

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**HOUSE BILL 1427**

Short Title: Amend Use Value Statutes. (Public)

Sponsors: Representatives Agriculture Committee; Underhill, Coates, Hilton, and Buchanan.

Referred to: Finance.

May 8, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE MISCELLANEOUS CHANGES TO THE DEFINITIONS USED  
3 FOR AGRICULTURAL, HORTICULTURAL, AND FORESTRY LAND; TO  
4 PERMIT A CHANGE OF OWNERSHIP WITH CONTINUED QUALIFICATION  
5 FOR DEFERRED TAX STATUS; TO PROVIDE AN OPTION FOR  
6 PREPAYMENT OF ANY DEFERRED TAXES; TO CREATE A STUDY; AND  
7 TO MAKE CONFORMING CHANGES.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 105-277.2 reads as rewritten:

10 **"§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

11 The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

- 12 (1) Agricultural land. – Land that is a part of a farm unit that is actively  
13 engaged in the ~~commercial~~ production or growing of crops, plants, or  
14 animals under a sound management program. Agricultural land  
15 includes all woodland and wasteland ~~that is a part of in~~ the farm unit,  
16 but the woodland and wasteland included in the unit shall be appraised  
17 under the use-value schedules as woodland or wasteland. A farm unit  
18 may consist of more than one tract of agricultural land, but at least one  
19 of the tracts must meet the requirements in G.S. 105-277.3(a)(1), and  
20 each tract must be under a sound management program.
- 21 (1a) Business entity. – A corporation, a general partnership, a limited  
22 partnership, or a limited liability company.
- 23 (2) Forestland. – Land that is a part of a forest unit that is actively engaged  
24 in the ~~commercial~~ growing of trees under a ~~sound~~ forestland  
25 management program. Forestland includes wasteland that is a part of  
26 the forest unit, but the wasteland included in the unit shall be appraised  
27 under the use-value schedules as wasteland. A forest unit may consist

1 of more than one tract of forestland, but at least one of the tracts must  
2 meet the requirements in G.S. 105-277.3(a)(3), and each tract must be  
3 under a ~~sound~~ forestland management program.

4 (3) Horticultural land. – Land that is a part of a horticultural unit that is  
5 actively engaged in the ~~commercial~~ production or growing of fruits or  
6 vegetables or nursery or floral products under a sound management  
7 program. Horticultural land includes all woodland and wasteland ~~that~~  
8 ~~is a part of~~ in the horticultural unit, but the woodland and wasteland  
9 included in the unit shall be appraised under the use-value schedules as  
10 woodland or wasteland. A horticultural unit may consist of more than  
11 one tract of horticultural land, but at least one of the tracts must meet  
12 the requirements in G.S. 105-277.3(a)(2), and each tract must be under  
13 a sound management program.

14 (4) Individually owned. – Owned by one of the following:

15 a. A natural person. For the purpose of this section, a natural  
16 person who is an income beneficiary of a trust that owns land  
17 may elect to treat the person's beneficial share of the land as  
18 owned by that person. If the person's beneficial interest is not an  
19 identifiable share of land but can be established as a  
20 proportional interest in the trust income, the person's beneficial  
21 share of land is a percentage of the land owned by the trust that  
22 corresponds to the beneficiary's proportional interest in the trust  
23 income. For the purpose of this section, a natural person who is  
24 a member of a business entity, other than a corporation, that  
25 owns land may elect to treat the person's share of the land as  
26 owned by that person. The person's share is a percentage of the  
27 land owned by the business entity that corresponds to the  
28 person's percentage of ownership in the entity.

29 b. A business entity having as its principal business one of the  
30 activities described in subdivisions (1), (2), and (3) and whose  
31 members are all natural persons who meet one or more of the  
32 following conditions:

- 33 1. The member is actively engaged in the business of the  
34 entity.
- 35 2. The member is a relative of a member who is actively  
36 engaged in the business of the entity.
- 37 3. The member is a relative of, and inherited the  
38 membership interest from, a decedent who met one or  
39 both of the preceding conditions after the land qualified  
40 for classification in the hands of the business entity.

41 c. A trust that was created by a natural person who transferred the  
42 land to the trust and each of whose beneficiaries who is  
43 currently entitled to receive income or principal meets one of  
44 the following conditions:

- 1 1. Is the creator of the trust or the creator's relative.
- 2 2. Is a second trust whose beneficiaries who are currently
- 3 entitled to receive income or principal are all either the
- 4 creator of the first trust or the creator's relatives.
- 5 d. A testamentary trust that meets all of the following conditions:
- 6 1. It was created by a natural person who transferred to the
- 7 trust land that qualified in that person's hands for
- 8 classification under G.S. 105-277.3.
- 9 2. At the time of the creator's death, the creator had no
- 10 relatives as defined in this section as of the date of death.
- 11 3. The trust income, less reasonable administrative
- 12 expenses, is used exclusively for educational, scientific,
- 13 literary, cultural, charitable, or religious purposes as
- 14 defined in G.S. 105-278.3(d).
- 15 (4a) Member. – A shareholder of a corporation, a partner of a general or
- 16 limited partnership, or a member of a limited liability company.
- 17 (5) Present-use value. – The value of land in its current use as agricultural
- 18 land, horticultural land, or forestland, based solely on its ability to
- 19 produce income, using a rate of nine percent (9%) to capitalize the
- 20 expected net income of the property and assuming an average level of
- 21 management.
- 22 (5a) Relative. – Any of the following:
- 23 a. A spouse or the spouse's lineal ancestor or descendant.
- 24 b. A lineal ancestor or a lineal descendant.
- 25 c. A brother or sister, or the lineal descendant of a brother or
- 26 sister. For the purposes of this sub-subdivision, the term brother
- 27 or sister includes stepbrother or stepsister.
- 28 d. An aunt or an uncle.
- 29 e. A spouse of a person listed in paragraphs a. through d.
- 30 For the purpose of this subdivision, an adoptive or adopted relative
- 31 is a relative and the term "spouse" includes a surviving spouse.
- 32 (6) Sound management program. – A program of ~~production agricultural~~
- 33 ~~or horticultural practices~~ designed to ~~obtain the greatest net return~~
- 34 ~~from the land consistent with its conservation and long term~~
- 35 ~~improvement.~~ conserve the land and maintain the long-term ability of
- 36 the land to produce or grow agricultural crops, plants, or animals or to
- 37 produce or grow horticultural fruits, vegetables, nursery, or floral
- 38 products."

39 **SECTION 2.** G.S. 105-277.3 reads as rewritten:

40 **"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.**

41 (a) Classes Defined. – The following classes of property are designated special

42 classes of property under authority of Section 2(2) of Article V of the North Carolina

43 Constitution and shall be appraised, assessed, and taxed as provided in G.S. 105-277.2

44 through G.S. 105-277.7.

- 1           (1)    Agricultural land. – Individually owned agricultural land consisting of  
2                   one or more tracts, one of which consists of at least 10 acres that are in  
3                   actual production and that, for the three years preceding January 1 of  
4                   the year for which the benefit of this section is claimed, have produced  
5                   an average gross income or average value of production or a  
6                   combination thereof of at least one thousand dollars (\$1,000). Gross  
7                   income includes income from the sale of the agricultural products  
8                   produced from the land and any payments received under a  
9                   governmental soil conservation or land retirement program. Value of  
10                  production includes the market value of agricultural products actually  
11                  produced on the land. Land in actual production includes land under  
12                  improvements used in the ~~commercial~~ production or growing of crops,  
13                  plants, or animals.
- 14           (2)    Horticultural land. – Individually owned horticultural land consisting  
15                   of one or more tracts, one of which consists of at least five acres that  
16                   are in actual production and that, for the three years preceding January  
17                   1 of the year for which the benefit of this section is claimed, have met  
18                   the applicable minimum gross income requirement. Land in actual  
19                   production includes land under improvements used in the ~~commercial~~  
20                   production or growing of fruits or vegetables or nursery or floral  
21                   products. Land that has been used to produce evergreens intended for  
22                   use as Christmas trees must have met the minimum gross income  
23                   requirements established by the Department of Revenue for the land.  
24                   All other horticultural land must have produced an average gross  
25                   income or average value of production or a combination thereof of at  
26                   least one thousand dollars (\$1,000). Gross income includes income  
27                   from the sale of the horticultural products produced from the land and  
28                   any payments received under a governmental soil conservation or land  
29                   retirement program. Value of production includes the market value of  
30                  horticultural products actually produced on the land.
- 31           (3)    Forestland. – Individually owned forestland consisting of one or more  
32                   tracts, one of which consists of at least ~~20~~10 acres that are in actual  
33                   production and are not included in a farm unit.
- 34            (a1) For purposes of determining whether the one thousand dollar (\$1,000)  
35 threshold is met under subsection (a) of this section, an affidavit signed by the  
36 landowner is prima facie evidence of average income and average value of production.
- 37            (b)    Natural Person Ownership Requirements. – In order to come within a  
38 classification described in subsection (a) of this section, the land must, if owned by a  
39 natural person, also satisfy one of the following conditions:
- 40                  (1)    It is the owner's place of residence.
- 41                  (2)    It has been owned by the current owner or a relative of the current  
42 owner for the four years preceding January 1 of the year for which the  
43 benefit of this section is claimed.

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

5 (b1) Entity Ownership Requirements. – In order to come within a classification  
6 described in subsection (a) of this section, the land must, if owned by a business entity  
7 or trust, have been owned by the business entity or trust or by one or more of its  
8 members or creators, respectively, for the four years immediately preceding January 1  
9 of the year for which the benefit of this section is claimed.

10 (b2) Exception to Ownership Requirements. – G.S. 105-277.4(c) provides that  
11 deferred taxes are payable if land fails to meet any condition or requirement for  
12 classification. Accordingly, if land fails to meet an ownership requirement due to a  
13 change of ownership, G.S. 105-277.4(c) applies. Despite this failure and the resulting  
14 liability for taxes under G.S. 105-277.4(c), the land may qualify for classification in the  
15 hands of the new owner if both of the following conditions are met, even if the new  
16 owner does not meet all of the ownership requirements of subsections (b) and (b1) of  
17 this section with respect to the land:

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

21 (2) At the time title to the land passed to the new owner, the new owner  
22 continues to use the land for the purposes it was ~~owned~~ other land  
23 classified under subsection ~~(a)~~(a) of this section while under previous  
24 ownership.

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

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

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

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

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

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

1           **SECTION 3.** G.S. 105-277.4 is amended by adding a new subsection to  
2 read:

3       "(f) Prepayment. – All or part of the deferred taxes and accrued interest may be  
4 paid to the tax collector at any time. Any partial payment is applied first to accrued  
5 interest."

6           **SECTION 4.** The Agriculture and Forestry Awareness Study Commission  
7 shall study the deferred taxation of the agricultural, horticultural, and forestland and  
8 report its findings with any recommended legislation, to the 2003 General Assembly  
9 upon its convening. The Agriculture and Forestry Awareness Study Commission may  
10 study:

- 11           (1) The implementation and application of the current statutes.
- 12           (2) Other tax credits, including adjustments to and credits for ad valorem  
13           taxes, to encourage agricultural, forestry, and horticultural use of land.
- 14           (3) The treatment of raw land in ad valorem tax.
- 15           (4) The possibility of tax incentives to encourage conservation and  
16           environmental protection of land.
- 17           (5) Other issues related to the taxation of agricultural, horticultural, and  
18           forestland.

19           **SECTION 5.** This act is effective for taxes imposed for taxable years  
20 beginning on or after July 1, 2001.