

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1889
Committee Substitute Favorable 7/31/07

Short Title: Present-Use Value System Modifications.

(Public)

Sponsors:

Referred to:

April 30, 2007

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

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

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

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

(c) 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.

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

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

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

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

22 (e) Appeal. – Decisions of the assessor regarding the qualifications or appraisal
23 of property under this section may be appealed to the county board of equalization and
24 review or, if that board is not in session, to the board of county commissioners. An
25 appeal must be made within 60 days after the decision of the assessor. If the owner
26 submits additional information to the assessor under G.S. 105-296(j), the appeal must be
27 made within 60 days after the assessor's decision based on the additional information.
28 Decisions of the county board may be appealed to the Property Tax Commission.

29 (f) Appraisal at Present-Use Value. – Upon receipt of a properly executed
30 application, the assessor must appraise the property at its present-use value. If the
31 majority of the property is woodland, then the property will be appraised as if it were
32 classified as forestland under G.S. 105-277.3. If the majority of the property is open
33 land, then the property will be appraised as if it were classified as agricultural land
34 under G.S. 105-277.3.

35 (g) Deferred Taxes. – Land meeting the conditions for classification under this
36 section must be taxed on the basis of the value of the land for its present use as defined
37 in subsection (f) of this section. The difference between the taxes due on the present-use
38 basis and the taxes that would have been payable in the absence of this classification,
39 together with any interest, penalties, or costs that may accrue thereon, is a lien on the
40 real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes
41 must be carried forward in the records of the taxing unit or units as deferred taxes. Other
42 than a change in the use of the land that qualifies the land for present-use value as
43 forestland, the taxes become due and payable when the land fails to meet any condition
44 or requirement for classification under this section. Failure to have an application

1 approved is ground for disqualification. The tax for the fiscal year that opens in the
2 calendar year in which deferred taxes become due is computed as if the land had not
3 been classified for that year, and taxes for the preceding three fiscal years that have been
4 deferred are immediately payable, together with interest as provided in G.S. 105-360 for
5 unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on
6 the dates on which they originally became due. If only a part of the qualifying tract of
7 land fails to meet a condition or requirement for classification, the assessor must
8 determine the amount of deferred taxes applicable to that part, and that amount becomes
9 payable with interest as provided above. Upon the payment of any taxes deferred under
10 this section for the three years immediately preceding a disqualification, all liens arising
11 under this subsection are extinguished. The deferred taxes for any given year may be
12 paid in that year without the qualifying tract of land becoming ineligible for deferred
13 status.

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

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

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

23 (i) Limitations. – A landowner may not have more than 100 acres classified as
24 wildlife conservation land per county."

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 seventy-five percent (75%) of the fair market value of the donated
34 property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1),
35 subsequent transfer of the property does not extinguish its present-use value eligibility
36 as long as the property remains subject to an enforceable conservation easement that
37 qualifies for the conservation tax credit provided in G.S. 105-130.34 and
38 G.S. 105-151.12. The exception provided in this subsection applies only to that part of
39 the property that is subject to the easement."

40 **SECTION 3.** The Revenue Laws Study Committee shall study the
41 three-year impact of classifying land as wildlife conservation land for property tax
42 purposes. The study shall include a review of the amount of property classified as
43 wildlife conservation land, the fiscal impact on local governments, and any other
44 impact.

1 The Revenue Laws Study Committee shall make a report, including any
2 recommendations or legislative proposals, to the 2012 General Assembly.

3 **SECTION 4.** Sections 1 and 2 of this act are effective for taxes imposed for
4 taxable years beginning on or after July 1, 2008. The remainder of this act is effective
5 when it becomes law.