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Short Title: Wildlife Land Property Tax Changes.

(Public)

Sponsors:

Referred to:

April 30, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR QUALIFYING WILDLIFE
3 CONSERVATION LAND, TO CLARIFY THE PRESENT-USE VALUATION OF
4 PROPERTY SUBJECT TO A CONSERVATION EASEMENT, AND TO
5 PROVIDE A PROPERTY TAX EXEMPTION FOR LEASEHOLD INTEREST IN
6 CERTAIN EXEMPTED PROPERTY.

7 The General Assembly of North Carolina enacts:

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

10 "**§ 105-277.15. Taxation of wildlife conservation land.**

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

12 (1) Business entity. – Defined in G.S. 105-277.2.

13 (2) Family business entity. – A business entity whose members are,
14 directly or indirectly, individuals and are relatives. An individual is
15 indirectly a member of a business entity if the individual is a member
16 of a business entity or a beneficiary of a trust that is part of the
17 ownership structure of the business entity.

18 (3) Family trust. – A trust that was created by an individual and whose
19 beneficiaries are, directly or indirectly, individuals who are the creator
20 of the trust or a relative of the creator. An individual is indirectly a
21 beneficiary of a trust if the individual is a beneficiary of another trust
22 or a member of a business entity that has a beneficial interest in the
23 trust.

24 (4) Member. – Defined in G.S. 105-277.2.

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

1 (b) Classification. – Wildlife conservation land is designated a special class of
2 property under Article V, Section 2(2) of the North Carolina Constitution and must be
3 appraised, assessed, and taxed in accordance with this section. Wildlife conservation
4 land classified under this section must be appraised and assessed as if it were classified
5 under G.S. 105-277.3 as agricultural land.

6 (c) Requirements. – Land qualifies as wildlife conservation land if it meets the
7 following size, ownership, and use requirements:

8 (1) Size. – The land must consist of at least 20 contiguous acres.

9 (2) Ownership. – The land must be owned by an individual, a family
10 business entity, or a family trust and must have been owned by the
11 same owner for the previous five years, except as follows:

12 a. If the land is owned by a family business entity, the land meets
13 the ownership requirement if the land was owned by one or
14 more members of the family business entity for the required
15 time.

16 b. If the land is owned by a family trust, the land meets the
17 ownership requirement if the land was owned by one or more
18 beneficiaries of the family trust for the required time.

19 c. If an owner acquires land that was classified as wildlife
20 conservation land under this section when it was acquired and
21 the owner continues to use the land as wildlife conservation
22 land, then the land meets the ownership requirement if the new
23 owner files an application and signs the wildlife habitat
24 conservation agreement in effect for the property within 60 days
25 after acquiring the property.

26 (3) Use. – The land must meet all of the following requirements:

27 a. The land must be managed under a written wildlife habitat
28 conservation agreement with the North Carolina Wildlife
29 Resources Commission that is in effect as of January 1 of the
30 year for which the benefit of this section is claimed and that
31 requires the owner to do one or more of the following:

32 1. Protect an animal species that lives on the land and, as of
33 January 1 of the year for which the benefit of this section
34 is claimed, is on a North Carolina protected animal list
35 published by the Commission under G.S. 113-333.

36 2. Conserve any of the following priority animal wildlife
37 habitats: longleaf pine forest, early successional habitat,
38 small wetland community, stream and riparian zone,
39 rock outcrop, or bat cave.

40 b. It must have been classified under G.S. 105-277.3 when the
41 wildlife habitat conservation agreement was signed or the
42 owner must demonstrate to both the Wildlife Resources
43 Commission and the assessor that the owner used the land for a
44 purpose specified in the signed wildlife habitat conservation

1 agreement for three years preceding the January 1 of the year
2 for which the benefit of this section is claimed.

3 (d) Restrictions. – The following restrictions apply to the classification allowed
4 under this section:

5 (1) No more than 100 acres of an owner's land in a county may be
6 classified under this section.

7 (2) Land owned by a business entity is not eligible for classification under
8 this section if the business entity is a corporation whose shares are
9 publicly traded or one of its members is a corporation whose shares are
10 publicly traded.

11 (e) Deferred Taxes. – The difference between the taxes that are due on wildlife
12 conservation land classified under this section and that would be due if the land were
13 taxed on the basis of its true value is a lien on the property. The difference in taxes must
14 be carried forward in the records of each taxing unit as deferred taxes. The deferred
15 taxes for the preceding three fiscal years are due and payable in accordance with
16 G.S. 105-277.1D when the land loses its eligibility for deferral as a result of a
17 disqualifying event. A disqualifying event occurs when the property no longer qualifies
18 as wildlife conservation land.

19 (f) Exceptions to Payment. – No deferred taxes are due in the following
20 circumstances and the deferred taxes remain a lien on the land:

21 (1) When the owner of wildlife conservation land that was previously
22 classified under G.S. 105-277.3 before the wildlife habitat
23 conservation agreement was signed does not transfer the land and the
24 land again becomes eligible for classification under G.S. 105-277.3. In
25 this circumstance, the deferred taxes are payable in accordance with
26 G.S. 105-277.3.

27 (2) When land that is classified under this section is transferred to an
28 owner who signed the wildlife habitat conservation agreement in effect
29 for the land at the time of the transfer and the land remains classified
30 under this section. In this circumstance, the deferred taxes are payable
31 in accordance with this section.

32 (g) Exceptions to Payment and Lien. – Notwithstanding subsection (e) of this
33 section, if land loses its eligibility for deferral solely due to one of the following
34 reasons, no deferred taxes are due and the lien for the deferred taxes is extinguished:

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

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

40 (h) Administration. – An owner who applies for the classification allowed under
41 this section must attach a copy of the owner's written wildlife habitat agreement
42 required under subsection (c) of this section. An owner who fails to notify the county
43 assessor when land classified under this section loses its eligibility for classification is
44 subject to a penalty in the amount set in G.S. 105-277.5."

1 **SECTION 2.** G.S. 105-277.1D(a), as enacted by Section 2.2 of S.L. 2008-35
2 and amended by Section 28.11(h) of House Bill 2436 of the 2008 Session, reads as
3 rewritten:

4 "(a) Scope. – This section applies to the following deferred tax programs:

- 5 (1) G.S. 105-275(29a), historic district property held as future site of
6 historic structure.
7 (2) G.S. 105-277.1B, the property tax homestead circuit breaker.
8 (3) G.S. 105-277.4(c), present-use value property.
9 (4) G.S. 105-277.14, working waterfront property.
10 (5) G.S. 105-277.15, wildlife conservation land.
11 ~~(5)(6)~~ G.S. 105-278(b), historic property.
12 ~~(6)(7)~~ G.S. 105-278.6(e), nonprofit property held as future site of low- or
13 moderate-income housing."

14 **SECTION 3.** G.S. 105-282.1(a)(2) reads as rewritten:

15 "(2) **(Effective for taxes imposed for taxable years beginning on or**
16 **after July 1, 2009)** Single application required. – An owner of one or
17 more of the following properties eligible for a property tax benefit
18 must file an application for the benefit to receive it. Once the
19 application has been approved, the owner does not need to file an
20 application in subsequent years unless new or additional property is
21 acquired or improvements are added or removed, necessitating a
22 change in the valuation of the property, or there is a change in the use
23 of the property or the qualifications or eligibility of the taxpayer
24 necessitating a review of the benefit.

- 25 a. Property exempted from taxation under G.S. 105-278.3,
26 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
27 b. Special classes of property excluded from taxation under
28 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35),
29 (36), (38), (39), or (41) or under G.S. 131A-21.
30 c. Special classes of property classified for taxation at a reduced
31 valuation under G.S. 105-277(h), 105-277.1, 105-277.10,
32 105-277.13, ~~105-278.105-278,~~ or 105-277.15.
33 d. Property owned by a nonprofit homeowners' association but
34 where the value of the property is included in the appraisals of
35 property owned by members of the association under
36 G.S. 105-277.8.
37 e. Special classes of property eligible for tax relief under
38 G.S. 105-277.1B."

39 **SECTION 4.** G.S. 105-277.3(d1) reads as rewritten:

40 "(d1) Exception for Easements on Qualified Conservation Lands Previously
41 Appraised at Use Value. – Property that is appraised at its present-use value under
42 G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as
43 provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject
44 to an enforceable conservation easement that would qualify for the conservation tax

1 credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual
2 production or income requirements of this ~~section~~-section; and (ii) the taxpayer received
3 no more than seventy-five percent (75%) of the fair market value of the donated
4 property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1),
5 subsequent transfer of the property does not extinguish its present-use value eligibility
6 as long as the property remains subject to an enforceable conservation easement that
7 qualifies for the conservation tax credit provided in G.S. 105-130.34 and
8 G.S. 105-151.12. The exception provided in this subsection applies only to that part of
9 the property that is subject to the easement."

10 **SECTION 5.** G.S. 105-277.3 is amended by adding a new subsection to
11 read:

12 "(d2) Wildlife Exception. – When an owner of land classified under this section
13 does not transfer the land and the land becomes eligible for classification under
14 G.S. 105-277.15, no deferred taxes are due. The deferred taxes remain a lien on the land
15 and are payable in accordance with G.S. 105-277.15."

16 **SECTION 6.** The Revenue Laws Study Committee is directed to study the
17 three-year impact of classifying land as wildlife conservation land for property tax
18 purposes. The study must include a review of the amount of property classified as
19 wildlife conservation land, the fiscal impact on local governments, and any other
20 impact.

21 The Revenue Laws Study Committee must include its findings in the 2015
22 report.

23 **SECTION 7.(a)** G.S. 105-275(31) reads as rewritten:

24 "**§ 105-275. Property classified and excluded from the tax base.**

25 The following classes of property are hereby designated special classes under
26 authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be
27 listed, appraised, assessed, or taxed:

28 ...

29 (31) Intangible personal property other than a leasehold ~~interests~~-interest
30 that is in exempted real ~~property~~-property and is not excluded under
31 subdivision (31e) of this section. This subdivision does not affect the
32 taxation of software not otherwise excluded by subdivision (40) of this
33 section."

34 **SECTION 7.(b)** G.S. 105-275 is amended by adding a new subdivision to
35 read:

36 "(31e) A leasehold interest in real property that is exempt under G.S. 105-
37 278.1 and is used to provide affordable housing for employees of the
38 unit of government that owns the property."

39 **SECTION 7.(c)** G.S. 105-282.1(a)(2) reads as rewritten:

40 "(2) Single application required. – An owner of one or more of the
41 following properties eligible to be exempted or excluded from taxation
42 must file an application for exemption or exclusion to receive it. Once
43 the application has been approved, the owner does not need to file an
44 application in subsequent years unless new or additional property is

1 acquired or improvements are added or removed, necessitating a
2 change in the valuation of the property, or there is a change in the use
3 of the property or the qualifications or eligibility of the taxpayer
4 necessitating a review of the exemption or exclusion:

- 5 a. Property exempted from taxation under G.S. 105-278.3,
6 105-278.4, 105-278.5, 105- 278.6, 105-278.7, or 105-278.8.
7 b. Special classes of property excluded from taxation under G.S.
8 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e),
9 (35), (36), (38), (39), or (41) or under G.S. 131A-21.
10 c. Special classes of property classified for taxation at a reduced
11 valuation under G.S. 105-277(h), 105-277.1, 105-277.10,
12 105-277.13, 105-278.
13 d. Property owned by a nonprofit homeowners' association but
14 where the value of the property is included in the appraisals of
15 property owned by members of the association under G.S.
16 105-277.8."

17 **SECTION 8.** Sections 1 through 5 of this act are effective for taxes imposed
18 for taxable years beginning on or after July 1, 2010. Section 7 of this act is effective for
19 taxes imposed for taxable years beginning on or after July 1, 2008. Notwithstanding
20 G.S. 105-282.1, an application for the exclusion in G.S. 105-275(31e), as enacted by
21 this act, is timely if filed on or before September 1, 2008. The remainder of this act is
22 effective when it becomes law.