

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 529  
Committee Substitute Favorable 5/6/97  
Third Edition Engrossed 5/8/97

Short Title: No Tax Rollback on Condemnation.

(Public)

Sponsors:

Referred to:

March 18, 1997

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE THAT DEFERRED TAXES DUE ON PROPERTY THAT IS  
TAXED AT ITS PRESENT-USE VALUE WILL BE PAID BY THE PERSON TO  
WHOM THE LAND IS TRANSFERRED IF THE PROPERTY IS TRANSFERRED  
BECAUSE OF CONDEMNATION OR IMPENDING CONDEMNATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-6 reads as rewritten:

**"§ 40A-6. Reimbursement of owner for taxes paid on condemned property.**

An owner whose property is totally taken in fee simple by a condemnor exercising the power of eminent domain, under this Chapter or any other ~~statute~~-statute, shall be entitled to reimbursement from the condemnor of the following:

(1) The pro rata portion of real property taxes paid by the owner which that are allocable to a period subsequent to vesting of title in the condemnor, or the effective date of possession of such the real property, whichever is earlier.

(2) All deferred taxes paid by the owner pursuant to G.S. 105-277.4(c) as a result of the condemnation."

Section 2. G.S. 136-121.1 reads as rewritten:

1 **"§ 136-121.1. Reimbursement of owner for taxes paid on condemned property.**

2 A property owner whose property is totally taken in fee simple by any condemning  
3 agency (as defined in G.S. 133-7(1)) exercising the power of eminent domain, under this  
4 Chapter or any other statute or charter provision, shall be entitled to reimbursement from  
5 the condemning agency of the following:

6 (1) The pro rata portion of real property taxes paid ~~which~~ ~~that~~ are allocable  
7 to a period subsequent to vesting of title in the agency, or the effective  
8 date of possession of ~~such~~ ~~the~~ real property, whichever is earlier.

9 (2) All deferred taxes paid by the owner pursuant to G.S. 105-277.4(c) as a  
10 result of the condemnation."

11 Section 3. G.S. 105-277.4 reads as rewritten:

12 **"§ 105-277.4. Agricultural, horticultural and forestland ~~—Application for taxation at~~**  
13 **~~present-use value.~~ —Application; appraisal at use value; appeal; deferred**  
14 **taxes.**

15 (a) Application. — Property coming within one of the classes defined in G.S. 105-  
16 277.3 shall be eligible for taxation on the basis of the value of the property in its present  
17 use if a timely and proper application is filed with the assessor of the county in which the  
18 property is located. The application shall clearly show that the property comes within  
19 one of the classes and shall also contain any other relevant information required by the  
20 assessor to properly appraise the property at its present-use value. An initial application  
21 shall be filed during the regular listing period of the year for which the benefit of this  
22 classification is first claimed, or within 30 days of the date shown on a notice of a change  
23 in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not  
24 required to be submitted unless the property is transferred or becomes ineligible for use-  
25 value appraisal because of a change in use or acreage.

26 (b) Appraisal at Present-use Value. — Upon receipt of a properly executed  
27 application, the assessor shall appraise the property at its present-use value as established  
28 in the schedule prepared pursuant to G.S. 105-317. In appraising the property at its  
29 present-use value, the assessor shall appraise the improvements located on qualifying  
30 land according to the schedules and standards used in appraising other similar  
31 improvements in the county. If all or any part of a qualifying tract of land is located  
32 within the limits of an incorporated city or town, the assessor shall furnish a copy of the  
33 property record showing both the present-use appraisal and the valuation upon which the  
34 property would have been taxed in the absence of this classification to the collector of the  
35 city or town. He shall also notify the tax collector of any changes in the appraisals or in  
36 the eligibility of the property for the benefit of this classification.

37 (b1) Appeal. — Decisions of the assessor regarding the qualification or appraisal of  
38 property under this section may be appealed to the county board of equalization and  
39 review or, if that board is not in session, to the board of county commissioners.  
40 Decisions of the county board may be appealed to the Property Tax Commission.

41 (c) Deferred Taxes. — Property meeting the conditions for classification under G.S.  
42 105-277.3 shall be taxed on the basis of the value of the property for its present use. The  
43 difference between the taxes due on the present-use basis and the taxes which would have

1 been payable in the absence of this classification, together with any interest, ~~penalties~~  
2 penalties, or costs that may accrue thereon, shall be a lien on the real property of the  
3 taxpayer as provided in G.S. 105-355(a). The difference in taxes shall be carried forward  
4 in the records of the taxing unit or units as deferred taxes, but shall not be payable, unless  
5 and until the property loses its eligibility for the benefit of this classification. The tax for  
6 the fiscal year that opens in the calendar year in which a disqualification occurs shall be  
7 computed as if the property had not been classified for that year, and taxes for the  
8 preceding three fiscal years which have been deferred ~~as provided herein~~, shall  
9 immediately be payable, together with interest thereon as provided in G.S. 105-360 for  
10 unpaid taxes which shall accrue on the deferred taxes due ~~herein~~ as if they had been  
11 payable on the dates on which they originally became due. If only a part of the  
12 qualifying tract of land loses its eligibility, a determination shall be made of the amount  
13 of deferred taxes applicable to that part and that amount shall become payable with  
14 interest as provided above. Upon the payment of any taxes deferred in accordance with  
15 this section for the three years immediately preceding a disqualification, all liens arising  
16 under this subsection shall be extinguished.

17 (d) Exceptions. – Notwithstanding the provisions of subsection ~~(e)~~, ~~if a farm unit~~  
18 ~~loses (c) of this section~~, if property loses its eligibility for present use value treatment  
19 classification solely due to a one of the following reasons, no deferred taxes are due and  
20 the lien for the deferred taxes is extinguished:

21 (1) There is a change in income caused by enrollment of land in the federal  
22 Conservation Reserve Program authorized by Title XII of the Food  
23 Security Act of 1985 (Pub. L. 99-198), as amended, no deferred taxes  
24 shall be owed and all present use value tax liens shall be extinguished.  
25 the property in the federal conservation reserve program established  
26 under 16 U.S.C. Chapter 58.

27 (e) ~~Notwithstanding the provisions of subsection (c) of this section, if real property~~  
28 ~~qualified for present use appraisal~~

29 (2) The property is conveyed by gift to a nonprofit organization and  
30 qualifies for exclusion from the tax base pursuant to G.S. 105-275(12)  
31 or G.S. 105-275(29) or G.S. 105-275(29).

32 (3) The property is conveyed by gift to the State, a political subdivision of  
33 the State, or the United States, no deferred taxes shall be owed, and all  
34 present use value tax liens are extinguished. States."

35 Section 4. This act is effective when it becomes law and applies to transfers  
36 made on or after June 1, 1997.