

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 881

Short Title: Permit Tobacco Payment w/o Reopening Estate.

(Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary II.

April 3, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT PHASE II PAYMENTS UNDER THE NATIONAL
3 TOBACCO GROWER SETTLEMENT TRUST TO BE PAID WITHOUT
4 REOPENING A DECEDENT'S ESTATE, AS RECOMMENDED BY THE
5 GENERAL STATUTES COMMISSION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 15 of Chapter 28A of the General Statutes is amended
8 by adding a new section to read:

9 **"§ 28A-15-9.1. Phase II payments.**

10 A Phase II payment as defined in G.S. 28A-21-3.1 shall be the property of the
11 distributees paid in accordance with that section."

12 **SECTION 2.** Article 21 of Chapter 28A of the General Statutes is amended
13 by adding a new section to read:

14 **"§ 28A-21-3.1. Phase II tobacco grower and quota owner payments; list of Phase II**
15 **distributees.**

16 (a) The following definitions apply in this section:

17 (1) "National Tobacco Grower Settlement Trust" means the trust
18 established by tobacco companies to provide payments to tobacco
19 growers and tobacco quota owners in 14 states for the purposes of
20 ameliorating potential adverse economic consequences of likely
21 reduction in demand, sales, and prices for tobacco as an agricultural
22 product as a result of the Master Settlement Agreement incorporated in
23 the consent decree entered in the action of State of North Carolina vs.
24 Philip Morris, Incorporated, et al., 98 CVS 14377, in the General
25 Court of Justice, Superior Court Division, Wake County, North
26 Carolina.

27 (2) "Phase II payment" means an amount certified by the North Carolina
28 Phase II Tobacco Certification Entity, Inc., to be paid to a tobacco
29 grower or a tobacco quota owner as defined pursuant to section 4.01 of

1 the trust agreement establishing the National Tobacco Grower
2 Settlement Trust.

3 (b) A personal representative or collector of the estate of a decedent who, during
4 1993 or any subsequent year, was a tobacco grower or a tobacco quota owner as defined
5 pursuant to Section 4.01 of the trust agreement establishing the National Tobacco
6 Grower Settlement Trust may file, along with a final account, a list of Phase II
7 distributees for Phase II payments if all of the following conditions are met:

8 (1) There are no unsatisfied creditors.

9 (2) There are no unsatisfied general monetary bequests.

10 (3) All assets other than any potential Phase II payments have been
11 distributed.

12 (c) A list of Phase II distributees, signed under oath, must contain the following
13 information:

14 (1) The name and address of the personal representative or collector.

15 (2) The name and social security number of the decedent.

16 (3) The name and address, if known, of each devisee or heir entitled to
17 receive Phase II payments and the percentage of Phase II payments to
18 be received by each.

19 (d) The clerk of superior court must review the list of Phase II distributees to
20 determine if the list of distributees and their share of potential Phase II payments are in
21 accordance with the will or, if there is no will, in accordance with the Intestate
22 Succession Act. If the clerk accepts the list of Phase II distributees for filing, the clerk
23 must endorse the clerk's approval thereon, which shall be prima facie evidence of
24 correctness.

25 (e) Upon determination by the North Carolina Phase II Tobacco Certification
26 Entity, Inc., that the estate of a decedent entitled to any Phase II payment covering a
27 time period when the decedent was alive has been closed, the payment may be paid
28 directly to those distributees and in those shares set forth on a list of Phase II
29 distributees filed under this section without the estate's having to be reopened under
30 G.S. 28A-23-5.

31 (f) The estate of a decedent who is entitled to any Phase II payment may be
32 reopened, if necessary, in accordance with G.S. 28A-23-5 in order to file a list of Phase
33 II distributees under this section.

34 (g) For purposes of this section, Phase II payments are deemed cash and shall not
35 pass by virtue of any devise or inheritance of the decedent's real property."

36 **SECTION 3.** This act is effective when it becomes law and applies to
37 payments made on or after that date.