

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-171
HOUSE BILL 1889**

AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR QUALIFYING WILDLIFE CONSERVATION LAND, TO CLARIFY THE PRESENT-USE VALUATION OF PROPERTY SUBJECT TO A CONSERVATION EASEMENT, AND TO PROVIDE A PROPERTY TAX EXEMPTION FOR LEASEHOLD INTEREST IN CERTAIN EXEMPTED PROPERTY.

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

c. If an owner acquires land that was classified as wildlife conservation land under this section when it was acquired and

the owner continues to use the land as wildlife conservation land, then the land meets the ownership requirement if the new owner files an application and signs the wildlife habitat conservation agreement in effect for the property within 60 days after acquiring the property.

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

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

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

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

b. It must have been classified under G.S. 105-277.3 when the wildlife habitat conservation agreement was signed or the owner must demonstrate to both the Wildlife Resources Commission and the assessor that the owner used the land for a purpose specified in the signed wildlife habitat conservation agreement for three years preceding the January 1 of the year for which the benefit of this section is claimed.

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

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

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

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

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

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

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

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

- (1) The property is conveyed by gift to a nonprofit organization and qualifies for exclusion from the tax base under G.S. 105-275(12) or G.S. 105-275(29).
- (2) The property is conveyed by gift to the State, a political subdivision of the State, or the United States.

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

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

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

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

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

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

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

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

"(d1) Exception for Easements on Qualified Conservation Lands Previously Appraised at Use Value. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as

provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this ~~section~~; and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to an enforceable conservation easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

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

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

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

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

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

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

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

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

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

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

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

"(2) Single application required. – An owner of one or more of the following properties eligible to be exempted or excluded from taxation must file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion:

- a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
- b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

- c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, 105-278.
- d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8."

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

In the General Assembly read three times and ratified this the 16th day of July, 2008.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:50 p.m. this 4th day of August, 2008