

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 607*
Committee Substitute Favorable 5/31/05
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Senate Agriculture/Environment/Natural Resources Committee Substitute
Adopted 8/11/05

Short Title: Enhanced Voluntary Agricultural Districts.

(Public)

Sponsors:

Referred to:

March 14, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO RENAME THE FARMLAND PRESERVATION ENABLING ACT
3 AND FARMLAND PRESERVATION TRUST FUND AS THE AGRICULTURAL
4 DEVELOPMENT AND FARMLAND PRESERVATION ENABLING ACT AND
5 THE AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION
6 TRUST FUND AND TO AMEND THE ACT TO ESTABLISH A CATEGORY OF
7 ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS THAT OFFERS
8 ADDITIONAL BENEFITS FOR FARMLAND WHEN THE OWNER OF THE
9 FARMLAND IS WILLING TO ENTER INTO AN IRREVOCABLE
10 CONSERVATION AGREEMENT FOR AT LEAST TEN YEARS AND TO
11 CREATE AN AGRICULTURAL DEVELOPMENT AND FARMLAND
12 PRESERVATION TRUST FUND ADVISORY COMMITTEE.

13 Whereas, North Carolina's 53,000 farms provide food, fiber, economic
14 activity, wildlife habitat, natural resource protection, open spaces, cultural heritage, and
15 fiscal savings to the citizens of the State; and

16 Whereas, a productive and stable agricultural sector is important to farm
17 families, rural communities, local economies, and the State of North Carolina; and

18 Whereas, the Voluntary Agricultural Districts program is a popular, low-cost,
19 locally driven option that links farmers, elected officials, county staff, and the general
20 public in understanding and supporting the needs of agriculture; and

21 Whereas, landowners are looking for a wider range of options to help them
22 develop sustainable and profitable farms and pass them along to future generations; and

23 Whereas, expanding the Farmland Preservation Enabling Act and authorizing
24 counties and cities to establish a new category of agricultural district, an enhanced
25 voluntary agricultural district, will provide counties and cities with a wider range of
26 options to protect farmland from nonfarm development by providing programs within

1 their jurisdictions that promote the growth, sustainability, and profitability of farming
2 operations; Now, therefore,
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** The title of Article 61 of Chapter 106 of the General Statutes
5 reads as rewritten:

6 "Article 61.

7 Agricultural Development and Preservation of Farmland."

8 **SECTION 2.** G.S. 106-735 and G.S. 106-736 are recodified as Part 1 of
9 Article 61 of Chapter 106 of the General Statutes, to be entitled "General Provisions".

10 **SECTION 3.** G.S. 106-737 through G.S. 106-743 are recodified as Part 2 of
11 Article 61 of Chapter 106 of the General Statutes, to be entitled "Voluntary Agricultural
12 Districts".

13 **SECTION 4.** G.S. 106-744 is recodified as Part 4 of Article 61 of Chapter
14 106 of the General Statutes, to be entitled "Agricultural Conservation Easements".

15 **SECTION 5.** Article 61 of Chapter 106 of the General Statutes is amended
16 by adding a new Part to read:

17 "Part 3. Enhanced Voluntary Agricultural Districts.

18 **"§ 106-743.1. Enhanced voluntary agricultural districts.**

19 (a) A county or a municipality may adopt an ordinance establishing an enhanced
20 voluntary agricultural district. An ordinance adopted pursuant to this Part shall provide:

21 (1) For the establishment of an enhanced voluntary agricultural district
22 that initially consists of at least the number of contiguous acres of
23 agricultural land, and forestland and horticultural land that is part of a
24 qualifying farm under G.S. 106-737 or the number of qualifying farms
25 deemed appropriate by the governing board of the county or city
26 adopting the ordinance.

27 (2) For the formation of the enhanced voluntary agricultural district upon
28 the execution of a conservation agreement, as defined in G.S. 121-35,
29 that meets the condition set forth in G.S. 106-743.2 by the landowners
30 of the requisite acreage to sustain agriculture in the enhanced
31 voluntary agricultural district.

32 (3) That the form of the agreement under subdivision (2) of this subsection
33 be reviewed and approved by an agricultural advisory board
34 established under G.S. 106-739, or other governing board of the
35 county or city that adopted the ordinance.

36 (4) That each enhanced voluntary agricultural district have a
37 representative on the agricultural advisory board established under
38 G.S. 106-739.

39 (b) The purpose of establishing an enhanced voluntary agricultural district is to
40 allow a county or a city to provide additional benefits to farmland beyond that available
41 in a voluntary agricultural district established under Part 2 of this Article, when the
42 owner of the farmland agrees to the condition imposed under G.S. 106-743.2. The
43 county or city that adopted the ordinance may take any action it deems appropriate to
44 encourage the formation of these districts and to further their purposes and objectives.

1 (c) A county ordinance adopted pursuant to this Part is effective within the
2 unincorporated areas of the county. A city ordinance adopted pursuant to this Part is
3 effective within the corporate limits of the city. A city may amend its ordinances in
4 accordance with G.S. 160A-383.2 with regard to agricultural districts within its
5 planning jurisdiction.

6 (d) A county or city ordinance adopted pursuant to this Part may be adopted
7 simultaneously with the creation of a voluntary agricultural district pursuant to
8 G.S. 106-738.

9 **"§ 106-743.2. Conservation agreements for farmland in enhanced voluntary**
10 **agricultural districts; limitation.**

11 A conservation agreement entered into between a county or city and a landowner
12 pursuant to G.S. 106-743.1(a)(2) shall be irrevocable for a period of at least 10 years
13 from the date the agreement is executed. At the end of its term, a conservation
14 agreement shall automatically renew for a term of three years, unless notice of
15 termination is given in a timely manner by either party as prescribed in the ordinance
16 establishing the enhanced voluntary agricultural district. The benefits set forth in this
17 Part shall be available to the farmland that is the subject of the conservation agreement
18 for the duration of the conservation agreement.

19 **"§ 106-743.3. Enhanced voluntary agricultural districts entitled to all benefits of**
20 **voluntary agricultural districts.**

21 The provisions of G.S. 106-739 through G.S. 106-741 and G.S. 106-743 apply to an
22 enhanced voluntary agricultural district under this Part, to an ordinance adopted under
23 this Part, and to any person, entity, or farmland subject to this Part in the same manner
24 as they apply under Part 2 of this Article.

25 **"§ 106-743.4. Enhanced voluntary agricultural districts; additional benefits.**

26 (a) Property that is subject to a conservation agreement under G.S. 106-743.2
27 that remains in effect may receive up to twenty-five percent (25%) of its gross sales
28 from the sale of nonfarm products and still qualify as a bona fide farm that is exempt
29 from zoning regulations under G.S. 153A-340(b). For purposes of G.S. 153A-340(b),
30 the production of any nonfarm product that the Department of Agriculture and
31 Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is
32 produced on a farm that is subject to a conservation agreement under G.S. 106-743.2 is
33 a bona fide farm purpose. A farmer seeking to benefit from this subsection shall have
34 the burden of establishing that the property's sale of nonfarm products did not exceed
35 twenty-five percent (25%) of its gross sales. A county may adopt an ordinance pursuant
36 to this section that sets forth the standards necessary for proof of compliance.

37 Nothing in this section shall affect the county's authority to zone swine farms
38 pursuant to G.S. 153A-340(b)(3).

39 (b) A person who farms land that is subject to a conservation agreement under
40 G.S. 106-743.2 that remains in effect is eligible under G.S. 143-215.74(b) to receive the
41 higher percentage of cost-share funds for the benefit of that farmland under the
42 Agriculture Cost Share Program established pursuant to Part 9 of Article 21 of Chapter
43 143 of the General Statutes for funds to benefit that farmland.

1 (c) State departments, institutions, or agencies that award grants to farmers are
2 encouraged to give priority consideration to any person who farms land that is subject to
3 a conservation agreement under G.S. 106-743.2 that remains in effect.

4 **"§ 106-743.5. Waiver of utility assessments.**

5 (a) In the ordinance establishing an enhanced voluntary agricultural district under
6 this Part, a county or a city may provide that all assessments for utilities provided by
7 that county or city are held in abeyance, with or without interest, for farmland subject to
8 a conservation agreement under G.S. 106-743.2 that remains in effect until
9 improvements on the farmland property are connected to the utility for which the
10 assessment was made.

11 (b) The ordinance may provide that, when the period of abeyance ends, the
12 assessment is payable in accordance with the terms set out in the assessment resolution.

13 (c) Statutes of limitations are suspended during the time that any assessment is
14 held in abeyance under this section without interest.

15 (d) If an ordinance is adopted by a county or a city under this section, then the
16 assessment procedures followed under Article 9 of Chapter 153A or Article 10 of
17 Chapter 160A of the General Statutes, respectively, shall conform to the terms of this
18 ordinance with respect to qualifying farms that entered into conservation agreements
19 while such ordinance was in effect.

20 (e) Nothing in this section is intended to diminish the authority of counties or
21 cities to hold assessments in abeyance under G.S. 153A-201 and G.S. 160A-237."

22 **SECTION 6.** G.S. 153A-340(b)(2) reads as rewritten:

23 "(2) Except as provided in G.S. 106-743.4 for farms that are subject to a
24 conservation agreement under G.S. 106-743.2, bona fide farm
25 purposes include the production and activities relating or incidental to
26 the production of crops, fruits, vegetables, ornamental and flowering
27 plants, dairy, livestock, poultry, and all other forms of agricultural
28 products having a domestic or foreign market. For purposes of this
29 subdivision, the production of a nonfarm product that the Department
30 of Agriculture and Consumer Services recognizes as a "Goodness
31 Grows in North Carolina" product that is produced on a farm subject to
32 a conservation agreement under G.S. 106-743.2 is a bona fide farm
33 purpose."

34 **SECTION 7.** Article 19 of Chapter 160A of the General Statutes is amended
35 by adding a new section to read:

36 **"§ 160A-383.2. Voluntary agricultural districts.**

37 A city may amend the ordinances applicable within its planning jurisdiction to
38 provide flexibility to farming operations that are located within a city or county
39 voluntary agricultural district or enhanced voluntary agricultural district adopted under
40 Article 61 of Chapter 106 of the General Statutes. Amendments to applicable
41 ordinances may include provisions regarding on-farm sales, pick-your-own operations,
42 road signs, agritourism, and other activities incident to farming. For purposes of this
43 section, the term "farming" shall have the same meaning as set forth in G.S. 106-581.1."

44 **SECTION 8.** G.S. 143-215.74(b)(9) reads as rewritten:

"(9) When the applicant is either (i) a limited-resource ~~farmer or farmer,~~ (ii) a beginning farmer, or (iii) a person farming land that is located in an enhanced voluntary agricultural district and is subject to a conservation agreement under G.S. 106-743.2 that remains in effect, State funding shall be limited to ninety percent (90%) of the average cost for each practice with the assisted farmer providing ten percent (10%) of the cost, which may include in-kind support of the practice, with a maximum of one hundred thousand dollars (\$100,000) per year to each applicant. The following definitions apply in this subdivision:

a. Beginning farmer. – A farmer who has not operated a farm or who has operated a farm for not more than 10 years and who will materially and substantially participate in the operation of the farm.

a1. Enhanced voluntary agricultural district. – A district established by a county or a city by ordinance under Part 3 of Article 61 of Chapter 106 of the General Statutes.

b. Limited-resource farmer. – A farmer with direct and indirect annual gross farm sales that do not exceed one hundred thousand dollars (\$100,000) and with an adjusted household income in each of the previous two years that is at or below the greater of the county median household income, as determined by the United States Department of Housing and Urban Development, or two times the national poverty level based on the federal poverty guidelines established by the United States Department of Health and Human Services and revised each April 1.

c. Materially and substantially participate.

1. In the case of an individual, for the individual, including members of the immediate family of the individual, to provide substantial day-to-day labor and management of the farm, consistent with the practices in the county in which the farm is located.

2. In the case of an entity, for all members of the entity, to participate in the operation of the farm, with some members providing management and some members providing labor and management necessary for day-to-day activities such that if the members did not provide the management and labor, the operation of the farm would be seriously impaired."

SECTION 9. G.S. 106-735, as recodified by Section 2 of this act, reads as rewritten:

"§ 106-735. **Short title and purpose.**

(a) This ~~article~~ Article shall be known as "The Agricultural Development and Farmland Preservation Enabling Act."

(b) The purpose of this Article is to authorize counties and cities to undertake a series of programs to encourage the preservation of ~~farmland~~-qualifying farmland, as defined ~~herein~~-herein, and to foster the growth, development, and sustainability of family farms."

SECTION 10. G.S. 106-736, as recodified by Section 2 of this act, reads as rewritten:

"§ 106-736. Agricultural Development/Farmland preservation programs authorized.

(a) A county or a city may by ordinance establish a farmland preservation program under this Article. The ordinance may authorize qualifying farms, as defined in G.S. 106-737, to take advantage of one or more of the benefits authorized by the remaining sections of this Article.

(b) A county or a city may develop programs to promote the growth, development, and sustainability of farming and assist farmers in developing and implementing plans that achieve these goals. For purposes of this Article, the terms "agriculture", "agricultural", and "farming" have the same meaning as set forth in G.S. 106-581.1."

SECTION 11. G.S. 106-737, as recodified by Section 3 of this act, reads as rewritten:

"§ 106-737. Qualifying farmland.

In order for farmland to qualify for inclusion in a voluntary agricultural district or an enhanced voluntary agricultural district under Part 1 or Part 2 of this Article, it must be real property that:

- (1) Is participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7 or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3;
- (2) ~~Is certified by the Soil Conservation Service of the United States Department of Agriculture as being a farm on which at least two thirds of the land is composed of soils that (i) are best suited for providing food, seed, fiber, forage, timber, and oil seed crops, (ii) have good soil qualities, (iii) are favorable for all major crops common to the county where the land is located, (iv) have a favorable growing season, and (v) receive the available moisture needed to produce high yields an average of eight out of 10 years; or on which at least two thirds of the land has been actively used in agricultural, horticultural or forestry operations as defined in G.S. 105-277.2(1), (2), and (3) during each of the five previous years, measured from the date on which the determination must be made as to whether the land in question qualifies;~~
- (3) Is managed in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodable land; and

- 1 (4) Is the subject of a conservation agreement, as defined in G.S. 121-35,
2 between the county and the owner of such land that prohibits nonfarm
3 use or development of such land for a period of at least 10 years,
4 except for the creation of not more than three lots that meet applicable
5 county zoning and subdivision regulations."

6 **SECTION 12.** G.S. 106-738, as recodified by Section 3 of this act, reads as
7 rewritten:

8 **"§ 106-738. Voluntary agricultural districts.**

9 (a) An ordinance adopted under this ~~Article~~ Part shall provide:

- 10 (1) For the establishment of voluntary agricultural districts consisting
11 initially of at least the number of contiguous acres of ~~qualifying~~
12 ~~farmland~~ agricultural land, and forestland or horticultural land that is
13 part of a qualifying farm, or the number of qualifying farms deemed
14 appropriate by the ~~board of county commissioners;~~ governing board of
15 the county or city adopting the ordinance;
16 (2) For the formation of such districts upon the execution by the owners of
17 the requisite acreage of an agreement to sustain agriculture in the
18 district;
19 (3) That the form of this agreement must be reviewed and approved by an
20 agricultural advisory board established under G.S. 106-739 or some
21 other county board or official;
22 (4) That each such district have a representative on the agricultural
23 advisory board established under G.S. 106-739.

24 (b) The purpose of such agricultural districts shall be to increase identity and
25 pride in the agricultural community and its way of life and to increase protection from
26 nuisance suits and other negative impacts on properly managed farms. The county or
27 city that adopted an ordinance under this Part may take such action as it deems
28 appropriate to encourage the formation of such districts and to further their purposes
29 and objectives.

30 (c) A county ordinance adopted pursuant to this Part is effective within the
31 unincorporated areas of the county. A city ordinance adopted pursuant to this Part is
32 effective within the corporate limits of the city. A city may amend its ordinances in
33 accordance with G.S. 160A-383.2 with regard to agricultural districts within its
34 planning jurisdiction."

35 **SECTION 13.** G.S. 106-739, as recodified by Section 3 of this act, reads as
36 rewritten:

37 **"§ 106-739. Agricultural advisory board.**

38 An ordinance adopted under this Part or Part 3 of this Article shall provide for the
39 establishment of an agricultural advisory board, organized and appointed as the county
40 or city that adopted the ordinance shall deem appropriate. The county or city that
41 adopted the ordinance may confer upon this advisory board authority to:

- 42 (1) Review and make recommendations concerning the establishment and
43 modification of agricultural districts;

- 1 (2) Review and make recommendations concerning any ordinance or
2 amendment adopted or proposed for adoption under this Part or Part 3
3 of this Article;
- 4 (3) Hold public hearings on public projects likely to have an impact on
5 agricultural operations, particularly if such projects involve
6 condemnation of all or part of any qualifying farm;
- 7 (4) Advise the governing board of the county commissioners or city that
8 adopted the ordinance on projects, programs, or issues affecting the
9 agricultural economy or way of life within the county;
- 10 (5) Perform other related tasks or duties assigned by the governing board
11 of the county commissioners or city that adopted the ordinance."

12 **SECTION 14.** G.S. 106-740, as recodified by Section 3 of this act, reads as
13 rewritten:

14 **"§ 106-740. Public hearings on condemnation of farmland.**

15 An ordinance adopted under this Part or Part 3 of this Article may provide that no
16 State or local public agency or governmental unit may formally initiate any action to
17 condemn any interest in qualifying farmland within a voluntary agricultural district
18 under this Part or an enhanced voluntary agricultural district under Part 3 of this Article
19 until such agency has requested the local agricultural advisory board established under
20 G.S. 106-739 to hold a public hearing on the proposed condemnation.

- 21 (1) Following a public hearing held pursuant to this section, the board
22 shall prepare and submit written findings and a recommendation to the
23 decision-making body of the agency proposing acquisition.
- 24 (2) The board designated to hold the hearing shall have 30 days after
25 receiving a request under this section to hold the public hearing and
26 submit its findings and recommendations to the agency.
- 27 (3) The agency may not formally initiate a condemnation action while the
28 proposed condemnation is properly before the advisory board within
29 these time limitations."

30 **SECTION 15.** G.S. 106-742, as recodified by Section 3 of this act, reads as
31 rewritten:

32 **"§ 106-742. Waiver of water and sewer assessments.**

33 (a) A county or a city that has adopted an ordinance under this Part may provide
34 by ordinance that its water and sewer assessments be held in abeyance, with or without
35 interest, for farms, whether inside or outside of a voluntary agricultural district, until
36 improvements on such property are connected to the water or sewer system for which
37 the assessment was made.

38 (b) The ordinance may provide that, when the period of abeyance ends, the
39 assessment is payable in accordance with the terms set out in the assessment resolution.

40 (c) Statutes of limitations are suspended during the time that any assessment is
41 held in abeyance without interest.

42 (d) If an ordinance is adopted under this section, then the assessment procedures
43 followed under Article 9 of Chapter 153A of the General Statutes or Article 10 of
44 Chapter 160A of the General Statutes, whichever applies, shall conform to the terms of

1 this ordinance with respect to qualifying farms that entered into conservation
2 agreements while such ordinance was in effect.

3 (e) Nothing in this section is intended to diminish the authority of counties or
4 cities to hold assessments in abeyance under ~~G.S. 153A-201~~G.S. 153A-201 or
5 G.S. 160A-237."

6 **SECTION 16.** G.S. 106-743, as recodified by Section 3 of this act, reads as
7 rewritten:

8 "**§ 106-743. County Local ordinances.**

9 A county or a city adopting an ordinance under this Part or Part 3 of this Article may
10 consult with the North Carolina Commissioner of Agriculture or his staff before
11 adoption, and shall record the ordinance with the Commissioner's office after adoption.
12 Thereafter, the county or city shall submit to the Commissioner at least once a year, a
13 written report including the status, progress and activities of ~~the county's~~sits farmland
14 preservation program under this Part or Part 3 of this Article."

15 **SECTION 17.** G.S. 106-744, as recodified by Section 4 of this act, reads as
16 rewritten:

17 "**§ 106-744. Purchase of agricultural conservation easements, easements;**
18 **establishment of North Carolina Agricultural Development and**
19 **Farmland Preservation Trust Fund.**

20 (a) A county may, with the voluntary consent of landowners, acquire by purchase
21 agricultural conservation easements over qualifying farmland as defined by
22 ~~G.S. 106-737~~ located within a voluntary agricultural district as defined by ~~G.S. 106-738~~.
23 G.S. 106-737.

24 (b) For purposes of this section, "agricultural conservation easement" means a
25 negative easement in gross restricting residential, commercial, and industrial
26 development of land for the purpose of maintaining its agricultural production
27 capability. Such easement:

28 (1) May permit the creation of not more than three lots that meet
29 applicable county zoning and subdivision regulations; ~~and~~

30 (1a) May permit agricultural uses as necessary to promote agricultural
31 development associated with the family farm; and

32 (2) Shall be perpetual in duration, provided that, at least 20 years after the
33 purchase of an easement, a county may agree to reconvey the easement
34 to the owner of the land for consideration, if the landowner can
35 demonstrate to the satisfaction of the county that commercial
36 agriculture is no longer practicable on the land in question.

37 (c) There is established a "North Carolina Agricultural Development and
38 Farmland Preservation Trust Fund" to be administered by the Commissioner of
39 Agriculture. The Trust Fund shall consist of all monies received for the purpose of
40 purchasing agricultural conservation easements or funding programs that promote the
41 development and sustainability of farming and assist in the transition of existing farms
42 to new farm families, or monies transferred from counties or private sources. The Trust
43 Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3. The
44 Commissioner shall use Trust Fund monies ~~for the~~for any of the following:

- 1 (1) The purchase of agricultural conservation easements, including
2 transaction costs, and costs.
- 3 (2) Public and private enterprise programs that will promote profitable and
4 sustainable family farms through assistance to farmers in developing
5 and implementing plans for the production of food, fiber, and
6 value-added products, agritourism activities, marketing and sales of
7 agricultural products produced on the farm, and other agriculturally
8 related business activities.
- 9 (3) To fund conservation agreements to bring into or maintain farmland in
10 active production of food, fiber, and other agricultural products.
- 11 (4) The costs of administering the program under this Article, including
12 the cost of staff and staff support.
- 13 (c1) The Commissioner shall distribute Trust Fund monies for such purchases,
14 including transaction costs, as follows:
- 15 (1) To a private nonprofit conservation organization that matches thirty
16 percent (30%) of the Trust Fund monies it receives with funds from
17 sources other than the Trust Fund.
- 18 (2) To counties according to the match requirements under subsection ~~(e1)~~
19 (c2) of this section.
- 20 ~~(e1)~~(c2) A county that is an enterprise tier four county or an enterprise tier five
21 county, as these tiers are defined in G.S. 105-129.3(a), and that has prepared a
22 countywide farmland protection plan shall match fifteen percent (15%) of the Trust
23 Fund monies it receives with county funds. A county that has not prepared a countywide
24 farmland protection plan shall match thirty percent (30%) of the Trust Fund monies it
25 receives with county funds. A county that is an enterprise tier one county, an enterprise
26 tier two county, or an enterprise tier three county, as these counties are defined in
27 G.S. 105-129.3(a), and that has prepared a countywide farmland protection plan shall
28 not be required to match any of the Trust Fund monies it receives with county funds.
- 29 ~~(e2)~~(c3) The Commissioner of Agriculture shall adopt rules governing the use,
30 distribution, investment, and management of Trust Fund monies.
- 31 (d) This section shall apply to agricultural conservation easements falling within
32 its terms. This section shall not be construed to make unenforceable any restriction,
33 easement, covenant, or condition that does not comply with the requirements of this
34 section.
- 35 This section shall not be construed to invalidate any farmland preservation program.
- 36 This section shall not be construed to diminish the powers of any public entity,
37 agency, or instrumentality to acquire by purchase, gift, devise, inheritance, eminent
38 domain, or otherwise and to use property of any kind for public purposes.
- 39 This section shall not be construed to authorize any public entity, agency, or
40 instrumentality to acquire by eminent domain an agricultural conservation easement.
- 41 (e) As used in subsection ~~(e1)~~(c2) of this section, a countywide farmland
42 protection plan means a plan that satisfies all of the following requirements:
- 43 (1) The countywide farmland protection plan shall contain a list and
44 description of existing agricultural activity in the county.

- 1 (2) The countywide farmland protection plan shall contain a list of
2 existing challenges to continued family farming in the county.
- 3 (3) The countywide farmland protection plan shall contain a list of
4 opportunities for maintaining or enhancing small, family-owned farms
5 and the local agricultural economy.
- 6 (4) The countywide farmland protection plan shall describe how the
7 county plans to maintain a viable agricultural community and shall
8 address farmland preservation tools, such as agricultural economic
9 development, including farm diversification and marketing assistance;
10 other kinds of agricultural technical assistance, such as farm
11 infrastructure financing, farmland purchasing, linking with younger
12 farmers, and estate planning; the desirability and feasibility of
13 donating agricultural conservation easements, and entering into
14 voluntary agricultural districts.
- 15 (5) The countywide farmland protection plan shall contain a schedule for
16 implementing the plan and an identification of possible funding
17 sources for the long-term support of the plan.
- 18 (f) A countywide farmland protection plan that meets the requirements of
19 subsection (e) of this section may be formulated with the assistance of an agricultural
20 advisory board designated pursuant to G.S. 106-739.
- 21 (g) There is established the Agricultural Development and Farmland Preservation
22 Trust Fund Advisory Committee. The Advisory Committee shall be administratively
23 located within the Department of Agriculture and Consumer Services and shall advise
24 the Commissioner on the prioritization and allocation of funds, the development of
25 criteria for awarding funds, program planning, and other areas where monies from the
26 Trust Fund can be used to promote the growth and development of family farms in
27 North Carolina. The Advisory Committee shall be composed of 19 members as follows:
- 28 (1) The Commissioner of Agriculture or the Commissioner's designee,
29 who shall serve as the Chair of the Advisory Committee.
- 30 (2) The Secretary of Commerce or the Secretary's designee.
- 31 (3) The Secretary of Environment and Natural Resources or the
32 Secretary's designee.
- 33 (4) Three practicing farmers, one appointed by the Governor, one
34 appointed by the President Pro Tempore of the Senate, and one
35 appointed by the Speaker of the House of Representatives.
- 36 (5) The Dean of the College of Agriculture and Life Sciences at North
37 Carolina State University or the Dean's designee.
- 38 (6) The Dean of the School of Agriculture and Environmental Sciences at
39 North Carolina Agricultural and Technical State University or the
40 Dean's designee.
- 41 (7) The Executive Director of the North Carolina Rural Economic
42 Development Center, Inc., or the Executive Director's designee.
- 43 (8) The Executive Director of the Conservation Trust for North Carolina
44 or the Executive Director's designee.

- 1 (9) The Executive Director of the North Carolina Farm Transition
2 Network or the Executive Director's designee.
- 3 (10) The President of the North Carolina Association of Soil and Water
4 Conservation Districts or the President's designee.
- 5 (11) The Director of the Southeast Regional Office of the American
6 Farmland Trust or the Director's designee.
- 7 (12) The Executive Director of the North Carolina Agribusiness Council or
8 the Executive Director's designee.
- 9 (13) The President of the North Carolina State Grange or the President's
10 designee.
- 11 (14) The President of the North Carolina Farm Bureau Federation, Inc., or
12 the President's designee.
- 13 (15) The President of the North Carolina Black Farmers and
14 Agriculturalists Association or the President's designee.
- 15 (16) The President of the North Carolina Forestry Association or the
16 President's designee.
- 17 (17) The Executive Director of the North Carolina Association of County
18 Commissioners or the Executive Director's designee.

19 (h) The Advisory Committee shall meet at least quarterly. The Department of
20 Agriculture and Consumer Services shall provide the Advisory Committee with
21 administrative and secretarial staff. Members of the Advisory Committee shall be
22 entitled to per diem pursuant to G.S. 138-5 or G.S. 138-6, as appropriate. The Advisory
23 Committee shall make recommendations to the Commissioner on the distribution of
24 monies from the Trust Fund at least annually. The Commissioner shall take the
25 recommendations of the Advisory Committee into consideration in making decisions on
26 the distribution of monies from the Trust Fund.

27 (i) The Advisory Committee shall report no later than May 1 of each year to the
28 Joint Legislative Commission on Governmental Operations and the House of
29 Representatives and Senate Appropriations Subcommittees on Natural and Economic
30 Resources regarding the activities of the Advisory Committee, the agriculture easements
31 purchased, and agricultural projects funded during the previous year."

32 **SECTION 18.** G.S. 106-581.1 reads as rewritten:

33 **"§ 106-581.1. Agriculture defined.**

34 For purposes of this Article, the terms "agriculture" and "agricultural" "agriculture",
35 "agricultural", and "farming" ~~shall refer to the~~ all of the following:

- 36 (1) The cultivation of soil for production and harvesting of crops,
37 including but not limited to fruits, vegetables, sod, flowers and
38 ornamental plants, the plants.
- 39 (2) The planting and production of trees and timber, timber.
- 40 (3) Dairying and the raising, management, care, and training of livestock,
41 including horses, bees, poultry, deer, elk, and other animals for
42 individual and public use, consumption, and marketing. Further, for
43 purposes of this Article, aquaculture is considered a form of
44 agriculture pursuant to

- 1 (4) Aquaculture as defined in G.S. 106-758.
2 (5) The operation, management, conservation, improvement, and
3 maintenance of a farm and the structures and buildings on the farm,
4 including building and structure repair, replacement, expansion, and
5 construction incident to the farming operation.
6 (6) When performed on the farm, "agriculture", "agricultural", and
7 "farming" also include the marketing and selling of agricultural
8 products, agritourism, the storage and use of materials for agricultural
9 purposes, packing, treating, processing, sorting, storage, and other
10 activities performed to add value to crops, livestock, and agricultural
11 items produced on the farm, and similar activities incident to the
12 operation of a farm."

13 **SECTION 19.** The first report required pursuant to G.S. 106-744(i), as
14 enacted by Section 19 of this act, is due on or before 1 May 2006.

15 **SECTION 20.** This act is effective when it becomes law.