

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1427
Committee Substitute Favorable 8/22/01
Seante Agriculture/Environment/Natural Resources Committee Substitute
Adopted 9/4/01

Short Title: Amend Use Value Statutes.

(Public)

Sponsors:

Referred to:

May 8, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN USE VALUE DEFINITIONS; TO PERMIT A CHANGE OF OWNERSHIP WITH CONTINUED QUALIFICATION FOR DEFERRED TAX STATUS; TO PROVIDE AN OPTION FOR PREPAYMENT OF ANY DEFERRED TAXES; TO ESTABLISH THE USE VALUE AND LAND TAXATION STUDY COMMISSION; AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

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

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

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

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

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

1 currently entitled to receive income or principal meets one of
2 the following conditions:

- 3 1. Is the creator of the trust or the creator's relative.
- 4 2. Is a second trust whose beneficiaries who are currently
5 entitled to receive income or principal are all either the
6 creator of the first trust or the creator's relatives.

7 d. A testamentary trust that meets all of the following conditions:

- 8 1. It was created by a natural person who transferred to the
9 trust land that qualified in that person's hands for
10 classification under G.S. 105-277.3.
- 11 2. At the time of the creator's death, the creator had no
12 relatives as defined in this section as of the date of death.
- 13 3. The trust income, less reasonable administrative
14 expenses, is used exclusively for educational, scientific,
15 literary, cultural, charitable, or religious purposes as
16 defined in G.S. 105-278.3(d).

17 (4a) Member. – A shareholder of a corporation, a partner of a general or
18 limited partnership, or a member of a limited liability company.

19 (5) Present-use value. – The value of land in its current use as agricultural
20 land, horticultural land, or forestland, based solely on its ability to
21 produce income, using a rate of nine percent (9%) to capitalize the
22 expected net income of the property and assuming an average level of
23 management.

24 (5a) Relative. – Any of the following:

- 25 a. A spouse or the spouse's lineal ancestor or descendant.
- 26 b. A lineal ancestor or a lineal descendant.
- 27 c. A brother or sister, or the lineal descendant of a brother or
28 sister. For the purposes of this sub-subdivision, the term brother
29 or sister includes stepbrother or stepsister.
- 30 d. An aunt or an uncle.
- 31 e. A spouse of a person listed in paragraphs a. through d.

32 For the purpose of this subdivision, an adoptive or adopted relative
33 is a relative and the term "spouse" includes a surviving spouse.

34 (6) Sound management program. – A program of production designed to
35 obtain the greatest net return from the land consistent with its
36 conservation and long-term improvement. In determining the greatest
37 net return, no minimum profitability level may be applied.

38 **SECTION 2.** G.S. 105-277.3(b2) reads as rewritten:

39 "(b2) Exception to Ownership Requirements. – G.S. 105-277.4(c) provides that
40 deferred taxes are payable if land fails to meet any condition or requirement for
41 classification. Accordingly, if land fails to meet an ownership requirement due to a
42 change of ownership, G.S. 105-277.4(c) applies. Despite this failure and the resulting

1 liability for taxes under G.S. 105-277.4(c), the land may qualify for classification in the
2 hands of the new owner if both of the following conditions are met, even if the new
3 owner does not meet all of the ownership requirements of subsections (b) and (b1) of
4 this section with respect to the land:

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

8 (2) At the time title to the land passed to the new owner, the new owner
9 acquires the land for the purposes of and continues to use the land for
10 the purposes it was ~~owned~~ ~~other land~~ classified under subsection
11 (a)-(a) of this section while under previous ownership."

12 **SECTION 3.** G.S. 105-277.4(c) reads as rewritten:

13 "(c) Deferred Taxes. – Land meeting the conditions for classification under G.S.
14 105-277.3 shall be taxed on the basis of the value of the land for its present use. The
15 difference between the taxes due on the present-use basis and the taxes that would have
16 been payable in the absence of this classification, together with any interest, penalties,
17 or costs that may accrue thereon, are a lien on the real property of the taxpayer as
18 provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the
19 records of the taxing unit or units as deferred taxes. The taxes become due and payable
20 when the land fails to meet any condition or requirement for classification. The tax for
21 the fiscal year that opens in the calendar year in which deferred taxes become due is
22 computed as if the land had not been classified for that year, and taxes for the preceding
23 three fiscal years that have been deferred are immediately payable, together with
24 interest as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred
25 taxes due as if they had been payable on the dates on which they originally became due.
26 If only a part of the qualifying tract of land fails to meet a condition or requirement for
27 classification, a determination shall be made of the amount of deferred taxes applicable
28 to that part and that amount becomes payable with interest as provided above. Upon the
29 payment of any taxes deferred in accordance with this section for the three years
30 immediately preceding a disqualification, all liens arising under this subsection are
31 extinguished. The deferred taxes for any given year may be paid in that year without the
32 qualifying tract of land becoming ineligible for deferred status."

33 **SECTION 4.** Commission Established. – There is established the Use Value
34 and Land Taxation Study Commission.

35 **SECTION 4.1.** Membership. – The Commission shall consist of 16
36 members who shall be appointed as follows:

37 (1) The President Pro Tempore of the Senate shall appoint eight members,
38 including a member of the North Carolina Tax Assessors Association,
39 a member of the North Carolina Forestry Association, a representative
40 of the Department of Environment and Natural Resources, a member
41 of the public at large, the chair of the Senate Committee on

1 Agriculture, Environment, and Natural Resources, and three members
2 of the Senate.

- 3 (2) The Speaker of the House of Representatives shall appoint eight
4 members, including a representative of the Department of Agriculture
5 and Consumer Services, a representative of the North Carolina
6 Association of County Commissioners, a representative of a
7 conservation organization, a representative of the North Carolina Farm
8 Bureau, the chair of the House Committee on Agriculture, and three
9 members of the House of Representatives.

10 A representative of the Property Tax Division of the Department of Revenue
11 appointed by the Secretary of Revenue shall serve as a voting ex officio member.
12 Vacancies shall be filled by the original appointing authority.

13 **SECTION 4.2.** Mission. – The mission of the Commission is to study,
14 examine, and, if necessary, recommend changes to the use value system.

15 **SECTION 4.3.** Duties. – The Commission shall:

- 16 (1) Examine the implementation and application of the current use value
17 statutes.
18 (2) Evaluate other tax credits, including adjustments to and credits for ad
19 valorem taxes, to encourage agricultural, forestry, and horticultural use
20 of land.
21 (3) Evaluate the treatment of undeveloped land in ad valorem tax.
22 (4) Evaluate the possibility of tax incentives to encourage conservation
23 and environmental protection of land.
24 (5) Review other issues related to the taxation of agricultural land,
25 horticultural land, and forestland, including reducing the acreage
26 requirement for land to qualify as forestland.

27 **SECTION 4.4.** Report. – The Commission shall submit a final written report
28 of its findings and recommendations to the 2003 General Assembly and may submit a
29 report to the 2002 Regular Session of the 2001 General Assembly. All reports shall be
30 filed with the President Pro Tempore of the Senate and the Speaker of the House of
31 Representatives, the Principal Clerks of the Senate and the House of Representatives,
32 and the Legislative Librarian. The final report shall include draft legislation to
33 implement its recommendations along with an analysis of the fiscal impact of each
34 recommendation. The Commission shall terminate upon filing its final report.

35 **SECTION 4.5.** Expenses of Members. – Members of the Commission shall
36 be paid per diem, subsistence, and travel allowances as follows:

- 37 (1) Commission members who are also members of the General
38 Assembly, at the rate established in G.S. 120-3.1;
39 (2) Commission members who are officials or employees of the State or
40 local government agencies, at the rate established in G.S. 138-6;
41 (3) All other Commission members, at the rate established in G.S. 138-5.

1 **SECTION 4.6.** Cochairs; Meetings. – Cochairs of the Commission shall be
2 designated by the Speaker of the House of Representatives and the President Pro
3 Tempore of the Senate from among their respective appointees. The Commission shall
4 meet upon the call of the chairs. A majority of the members of the Commission shall
5 constitute a quorum. The Commission may meet during a regular or special session of
6 the General Assembly, subject to approval of the Speaker of the House of
7 Representatives and the President Pro Tempore of the Senate. The Legislative Services
8 Commission shall provide adequate meeting space to the Commission in the State
9 Legislative Building or the Legislative Office Building.

10 **SECTION 4.7.** Staff. – With the prior approval of the Legislative Services
11 Commission, the Legislative Services Officer shall assign professional staff to assist in
12 the work of the Commission.

13 **SECTION 4.8.** Cooperation by Government Agencies. – The Commission
14 may call upon any department, agency, institution, or officer of the State or any political
15 subdivision of the State for facilities, data, or other assistance. All State departments and
16 agencies, local governments, and their subdivisions shall cooperate with the
17 Commission and, upon request, shall furnish to the Commission and its staff any
18 information in their possession or available to them.

19 **SECTION 4.9.** Funding. – From funds appropriated to the General
20 Assembly, the Legislative Services Commission shall allocate funds for the expenses of
21 the Commission.

22 **SECTION 5.** Sections 1 through 3 of this act are effective for taxes imposed
23 for taxable years beginning on or after January 1, 2002. The remainder of this act is
24 effective when it becomes law.