

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SESSION LAW 2003-295
SENATE BILL 881**

AN ACT TO PERMIT PHASE II PAYMENTS UNDER THE NATIONAL TOBACCO GROWER SETTLEMENT TRUST TO BE PAID WITHOUT REOPENING A DECEDENT'S ESTATE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 15 of Chapter 28A of the General Statutes is amended by adding a new section to read:

"§ 28A-15-9.1. Phase II payments.

A Phase II payment as defined in G.S. 28A-21-3.1 shall be the property of the distributees paid in accordance with that section."

SECTION 2. Article 21 of Chapter 28A of the General Statutes is amended by adding a new section to read:

"§ 28A-21-3.1. Phase II tobacco grower and quota owner payments; list of Phase II distributees.

(a) The following definitions apply in this section:

(1) "National Tobacco Grower Settlement Trust" means the trust established by tobacco companies to provide payments to tobacco growers and tobacco quota owners in 14 states for the purposes of ameliorating potential adverse economic consequences of likely reduction in demand, sales, and prices for tobacco as an agricultural product as a result of the Master Settlement Agreement incorporated in the consent decree entered in the action of State of North Carolina vs. Philip Morris, Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina.

(2) "Phase II payment" means an amount certified by the North Carolina Phase II Tobacco Certification Entity, Inc., to be paid pursuant to the trust agreement establishing the National Tobacco Grower Settlement Trust.

(b) A personal representative or collector of the estate of a decedent who, during 1993 or any subsequent year, was a tobacco grower or a tobacco quota owner as defined in Section 4.01 of the trust agreement establishing the National Tobacco Grower Settlement Trust may file, along with a final account, a list of Phase II distributees for Phase II payments if all of the following conditions are met:

(1) There are no unsatisfied creditors.

(2) There are no unsatisfied general monetary bequests.

(3) All assets other than any potential Phase II payments have been distributed.

(c) A list of Phase II distributees, signed under oath, must contain the following information:

(1) The name and address of the personal representative or collector.

(2) The name and social security number of the decedent.

(3) The name and address, if known, of each devisee or heir entitled to receive Phase II payments and the percentage of Phase II payments to be received by each.

(d) The clerk of superior court must review the list of Phase II distributees to determine if the list of distributees and their shares of potential Phase II payments are in accordance with the will or, if there is no will, in accordance with the Intestate Succession Act. If the clerk accepts the list of Phase II distributees for filing, the clerk must endorse the clerk's approval thereon, which shall be prima facie evidence of correctness.

(e) Upon determination by the North Carolina Phase II Tobacco Certification Entity, Inc., that the estate of a decedent entitled to any Phase II payment covering a time period when the decedent was alive has been closed, the payment may be paid directly to those distributees and in those shares set forth on a list of Phase II distributees filed under this section without the estate's having to be reopened under G.S. 28A-23-5.

(f) The estate of a decedent who is entitled to any Phase II payment may be reopened, if necessary, in accordance with G.S. 28A-23-5 in order to file a list of Phase II distributees under this section.

(g) For purposes of this section, Phase II payments covering a time period when decedent was alive are deemed cash and shall not pass by virtue of any devise or inheritance of the decedent's real property."

SECTION 3. This act is effective when it becomes law and applies to payments made on or after that date.

In the General Assembly read three times and ratified this the 24th day of June, 2003.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 4:39 p.m. this 4th day of July, 2003