

1 purposes, packing, treating, processing, sorting, storage, and other
2 activities performed to add value to crops, livestock, and agricultural
3 items produced on the farm, and similar activities incident to the
4 operation of a farm."

5 **SECTION 2.** The title of Article 61 of Chapter 106 of the General Statutes
6 reads as rewritten:

7 "Agricultural Development and Preservation of Farmland."

8 **SECTION 3.** G.S. 106-735 reads as rewritten:

9 "**§ 106-735. Short title and purpose.**

10 (a) This ~~article~~-Article shall be known as "The Agricultural Development and
11 Farmland Preservation Enabling Act."

12 (b) The purpose of this Article is to authorize counties to undertake a series of
13 programs to encourage the preservation of ~~farmland~~-qualifying farmland, as defined
14 ~~herein~~-herein, and to foster the growth, development, and sustainability of family
15 farms."

16 **SECTION 4.** G.S. 106-736 reads as rewritten:

17 "**§ 106-736. Farmland preservation programs ~~authorized~~-authorized; definition of**
18 **agriculture.**

19 (a) A county may by ordinance establish a farmland preservation program under
20 this Article. The ordinance may authorize qualifying farms, as defined in G.S. 106-737,
21 to take advantage of one or more of the benefits authorized by the remaining sections of
22 this Article.

23 (b) A county may develop programs to promote the growth, development, and
24 sustainability of farming. A county, under its authority in Chapter 153A of the General
25 Statutes, may adopt or amend its ordinances to provide flexibility to farming operations,
26 including ordinances regarding on-farm sales, pick-your-own operations, road signs,
27 agritourism, and other activities incident to farming. For purposes of this Article, the
28 terms "agriculture", "agricultural", and "farming" have the same meaning as set forth in
29 G.S. 106-581.1."

30 **SECTION 5.** G.S. 106-738 reads as rewritten:

31 "**§ 106-738. Voluntary agricultural districts.**

32 (a) An ordinance adopted under this Article shall provide:

33 (1) For the establishment of voluntary agricultural districts consisting
34 initially of at least the number of contiguous acres of ~~qualifying~~
35 ~~farmland~~-agricultural land, and forestland or horticultural land that is
36 part of a qualifying farm, or the number of qualifying farms deemed
37 appropriate by the board of county commissioners;

38 (2) For the formation of such districts upon the execution by the owners of
39 the requisite acreage of an agreement to sustain agriculture in the
40 district;

41 (3) That the form of this agreement must be reviewed and approved by an
42 agricultural advisory board established under G.S. 106-739 or some
43 other county board or official;

1 (4) That each such district have a representative on the agricultural
2 advisory board established under G.S. 106-739.

3 (b) The purpose of such agricultural districts shall be to increase identity and
4 pride in the agricultural community and its way of life and to increase protection from
5 nuisance suits and other negative impacts on properly managed farms. The county may
6 take such action as it deems appropriate to encourage the formation of such districts and
7 to further their purposes and objectives."

8 **SECTION 6.** G.S. 106-744 reads as rewritten:

9 **"§ 106-744. Purchase of agricultural conservation easements.**

10 (a) A county may, with the voluntary consent of landowners, acquire by purchase
11 agricultural conservation easements over qualifying farmland as defined by
12 G.S. 106-737 located within a voluntary agricultural district as defined by G.S. 106-738.

13 (b) For purposes of this section, "agricultural conservation easement" means a
14 negative easement in gross restricting residential, commercial, and industrial
15 development of land for the purpose of maintaining its agricultural production
16 capability. Such easement:

17 (1) May permit the creation of not more than three lots that meet
18 applicable county zoning and subdivision regulations; ~~and~~

19 (1a) May permit agricultural uses as necessary to promote agricultural
20 development associated with the family farm; and

21 (2) Shall be for a term of at least 20 years or perpetual in
22 duration, duration. If the easement is perpetual in duration, then,
23 provided that, at least 20 years after the purchase of an easement, a
24 county may agree to reconvey the easement to the owner of the land
25 for consideration, if the landowner can demonstrate to the satisfaction
26 of the county that commercial agriculture is no longer practicable on
27 the land in question.

28 (c) There is established a "North Carolina Agricultural Development and
29 Farmland Preservation Trust Fund" to be administered by the Commissioner of
30 Agriculture. The Trust Fund shall consist of all monies received for the purpose of
31 purchasing agricultural conservation easements or funding programs that will promote
32 the development and sustainability of farming and assist in the transition of existing
33 farms to new farm families, and monies transferred from counties or private sources.
34 The Trust Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3. The
35 Commissioner shall use Trust Fund monies ~~for the~~ for any of the following:

36 (1) The purchase of agricultural conservation easements, including
37 transaction costs, and costs.

38 (2) Public and private enterprise programs that will promote profitable and
39 sustainable family farms through assistance to farmers in developing
40 and implementing plans for the production of food, fiber, and
41 value-added products, agritourism activities, marketing and sales of
42 agricultural products produced on the farm, and other agriculturally
43 related business activities.

1 (3) The costs of administering the program under this Article, including
2 the cost of staff and staff support.

3 (c1) The Commissioner shall distribute Trust Fund monies for such purchases,
4 including transaction costs, as follows:

5 (1) To a private nonprofit conservation organization that matches thirty
6 percent (30%) of the Trust Fund monies it receives with funds from
7 sources other than the Trust Fund.

8 (2) To counties according to the match requirements under subsection ~~(e1)~~
9 (c2) of this section.

10 ~~(e1)~~(c2) A county that is an enterprise tier four county or an enterprise tier five
11 county, as these tiers are defined in G.S. 105-129.3(a), and that has prepared a
12 countywide farmland protection plan shall match fifteen percent (15%) of the Trust
13 Fund monies it receives with county funds. A county that has not prepared a countywide
14 farmland protection plan shall match thirty percent (30%) of the Trust Fund monies it
15 receives with county funds. A county that is an enterprise tier one county, an enterprise
16 tier two county, or an enterprise tier three county, as these counties are defined in
17 G.S. 105-129.3(a), and that has prepared a countywide farmland protection plan shall
18 not be required to match any of the Trust Fund monies it receives with county funds.

19 ~~(e2)~~(c3) The Commissioner of Agriculture shall adopt rules governing the use,
20 distribution, investment, and management of Trust Fund monies.

21 (d) This section shall apply to agricultural conservation easements falling within
22 its terms. This section shall not be construed to make unenforceable any restriction,
23 easement, covenant, or condition that does not comply with the requirements of this
24 section.

25 This section shall not be construed to invalidate any farmland preservation program.

26 This section shall not be construed to diminish the powers of any public entity,
27 agency, or instrumentality to acquire by purchase, gift, devise, inheritance, eminent
28 domain, or otherwise and to use property of any kind for public purposes.

29 This section shall not be construed to authorize any public entity, agency, or
30 instrumentality to acquire by eminent domain an agricultural conservation easement.

31 (e) As used in subsection ~~(e1)~~–(c2) of this section, a countywide farmland
32 protection plan means a plan that satisfies all of the following requirements:

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

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

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

40 (4) The countywide farmland protection plan shall describe how the
41 county plans to maintain a viable agricultural community and shall
42 address farmland preservation tools, such as agricultural economic
43 development, including farm diversification and marketing assistance;
44 other kinds of agricultural technical assistance, such as farm

1 infrastructure financing, farmland purchasing, linking with younger
2 farmers, and estate planning; the desirability and feasibility of
3 donating agricultural conservation easements, and entering into
4 voluntary agricultural districts.

- 5 (5) The countywide farmland protection plan shall contain a schedule for
6 implementing the plan and an identification of possible funding
7 sources for the long-term support of the plan.

8 (f) A countywide farmland protection plan that meets the requirements of
9 subsection (e) of this section may be formulated with the assistance of an agricultural
10 advisory board designated pursuant to G.S. 106-739.

11 (g) There is established the Agricultural Development and Farmland Preservation
12 Trust Fund Advisory Committee. The Advisory Committee shall be administratively
13 located within the Department of Agriculture and Consumer Services and shall advise
14 the Commissioner on the prioritization and allocation of funds, the development of
15 criteria for awarding of funds, program planning, and other areas where monies from
16 the Trust Fund can be used to promote the growth and development of family farms in
17 North Carolina. The Advisory Committee shall be composed of 18 members as follows:

- 18 (1) The Commissioner of Agriculture or the Commissioner's designee,
19 who shall serve as the Chair of the Advisory Committee.
20 (2) The Secretary of Commerce or the Secretary's designee.
21 (3) The Secretary of Environment and Natural Resources or the
22 Secretary's designee.
23 (4) Three practicing farmers, one appointed by the Governor, one
24 appointed by the President Pro Tempore of the Senate, and one
25 appointed by the Speaker of the House of Representatives.
26 (5) The Dean of the College of Agriculture and Life Sciences at North
27 Carolina State University or the Dean's designee.
28 (6) The Dean of the School of Agriculture and Environmental Sciences at
29 North Carolina Agricultural and Technical State University or the
30 Dean's designee.
31 (7) The Executive Director of the North Carolina Rural Economic
32 Development Center, Inc., or the Executive Director's designee.
33 (8) The Executive Director of the Conservation Trust for North Carolina
34 or the Executive Director's designee.
35 (9) The Executive Director of the North Carolina Farm Transition
36 Network or the Executive Director's designee.
37 (10) The Executive Director of the North Carolina Soil and Water
38 Foundation or the Executive Director's designee.
39 (11) The Director of the Southeast Regional Office of the American
40 Farmland Trust or the Director's designee.
41 (12) The Executive Director of the North Carolina Agribusiness Council or
42 the Executive Director's designee.
43 (13) The Master of the State Grange or the Master's designee.

1 (14) The President of the North Carolina Farm Bureau Federation, Inc., or
2 the President's designee.

3 (15) The President of the North Carolina Black Farmers and
4 Agriculturalists Association or the President's designee.

5 (16) The Executive Director of the North Carolina Association of County
6 Commissioners or the Executive Director's designee.

7 (h) The Advisory Committee shall meet at least quarterly. The Department of
8 Agriculture and Consumer Services shall provide the Advisory Committee with
9 administrative and secretarial staff. Members of the Advisory Committee shall be
10 entitled to per diem pursuant to G.S. 138-5 or G.S. 138-6, as appropriate. The Advisory
11 Committee shall make recommendations to the Commissioner on the distribution of
12 monies from the Trust Fund at least annually. The Commissioner shall take the
13 recommendations of the Advisory Committee into consideration in making decisions on
14 the distribution of monies from the Trust Fund.

15 (i) The Advisory Committee shall report no later than May 1 of each year to the
16 Joint Legislative Commission on Governmental Operations and the House of
17 Representatives and Senate Appropriations Subcommittees on Natural and Economic
18 Resources regarding the activities of the Advisory Committee, the agriculture easements
19 purchased, and agricultural projects funded during the previous year."

20 **SECTION 7.** The first report required pursuant to G.S. 106-744(i), as
21 enacted by Section 6 of this act, is due on or before 1 May 2006.

22 **SECTION 8.** This act is effective when it becomes law.