transferred to the trust land that  
39          qualified in that person's hands for classification under G.S. 105-277.3.

40          (2)   At the time of the creator's death, the creator had no relatives as of the  
41          date of death.

1           (3) The trust income, less reasonable administrative expenses, is used  
2           exclusively for educational, scientific, literary, cultural, charitable, or  
3           religious purposes as defined in G.S. 105-278.3(d).

4           (e) Exception to Four-Year Ownership Requirement. – Notwithstanding the  
5           provisions of this section, if land fails to meet an ownership requirement due to a change  
6           of ownership, the land may qualify for classification in the hands of the new owner if  
7           both of the following conditions are met:

8           (1) The land was appraised at its present-use value or was eligible for  
9           appraisal at its present-use value at the time title to the land passed to  
10           the new owner.

11           (2) At the time title to the land passed to the new owner, the owner owned  
12           other land classified under G.S. 105-277.3.

13           (f) Exception to Principal Business Ownership Requirement. – Notwithstanding  
14           the provisions of G.S. 105-277.4(c), if land fails to meet the ownership requirement under  
15           subdivision (b)(1) of this section due to a change in the form of ownership, the land may  
16           qualify for classification in the hands of the new owner and no deferred taxes are payable  
17           under G.S. 105-277.4(c), if all of the following conditions are met:

18           (1) The land was appraised at its present-use value at the time title to the  
19           land passed to the new owner.

20           (2) The land was previously owned by a business entity whose principal  
21           business was agricultural land, horticultural land, or forestland.

22           (3) The members or shareholders of the new owner are the same as the  
23           members or shareholders of the previous business entity that owned the  
24           land or, they are relatives of the members or shareholders of the  
25           previous business entity that owned the land.

26           (4) The use of the land has not changed."

27           Section 4. Notwithstanding the provisions of G.S. 105-277.2(4), if land fails to  
28           meet the ownership requirement under G.S. 105-277.2(4)b. due to a change in the form of  
29           ownership that has occurred since 1989, the land may qualify for classification in the  
30           hands of the new owner if all of the following conditions are met:

31           (1) The land was appraised at its present-use value at the time title to the  
32           land passed to the new owner.

33           (2) The land was previously owned by a business entity whose principal  
34           business was agricultural land, horticultural land, or forestland.

35           (3) The members or shareholders of the new owner are the same as the  
36           members or shareholders of the previous business entity that owned the  
37           land or, they are relatives of the members or shareholders of the  
38           previous business entity that owned the land.

39           (4) The use of the land has not changed.

40           Notwithstanding G.S. 105-277.4(a), an application for the benefit provided in this section  
41           for the 1999-2000 tax year is timely if it is filed on or before September 1, 1999. Land  
42           that may qualify for present-use value under this section for the 1999-2000 tax year is not

1 entitled to the benefits of the classification for the prior years in which it did not meet the  
2 ownership requirements of G.S. 105-277.2(4)b.

3           Section 5. Sections 1 through 3 of this act are effective for taxes imposed for  
4 taxable years beginning on or after July 1, 2000. The remainder of this act is effective  
5 when it becomes law. Section 4 of this act expires for taxes imposed for taxable years  
6 beginning on or after July 1, 2000.