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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).

(4) Trust. – Defined in G.S. 105-277.2.(4)c.

(5) Testamentary trust. – A testamentary trust that meets all of the following conditions:

a. It was created by a natural person who transferred to the trust land that qualified for classification under G.S. 105-277.14.

b. At the time of the creator's death, the creator had no relatives as defined in this section as of the date of death.

1 c. The trust income, less reasonable administrative expenses, is
2 used exclusively for educational, scientific, literary, cultural,
3 charitable, or religious purposes as defined in
4 G.S. 105-278.3(d).

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

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

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

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

19 (4) The land is owned by a natural person, a family business, a trust, or a
20 testamentary trust.

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

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

42 (f) Appraisal at Present-Use Value. – Upon receipt of a properly executed
43 application, the assessor must appraise the property at its present-use value. If the
44 majority of the property is woodland, then the property will be appraised as if it were

1 classified as forestland under G.S. 105-277.3. If the majority of the property is open
2 land, then the property will be appraised as if it were classified as agricultural land
3 under G.S. 105-277.3.

4 (g) Deferred Taxes. – Land meeting the conditions for classification under this
5 section must be taxed on the basis of the value of the land for its present use as defined
6 in subsection (f) of this section. The difference between the taxes due on the present-use
7 basis and the taxes that would have been payable in the absence of this classification,
8 together with any interest, penalties, or costs that may accrue thereon, is a lien on the
9 real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes
10 must be carried forward in the records of the taxing unit or units as deferred taxes. Other
11 than a change in the use of the land that qualifies the land for present-use value as
12 forestland, the taxes become due and payable when the land fails to meet any condition
13 or requirement for classification under this section. Failure to have an application
14 approved is ground for disqualification. The tax for the fiscal year that opens in the
15 calendar year in which deferred taxes become due is computed as if the land had not
16 been classified for that year, and taxes for the preceding five fiscal years that have been
17 deferred are immediately payable, together with interest as provided in G.S. 105-360 for
18 unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on
19 the dates on which they originally became due. If only a part of the qualifying tract of
20 land fails to meet a condition or requirement for classification, the assessor must
21 determine the amount of deferred taxes applicable to that part, and that amount becomes
22 payable with interest as provided above. Upon the payment of any taxes deferred under
23 this section for the three years immediately preceding a disqualification, all liens arising
24 under this subsection are extinguished. The deferred taxes for any given year may be
25 paid in that year without the qualifying tract of land becoming ineligible for deferred
26 status.

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

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

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

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

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

39 "(d1) Exception for Easements on Qualified Conservation Lands Previously
40 Appraised at Use Value. – Property that is appraised at its present-use value under
41 G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as
42 provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject
43 to an enforceable conservation easement that would qualify for the conservation tax
44 credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual

1 production or income requirements of this ~~section~~-section; and (ii) the taxpayer received
2 no more than seventy-five percent (75%) of the fair market value of the donated
3 property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1),
4 subsequent transfer of the property does not extinguish its present-use value eligibility
5 as long as the property remains subject to an enforceable conservation easement that
6 qualifies for the conservation tax credit provided in G.S. 105-130.34 and
7 G.S. 105-151.12. The exception provided in this subsection applies only to that part of
8 the property that is subject to the easement."

9 **SECTION 3.** The Revenue Laws Study Committee shall study the
10 three-year impact of classifying land as wildlife conservation land for property tax
11 purposes. The study shall include a review of the amount of property classified as
12 wildlife conservation land, the fiscal impact on local governments, and any other
13 impact.

14 The Revenue Laws Study Committee shall make a report, including any
15 recommendations or legislative proposals, to the 2011 General Assembly.

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