

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH30403-MC-136 (4/9)

Short Title: Present-Use Value System Modifications.

(Public)

Sponsors: Representative Harrison.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR QUALIFYING WILDLIFE
CONSERVATION LAND AND TO CLARIFY THE PRESENT-USE
VALUATION OF PROPERTY SUBJECT TO A CONSERVATION EASEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Subchapter II of Chapter 105 of the General
Statutes is amended by adding the following new section to read:

"§ 105-277.14. Taxation of land used for wildlife conservation.

(a) Classification. – Land qualifying as wildlife conservation land is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section.

(b) Contents of Application. – Property is eligible for classification under this section if a timely and proper application is filed with the assessor of the county in which the property is located. The application must show that the property meets the following requirements and must also contain any other relevant information required by the assessor to properly appraise the property:

(1) The land is managed and maintained under a written sound management plan that has been certified by the North Carolina Wildlife Resources Commission.

(2) The land contains priority wildlife habitats identified in the North Carolina Wildlife Action Plan, supports State or federally listed threatened or endangered wildlife species, or is operated under a State or federal natural resources management plan for which wildlife habitat is its primary objective.

(3) The land consists of at least 10 acres.

(4) The land is owned by a natural person or by a family business entity.

1 (c) Timely Application Required. – An initial application must be filed during
2 the regular listing period of the year for which the benefit of this classification is first
3 claimed or within 30 days of the date shown on a notice of change in valuation made
4 pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be
5 submitted unless the property is transferred or becomes ineligible for use-value
6 appraisal because of a change in use or acreage. An application required due to transfer
7 of the land may be submitted at any time during the calendar year but must be submitted
8 within 60 days of the date of the property's transfer. Notwithstanding this subsection, a
9 late application may be approved by the board of equalization and review upon a
10 showing of good cause. If the board of equalization and review is not in session, then
11 the board of county commissioners may approve the late application. An untimely
12 application approved under this subsection applies only to property taxes levied by the
13 county or municipality in the calendar year in which the untimely application is filed.
14 Decisions of the county board may be appealed to the Property Tax Commission.

15 (d) Appeal. – Decisions of the assessor regarding the qualifications or appraisal
16 of property under this section may be appealed to the county board of equalization and
17 review or, if that board is not in session, to the board of county commissioners. An
18 appeal must be made within 60 days after the decision of the assessor. If the owner
19 submits additional information to the assessor under G.S. 105-296(j), the appeal must be
20 made within 60 days after the assessor's decision based on the additional information.
21 Decisions of the county board may be appealed to the Property Tax Commission.

22 (e) Appraisal at Present-Use Value. – Upon receipt of a properly executed
23 application, the assessor must appraise the property at its present-use value. If the
24 majority of the property is woodland, then the property will be appraised as if it were
25 classified as forestland under G.S. 105-277.3. If the majority of the property is open
26 land, then the property will be appraised as if it were classified as agricultural land
27 under G.S. 105-277.3.

28 (f) Deferred Taxes. – Land meeting the conditions for classification under this
29 section must be taxed on the basis of the value of the land for its present use as defined
30 in subsection (e) of this section. The difference between the taxes due on the present-use
31 basis and the taxes that would have been payable in the absence of this classification,
32 together with any interest, penalties, or costs that may accrue thereon, is a lien on the
33 real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes
34 must be carried forward in the records of the taxing unit or units as deferred taxes. Other
35 than a change in the use of the land that qualifies the land for present-use value as
36 forestland, the taxes become due and payable when the land fails to meet any condition
37 or requirement for classification under this section. Failure to have an application
38 approved is ground for disqualification. The tax for the fiscal year that opens in the
39 calendar year in which deferred taxes become due is computed as if the land had not
40 been classified for that year, and taxes for the preceding three fiscal years that have been
41 deferred are immediately payable, together with interest as provided in G.S. 105-360 for
42 unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on
43 the dates on which they originally became due. If only a part of the qualifying tract of
44 land fails to meet a condition or requirement for classification, the assessor must

1 determine the amount of deferred taxes applicable to that part, and that amount becomes
2 payable with interest as provided above. Upon the payment of any taxes deferred under
3 this section for the three years immediately preceding a disqualification, all liens arising
4 under this subsection are extinguished. The deferred taxes for any given year may be
5 paid in that year without the qualifying tract of land becoming ineligible for deferred
6 status.

7 (g) Exceptions. – Notwithstanding the provisions in subsection (f) of this section,
8 if property loses its eligibility for present-use value classification solely due to one of
9 the following reasons, no deferred taxes are due, and the lien for the deferred taxes is
10 extinguished:

11 (1) The property is conveyed by gift to a nonprofit organization and
12 qualifies for exclusion from the tax base under G.S. 105-275(12) or
13 G.S. 105-275(29).

14 (2) The property is conveyed by gift to the State, a political subdivision of
15 the State, or the United States.

16 (h) Definitions. – The following definitions apply in this section:

17 (1) Family business entity. – A corporation, a general partnership, or a
18 limited liability company whose members are all natural persons. Each
19 member must either be a relative of another member or a relative of
20 and have inherited the membership from a decedent who was a
21 member of the entity.

22 (2) Member. – A shareholder of a corporation, a partner of a general or
23 limited partnership, or a member of a limited liability company.

24 (3) Relative. – Defined in G.S. 105-277.2(5a)."

25 **SECTION 2.** G.S. 105-277.3(d1) reads as rewritten:

26 "(d1) Exception for Easements on Qualified Conservation Lands Previously
27 Appraised at Use Value. – Property that is appraised at its present-use value under
28 G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as
29 provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject
30 to an enforceable conservation easement that would qualify for the conservation tax
31 credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual
32 production or income requirements of this ~~section~~; and (ii) the taxpayer received
33 no more than twenty-five percent (25%) of the fair market value of the donated property
34 interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent
35 transfer of the property does not extinguish its present-use value eligibility as long as
36 the property remains subject to an enforceable conservation easement that qualifies for
37 the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. The
38 exception provided in this subsection applies only to that part of the property that is
39 subject to the easement."

40 **SECTION 3.** This act is effective for taxes imposed for taxable years
41 beginning on or after July 1, 2008.