

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH80565-LAxz-20* (4/25)

Short Title: Property Tax Modifications. (Public)

Sponsors: Representatives Brubaker, Hill (Primary Sponsors); Luebke, Gibson, McComas, McGee, Wainwright, and Weiss.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE SCHEDULE FOR GENERAL REAPPRAISALS OF REAL PROPERTY IN THE STATE TO REDUCE THE DISCREPANCY BETWEEN THE PROPERTY TAX VALUE OF PROPERTY AND ITS MARKET VALUE, TO TREAT MOBILE HOMES THE SAME AS OTHER HOMES WITH RESPECT TO PROPERTY TAX LIENS, TO MODIFY THE OWNERSHIP REQUIREMENTS OF PRESENT-USE VALUE PROPERTY TO REFLECT COMMON FORMS OF LAND OWNERSHIP, AND TO ALLOW PROPERTY TO REMAIN IN PRESENT-USE VALUE WHEN THE DEFERRED TAXES ARE PAID AT THE TIME OF TRANSFER AND THE NEW OWNER CONTINUES TO FARM THE PROPERTY.

The General Assembly of North Carolina enacts:

PART I: REAPPRAISAL SCHEDULE

SECTION 1.1. G.S. 105-282.1(e) reads as rewritten:

"(e) Annual Review of Exempted or Excluded Property. – Pursuant to G.S. 105-296(1), the assessor must annually review at least ~~one-eighth~~ one-fourth of the parcels in the county exempted or excluded from taxation to verify that the parcels qualify for the exemption or exclusion."

SECTION 1.2. G.S. 105-284(b) reads as rewritten:

"(b) The assessed value of public service company system property subject to appraisal by the Department of Revenue under G.S. 105-335(b)(1) shall be determined by applying to the allocation of such value to each county a percentage to be established by the Department of Revenue. The percentage to be applied shall be either:

(1) The median ratio established in sales assessment ratio studies of real property conducted by the Department of Revenue in the county in the

1 year the county conducts a reappraisal of real property and in the
2 fourth and seventh years thereafter; or property.

- 3 (2) A weighted average percentage based on the median ratio for real
4 property established by the Department of Revenue as provided in
5 subdivision (1) and a one hundred percent (100%) ratio for personal
6 property. No percentage shall be applied in a year in which the median
7 ratio for real property is ninety percent (90%) or greater.

8 If the median ratio for real property in any county is below ninety percent (90%) and
9 if the county assessor has provided information satisfactory to the Department of
10 Revenue that the county follows accepted guidelines and practices in the assessment of
11 business personal property, the weighted average percentage shall be applied to public
12 service company property. In calculating the weighted average percentage, the
13 Department shall use the assessed value figures for real and personal property reported
14 by the county to the Local Government Commission for the preceding year. In any
15 county which fails to demonstrate that it follows accepted guidelines and practices, the
16 percentage to be applied shall be the median ratio for real property. The percentage
17 established in a year in which a sales assessment ratio study is conducted shall continue
18 to be applied until another study is conducted by the Department of Revenue."

19 **SECTION 1.3.** G.S. 105-286 reads as rewritten:

20 "**§ 105-286. Time for general reappraisal of real property.**

21 (a) ~~Octennial Plan.~~ Unless the date shall be advanced as provided in
22 subdivision (a)(2), below, each county of the State, as of January 1 of the year
23 prescribed in the schedule set out in subdivision (a)(1), below, and every eighth year
24 thereafter, shall reappraise all real property in accordance with the provisions of
25 G.S. 105-283 and 105-317.

- 26 (1) ~~Schedule of Initial Reappraisals:~~

27 ~~Division One—1972: Avery, Camden, Cherokee, Cleveland,~~
28 ~~Cumberland, Guilford, Harnett, Haywood, Lee, Montgomery,~~
29 ~~Northampton, and Robeson.~~

30 ~~Division Two—1973: Caldwell, Carteret, Columbus, Currituck,~~
31 ~~Davidson, Gaston, Greene, Hyde, Lenoir, Madison, Orange, Pamlico,~~
32 ~~Pitt, Richmond, Swain, Transylvania, and Washington. Division Three~~
33 ~~—1974: Ashe, Buncombe, Chowan, Franklin, Henderson, Hoke, Jones,~~
34 ~~Pasquotank, Rowan, and Stokes. Division Four—1975: Alleghany,~~
35 ~~Bladen, Brunswick, Cabarrus, Catawba, Dare, Halifax, Macon, New~~
36 ~~Hanover, Surry, Tyrrell, and Yadkin. Division Five—1976: Bertie,~~
37 ~~Caswell, Forsyth, Iredell, Jackson, Lincoln, Onslow, Person,~~
38 ~~Perquimans, Rutherford, Union, Vance, Wake, Wilson, and Yancey.~~

39 ~~Division Six—1977: Alamance, Durham, Edgecombe, Gates,~~
40 ~~Martin, Mitchell, Nash, Polk, Randolph, Stanly, Warren, and Wilkes.~~

41 ~~Division Seven—1978: Alexander, Anson, Beaufort, Clay, Craven,~~
42 ~~Davie, Duplin, and Granville.~~

~~Division Eight — 1979: Burke, Chatham, Graham, Hertford, Johnston, McDowell, Mecklenburg, Moore, Pender, Rockingham, Sampson, Scotland, Watauga, and Wayne.~~

(2) ~~Advancing Scheduled Octennial Reappraisal. — Any county desiring to conduct a reappraisal of real property earlier than required by this subsection (a) may do so upon adoption by the board of county commissioners of a resolution so providing. A copy of any such resolution shall be forwarded promptly to the Department of Revenue. If the scheduled date for reappraisal for any county is advanced as provided herein, real property in that county shall thereafter be reappraised every eighth year following the advanced date unless, in accordance with the provisions of this subdivision (a)(2), an earlier date shall be adopted by resolution of the board of county commissioners, in which event a new schedule of octennial reappraisals shall thereby be established for that county.~~

(b) ~~Fourth Year Horizontal Adjustments. — As of January 1 of the fourth year following a reappraisal of real property conducted under the provisions of subsection (a), above, each county shall review the appraised values of all real property and determine whether changes should be made to bring those values into line with then current true value. If it is determined that the appraised value of all real property or of defined types or categories of real property require such adjustment, the assessor shall revise the values accordingly by horizontal adjustments rather than by actual appraisal of individual properties: That is, by uniform application of percentages of increase or reduction to the appraised values of properties within defined types or categories or within defined geographic areas of the county.~~

(c) ~~Value to Be Assigned Real Property When Not Subject to Appraisal. — In years in which real property within a county is not subject to appraisal or reappraisal under subsections (a) or (b), above, or under G.S. 105-287, it shall be listed at the value assigned when last appraised under this section or under G.S. 105-287.~~

(a) Quadrennial Plan. — Each county must reappraise all real property in accordance with the provisions of G.S. 105-283 and G.S. 105-317 as of January 1 of the year set out in the following schedule and every fourth year thereafter, unless the county advances the date as provided in subsection (b):

<u>Year</u>	<u>Initial Reappraisal Schedule</u>
2011	<u>Alexander, Ashe, Brunswick, Burke, Carteret, Catawba, Cumberland, Gaston, Henderson, Hertford, Iredell, Johnston, Lee, Macon, McDowell, Moore, New Hanover, Northampton, Pender, Rowan, Rutherford, Sampson, Scotland, Wayne, and Wilkes.</u>
2012	<u>Bertie, Carbarrus, Caswell, Cherokee, Cleveland, Columbus, Currituck, Greene, Guilford, Jackson, Lincoln,</u>

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Madison, Montgomery, Pamlico, Perquimans, Pitt, Randolph, Richmond, Surry, Union, Vance, Washington, Wilson, and Yancey. Alamance, Caldwell, Chatham, Davie, Duplin, Edgecombe, Forsyth, Gates, Harnett, Hyde, Lenoir, Martin, Mecklenburg, Mitchell, Nash, Orange, Person, Polk, Rockingham, Stanly, Stokes, Swain, Transylvania, Tyrell, Wake, Warren, and Yadkin. Alleghany, Anson, Avery, Beaufort, Bladen, Buncombe, Camden, Chowan, Clay, Craven, Dare, Davidson, Durham, Franklin, Graham, Granville, Halifax, Haywood, Hoke, Jones, Onslow, Pasquotank, Robeson, and Watauga.

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(b) Advancing Scheduled Reappraisal. – A county may conduct a reappraisal of real property earlier than required by subsection (a) of this section if the board of county commissioners adopts a resolution providing for advancement of the scheduled reappraisal. The board of county commissioners must promptly forward a copy of any adopted resolution advancing the scheduled reappraisal to the Department of Revenue. If a county advances the scheduled reappraisal under this subsection, the county must conduct future reappraisals every fourth year following the advanced date unless, in accordance with this subsection, the county adopts an earlier date by resolution."

SECTION 1.4. G.S. 105-287 reads as rewritten:

"§ 105-287. Changing appraised value of real property in years in which general reappraisal ~~or horizontal adjustment~~ is not made.

(a) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not ~~made~~, made under G.S. 105-286, the property shall be listed at the value assigned when last appraised unless the value is changed in accordance with this section. ~~the~~ The assessor shall increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in the property's value resulting from one or more of the reasons listed in this subsection. ~~The reason necessitating a change in the property's value need not be under the control of or at the request of the owner of the affected property.~~ following reasons:

- (1) Correct a clerical or mathematical error.
- (2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~ reappraisal.
- (2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to

1 Article 4 of Chapter 121 of the General Statutes, the Conservation and
2 Historic Preservation Agreements Act.

3 (2b) Recognize an increase or decrease in the value of the property
4 resulting from a physical change to the land or to the improvements on
5 the land, other than a change listed in subsection (b) of this section.

6 (2c) Recognize an increase or decrease in the value of the property
7 resulting from a change in the legally permitted use of the property.

8 (3) Recognize an increase or decrease in the value of the property
9 resulting from a factor other than one listed in subsection (b).

10 (b) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real
11 property in the county is not made, the assessor may not increase or decrease the
12 appraised value of real property, as determined under G.S. 105-286, to recognize a
13 change in value caused by:

14 (1) Normal, physical depreciation of improvements;

15 (2) Inflation, deflation, or other economic changes affecting the county in
16 general; or

17 (3) Betterments to the property made by:

18 a. Repainting buildings or other structures;

19 b. Terracing or other methods of soil conservation;

20 c. Landscape gardening;

21 d. Protecting forests against fire; or

22 e. Impounding water on marshland for non-commercial purposes
23 to preserve or enhance the natural habitat of wildlife.

24 (c) An increase or decrease in the appraised value of real property authorized by
25 this section shall be made in accordance with the schedules, standards, and rules used in
26 the county's most recent general ~~reappraisal or horizontal adjustment~~ reappraisal. An
27 increase or decrease in appraised value made under this section is effective as of
28 January 1 of the year in which it is made and is not retroactive. The reason for an
29 increase or decrease in appraised value made under this section need not be under the
30 control of or at the request of the owner of the affected property. This section does not
31 modify or restrict the provisions of G.S. 105-312 concerning the appraisal of discovered
32 property.

33 (d) Notwithstanding subsection (a), if a tract of land has been subdivided into lots
34 and more than five acres of the tract remain unsold by the owner of the tract, the
35 assessor may appraise the unsold portion as land acreage rather than as lots. A tract is
36 considered subdivided into lots when the lots are located on streets laid out and open for
37 travel and the lots have been sold or offered for sale as lots since the last appraisal of the
38 property."

39 **SECTION 1.5.** G.S. 105-296(j) reads as rewritten:

40 "(j) The assessor must annually review at least ~~one-eighth~~ one-fourth of the
41 parcels in the county classified for taxation at present-use value to verify that these
42 parcels qualify for the classification. By this method, the assessor must review the
43 eligibility of all parcels classified for taxation at present-use value in ~~an eight-year~~
44 four-year period. The period of the review process is based on the average of the

1 preceding three years' data. The assessor may request assistance from the Farm Service
2 Agency, the Cooperative Extension Service, the Division of Forest Resources of the
3 Department of Environment and Natural Resources, or other similar organizations.

4 The assessor may require the owner of classified property to submit any information,
5 including sound management plans for forestland, needed by the assessor to verify that
6 the property continues to qualify for present-use value taxation. The owner has 60 days
7 from the date a written request for the information is made to submit the information to
8 the assessor. If the assessor determines the owner failed to make the information
9 requested available in the time required without good cause, the property loses its
10 present-use value classification and the property's deferred taxes become due and
11 payable as provided in G.S. 105-277.4(c). If the property loses its present-use value
12 classification for failure to provide the requested information, the assessor must
13 reinstate the property's present-use value classification when the owner submits the
14 requested information within 60 days after the disqualification unless the information
15 discloses that the property no longer qualifies for present-use value classification. When
16 a property's present-use value classification is reinstated, it is reinstated retroactive to
17 the date the classification was revoked and any deferred taxes that were paid as a result
18 of the revocation must be refunded to the property owner. The owner may appeal the
19 final decision of the assessor to the county board of equalization and review as provided
20 in G.S. 105-277.4(b1).

21 In determining whether property is operating under a sound management program,
22 the assessor must consider any weather conditions or other acts of nature that prevent
23 the growing or harvesting of crops or the realization of income from cattle, swine, or
24 poultry operations. The assessor must also allow the property owner to submit
25 additional information before making this determination."

26 **SECTION 1.6.** G.S. 105-296(l) reads as rewritten:

27 "(l) The assessor shall annually review at least ~~one-eighth~~one-fourth of the
28 parcels in the county exempted or excluded from taxation to verify that these parcels
29 qualify for the exemption or exclusion. By this method, the assessor shall review the
30 eligibility of all parcels exempted or excluded from taxation in ~~an eight-year~~a four-year
31 period. The assessor may require the owner of exempt or excluded property to make
32 available for inspection any information reasonably needed by the assessor to verify that
33 the property continues to qualify for the exemption or exclusion. The owner has 60 days
34 from the date a written request for the information is made to submit the information to
35 the assessor. If the assessor determines that the owner failed to make the information
36 requested available in the time required without good cause, then the property loses its
37 exemption or exclusion. If the property loses its exemption or exclusion for failure to
38 provide the requested information, the assessor must reinstate the property's exemption
39 or exclusion when the owner makes the requested information available within 60 days
40 after the disqualification unless the information discloses that the property is no longer
41 eligible for the exemption or exclusion."

42 **SECTION 1.7.** G.S. 153A-150 reads as rewritten:

43 "**§ 153A-150. Reserve for ~~octennial~~general reappraisal.**

1 Before the beginning of the fiscal year immediately following the effective date of
2 ~~an octennial~~ general reappraisal of real property conducted as required by
3 G.S. 105-286, the county budget officer shall present to the board of commissioners ~~an~~
4 ~~eight-year~~ budget for financing the cost of the next ~~octennial~~ general reappraisal. The
5 budget shall estimate the cost of the reappraisal and shall propose a plan for raising the
6 necessary funds in ~~eight~~ annual installments during the ~~next fiscal years,~~ intervening
7 years between general reappraisals, with all installments as nearly uniform as
8 practicable. The board shall consider this budget, making any amendments to the budget
9 it deems advisable, and shall adopt a resolution establishing a special reserve fund for
10 the next ~~octennial~~ general reappraisal. In the budget ordinance of the first fiscal year of
11 the plan, the board of commissioners shall appropriate to the special reappraisal reserve
12 fund the amount set out in the plan for the first year's installment. When the county
13 budget for each succeeding fiscal year is in preparation, the board shall review the
14 ~~eight-year~~ reappraisal budget with the budget officer and shall amend it, if necessary, so
15 that it will reflect the probable cost at that time of the reappraisal and will produce the
16 necessary funds at the end of the ~~eight-year~~ intervening period. In the budget ordinance
17 for each succeeding fiscal year, the board shall appropriate to the special reappraisal
18 reserve fund the amount set out in the plan as due in that year.

19 Moneys appropriated to the special reappraisal reserve fund shall not be available or
20 expended for any purpose other than the reappraisal of real property required by
21 G.S. 105-286, except that the funds may be deposited at interest or invested as permitted
22 by G.S. 159-30. If there is a fund balance in the reserve fund following payment for the
23 required reappraisal, it shall be retained in the fund for use in financing the next
24 required reappraisal.

25 Within 10 days after the adoption of each annual budget ordinance, the county
26 finance officer shall report to the Department of Revenue, on forms to be supplied by
27 the Department, the terms of the county's ~~eight-year~~ reappraisal budget, the current
28 condition of the special reappraisal reserve fund, and the amount appropriated to the
29 reserve fund in the current fiscal year."
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31 **PART II: MOBILE HOME LIENS**

32 **SECTION 2.** G.S. 105-355 reads as rewritten:

33 **"§ 105-355. Creation of tax lien; date as of which lien attaches.**

34 (a) Lien on Real Property. – Regardless of the time at which liability for a tax for
35 a given fiscal year may arise or the exact amount thereof be determined, the lien for
36 taxes levied on a parcel of real property shall attach to the parcel taxed on the date as of
37 which property is to be listed under G.S. 105-285, and the lien for taxes levied on
38 personal property shall attach to all real property of the taxpayer in the taxing unit on
39 the same date. All penalties, interest, and costs allowed by law shall be added to the
40 amount of the lien and shall be regarded as attaching at the same time as the lien for the
41 principal amount of the taxes. For purposes of this subsection (a):

42 (1) Taxes levied on real property listed in the name of a life tenant under
43 G.S. 105-302 (c)(8) shall be a lien on the fee as well as the life estate.

- 1 (2) Taxes levied on improvements on or separate rights in real property
2 owned by one other than the owner of the land, whether or not listed
3 separately from the land under G.S. 105-302 (c)(11), shall be a lien on
4 both the improvements or rights and on the land.

5 (b) Lien on Mobile Home Listed as Personal Property. – The lien for taxes levied
6 on a mobile home listed as personal property shall attach to the mobile home and to all
7 real property of the taxpayer in the taxing unit on the date as of which property is to be
8 listed under G.S. 105-285.

9 ~~(b)~~(c) Lien on Personal Property. – Taxes levied on real and personal property
10 (including penalties, interest, and costs allowed by law) shall be a lien on personal
11 property from and after levy or attachment and garnishment of the personal property
12 levied upon or attached."
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14 PART III: PRESENT-USE VALUE PROPERTY CHANGES

15 SECTION 3.1. G.S. 105-277.2 reads as rewritten:

16 "§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.

17 The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

- 18 (1) Agricultural land. – Land that is a part of a farm unit that is actively
19 engaged in the commercial production or growing of crops, plants, or
20 animals under a sound management program. Agricultural land
21 includes woodland and wasteland that is a part of the farm unit, but the
22 woodland and wasteland included in the unit must be appraised under
23 the use-value schedules as woodland or wasteland. A farm unit may
24 consist of more than one tract of agricultural land, but at least one of
25 the tracts must meet the requirements in G.S. 105-277.3(a)(1), and
26 each tract must be under a sound management program. If the
27 agricultural land includes less than 20 acres of woodland, then the
28 woodland portion is not required to be under a sound management
29 program. Also, woodland is not required to be under a sound
30 management program if it is determined that the highest and best use
31 of the woodland is to diminish wind erosion of adjacent agricultural
32 land, protect water quality of adjacent agricultural land, or serve as
33 buffers for adjacent livestock or poultry operations.

- 34 (1a) Business entity. – A corporation, a general partnership, a limited
35 partnership, or a limited liability company.

- 36 (2) Forestland. – Land that is a part of a forest unit that is actively engaged
37 in the commercial growing of trees under a sound management
38 program. Forestland includes wasteland that is a part of the forest unit,
39 but the wasteland included in the unit must be appraised under the
40 use-value schedules as wasteland. A forest unit may consist of more
41 than one tract of forestland, but at least one of the tracts must meet the
42 requirements in G.S. 105-277.3(a)(3), and each tract must be under a
43 sound management program.

1 (3) Horticultural land. – Land that is a part of a horticultural unit that is
2 actively engaged in the commercial production or growing of fruits or
3 vegetables or nursery or floral products under a sound management
4 program. Horticultural land includes woodland and wasteland that is a
5 part of the horticultural unit, but the woodland and wasteland included
6 in the unit must be appraised under the use-value schedules as
7 woodland or wasteland. A horticultural unit may consist of more than
8 one tract of horticultural land, but at least one of the tracts must meet
9 the requirements in G.S. 105-277.3(a)(2), and each tract must be under
10 a sound management program. If the horticultural land includes less
11 than 20 acres of woodland, then the woodland portion is not required
12 to be under a sound management program. Also, woodland is not
13 required to be under a sound management program if it is determined
14 that the highest and best use of the woodland is to diminish wind
15 erosion of adjacent horticultural land or protect water quality of
16 adjacent horticultural land. Land used to grow horticultural and
17 agricultural crops on a rotating basis or where the horticultural crop is
18 set out or planted and harvested within one growing season, may be
19 treated as agricultural land as described in subdivision (1) of this
20 section when there is determined to be no significant difference in the
21 cash rental rates for the land.

22 (4) Individually owned. – Owned by one of the following:

23 a. ~~A natural person. For the purpose of this section, a natural~~
24 ~~person who is an income beneficiary of a trust that owns land~~
25 ~~may elect to treat the person's beneficial share of the land as~~
26 ~~owned by that person. If the person's beneficial interest is not an~~
27 ~~identifiable share of land but can be established as a~~
28 ~~proportional interest in the trust income, the person's beneficial~~
29 ~~share of land is a percentage of the land owned by the trust that~~
30 ~~corresponds to the beneficiary's proportional interest in the trust~~
31 ~~income. For the purpose of this section, a natural person who is~~
32 ~~a member of a business entity, other than a corporation, that~~
33 ~~owns land may elect to treat the person's share of the land as~~
34 ~~owned by that person. The person's share is a percentage of the~~
35 ~~land owned by the business entity that corresponds to the~~
36 ~~person's percentage of ownership in the entity.~~An individual.

37 b. ~~A business entity having as its principal business one of the~~
38 ~~activities described in subdivisions (1), (2), and (3) and whose~~
39 ~~members are all natural persons who meet one or more of the~~
40 ~~conditions listed in this sub-subdivision. For the purpose of this~~
41 ~~sub-subdivision, the terms "having as its principal business" and~~
42 ~~"actively engaged in the business of the entity" include the~~
43 ~~leasing of the land for one of the activities described in~~

- 1 subdivisions (1), (2), and (3) only if all members of the business
2 entity are relatives.
- 3 ~~1. The member is actively engaged in the business of the~~
4 ~~entity.~~
- 5 ~~2. The member is a relative of a member who is actively~~
6 ~~engaged in the business of the entity.~~
- 7 ~~3. The member is a relative of, and inherited the~~
8 ~~membership interest from, a decedent who met one or~~
9 ~~both of the preceding conditions after the land qualified~~
10 ~~for classification in the hands of the business entity.that~~
11 ~~meets all of the following conditions:~~
- 12 ~~1. Its principal business is farming agricultural land,~~
13 ~~horticultural land, or forestland.~~
- 14 ~~2. All of its members are, directly or indirectly, individuals~~
15 ~~who are actively engaged in farming agricultural land,~~
16 ~~horticultural land, or forestland or a relative of one of the~~
17 ~~individuals who is actively engaged. An individual is~~
18 ~~indirectly a member of a business entity that owns the~~
19 ~~land if the individual is a member of a business entity or~~
20 ~~a beneficiary of a trust that is part of the ownership~~
21 ~~structure of the business entity that owns the land.~~
- 22 ~~3. It is not a corporation whose shares are publicly traded~~
23 ~~and none of its members are corporations whose shares~~
24 ~~are publicly traded.~~
- 25 ~~4. If it leases the land, all of its members are individuals~~
26 ~~and are relatives. Under this condition, 'principal~~
27 ~~business' and 'actively engaged' include leasing.~~
- 28 c. ~~A trust that was created by a natural person who transferred the~~
29 ~~land to the trust and each of whose beneficiaries who is~~
30 ~~currently entitled to receive income or principal meets one all of~~
31 ~~the following conditions:~~
- 32 ~~1. Is the creator of the trust or the creator's relative.It was~~
33 ~~created by an individual who owned the land and~~
34 ~~transferred the land to the trust.~~
- 35 ~~2. Is a second trust whose beneficiaries who are currently~~
36 ~~entitled to receive income or principal are all either the~~
37 ~~creator of the first trust or the creator's relatives.All of its~~
38 ~~beneficiaries are, directly or indirectly, individuals who~~
39 ~~are the creator of the trust or a relative of the creator. An~~
40 ~~individual is indirectly a beneficiary of a trust that owns~~
41 ~~the land if the individual is a beneficiary of another trust~~
42 ~~or a member of a business entity that has a beneficial~~
43 ~~interest in the trust that owns the land.~~
- 44 d. A testamentary trust that meets all of the following conditions:

- 1 1. It was created by ~~a natural person~~ an individual who
2 transferred to the trust land that qualified in that ~~person's~~
3 individual's hands for classification under
4 G.S. 105-277.3.
- 5 2. At the ~~time~~ date of the creator's death, the creator had no
6 relatives ~~as defined in this section as of the date of~~
7 ~~death~~ relatives.
- 8 3. The trust income, less reasonable administrative
9 expenses, is used exclusively for educational, scientific,
10 literary, cultural, charitable, or religious purposes as
11 defined in G.S. 105-278.3(d).
- 12 e. Tenants in common, if each tenant is ~~either a natural person or a~~
13 ~~business entity described in sub-subdivision b. of this~~
14 ~~subdivision~~ would qualify as an owner if the tenant were the
15 sole owner. Tenants in common may elect to treat their
16 individual shares as owned by them individually in accordance
17 with G.S. 105-302(c)(9). The ownership requirements of
18 G.S. 105-277.3(b) apply to each tenant in common who is a
19 ~~natural person~~ an individual, and the ownership requirements of
20 G.S. 105-277.3(b1) apply to each tenant in common who is a
21 ~~business entity~~ entity or a trust.
- 22 (4a) Member. – A shareholder of a corporation, a partner of a general or
23 limited partnership, or a member of a limited liability company.
- 24 (5) Present-use value. – The value of land in its current use as agricultural
25 land, horticultural land, or forestland, based solely on its ability to
26 produce income and assuming an average level of management. A rate
27 of nine percent (9%) shall be used to capitalize the expected net
28 income of forestland. The capitalization rate for agricultural land and
29 horticultural land is to be determined by the Use-Value Advisory
30 Board as provided in G.S. 105-277.7.
- 31 (5a) Relative. – Any of the following:
- 32 a. A spouse or the spouse's lineal ancestor or descendant.
- 33 b. A lineal ancestor or a lineal descendant.
- 34 c. A brother or sister, or the lineal descendant of a brother or
35 sister. For the purposes of this sub-subdivision, the term brother
36 or sister includes stepbrother or stepsister.
- 37 d. An aunt or an uncle.
- 38 e. A spouse of ~~a person~~ an individual listed in paragraphs a.
39 through d. For the purpose of this subdivision, an adoptive or
40 adopted relative is a relative and the term "spouse" includes a
41 surviving spouse.
- 42 (6) Sound management program. – A program of production designed to
43 obtain the greatest net return from the land consistent with its
44 conservation and long-term improvement.

- (7) Unit. – One or more tracts of agricultural land, horticultural land, or forestland. Multiple tracts must be under the same ownership and be of the same type of classification. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under G.S. 105-277.3(a). "

SECTION 3.2. G.S. 105-277.3 reads as rewritten:

"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.

(a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

- (1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

- (2) Horticultural land. – Individually owned horticultural land consisting of one or more tracts, one of which consists of at least five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have met the applicable minimum gross income requirement. Land in actual production includes land under improvements used in the commercial production or growing of fruits or vegetables or nursery or floral products. Land that has been used to produce evergreens intended for use as Christmas trees must have met the minimum gross income requirements established by the Department of Revenue for the land. All other horticultural land must have produced an average gross income of at least one thousand dollars (\$1,000). Gross income

1 includes income from the sale of the horticultural products produced
2 from the land and any payments received under a governmental soil
3 conservation or land retirement program.

4 (3) Forestland. – Individually owned forestland consisting of one or more
5 tracts, one of which consists of at least 20 acres that are in actual
6 production and are not included in a farm unit.

7 (b) ~~Natural Person~~Individual Ownership Requirements. – In order to come within
8 a classification described in subsection (a) of this section, ~~the land must, if owned by a~~
9 ~~natural person, an individual must~~ also satisfy one of the following conditions:

10 (1) It is the owner's place of residence.

11 (2) It has been owned by the current owner or a relative of the current
12 owner for the four years preceding January 1 of the year for which the
13 benefit of this section is claimed.

14 (3) At the time of transfer to the current owner, it qualified for
15 classification in the hands of a business entity or trust that transferred
16 the land to the current owner who was a member of the business entity
17 or a beneficiary of the trust, as appropriate.

18 (b1) Entity Ownership Requirements. – In order to come within a classification
19 described in subsection (a) of this section, ~~the land must, if owned by a business entity~~
20 ~~or trust, trust must~~ have been owned by the business entity or trust or by one or more of
21 its members or creators, respectively, for the four years immediately preceding January
22 1 of the year for which the benefit of this section is claimed.

23 (b2) ~~Exception~~Exceptions to Ownership Requirements. – Notwithstanding the
24 provisions of subsections (b) and (b1) of this section, land may qualify for classification
25 in the hands of the new owner if all of the conditions listed in either subdivision of this
26 subsection are met, even if the new owner does not meet all of the ownership
27 requirements of subsections (b) and (b1) of this section with respect to the land.

28 (1) ~~Exception for assumption of deferred liability.~~Continued use. – If the
29 land qualifies for classification in the hands of the new owner under
30 the provisions of this subdivision, then ~~the any~~ deferred taxes remain a
31 lien on the land under G.S. 105-277.4(c), the new owner becomes
32 liable for the deferred taxes, and the deferred taxes become payable if
33 the land fails to meet any other condition or requirement for
34 classification. Land qualifies for classification in the hands of the new
35 owner if all of the following conditions are met:

36 a. The land was appraised at its present use value at the time title
37 to the land passed to the new owner.

38 b. ~~At the time title to the land passed to the new owner, the~~The
39 ~~new owner acquires the land for the purposes of~~ and continues
40 to use the land for the ~~purposes~~purpose for which it was
41 classified under subsection (a) of this section while under
42 previous ownership.

43 c. The new owner has timely filed an application as required by
44 G.S. 105-277.4(a) and has certified that the new owner accepts

1 liability for ~~the any~~ deferred taxes and intends to continue the
2 present use of the land.

3 (2) ~~Exception for expansion~~Expansion of existing unit. – ~~If deferred~~
4 ~~liability is not assumed under subdivision (1) of this subsection, the~~
5 ~~land~~Land qualifies for classification in the hands of the new owner if,
6 at the time title passed to the new owner, the land was not appraised at
7 its present-use value but was being used for the same purpose and was
8 eligible for appraisal at its present-use value as other land already
9 owned by the new owner and classified under subsection (a) of this
10 section. The new owner must timely file an application as required by
11 G.S. 105-277.4(a).

12 (c) Repealed by Session Laws 1995, c. 454, s. 2.

13 (d) Exception for Conservation Reserve Program. – Land enrolled in the federal
14 Conservation Reserve Program authorized by 16 U.S.C. Chapter 58 is considered to be
15 in actual production, and income derived from participation in the federal Conservation
16 Reserve Program may be used in meeting the minimum gross income requirements of
17 this section either separately or in combination with income from actual production.
18 Land enrolled in the federal Conservation Reserve Program must be assessed as
19 agricultural land if it is planted in vegetation other than trees, or as forestland if it
20 is planted in trees.

21 (d1) Exception for Easements on Qualified Conservation Lands Previously
22 Appraised at Use Value. – Property that is appraised at its present-use value under
23 G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as
24 provided in G.S. 105-277.2 through G.S. 105-277.7 as long as the property is subject to
25 an enforceable conservation easement that would qualify for the conservation tax credit
26 provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production
27 or income requirements of this section. Notwithstanding G.S. 105-277.3(b) and (b1),
28 subsequent transfer of the property does not extinguish its present-use value eligibility
29 as long as the property remains subject to an enforceable conservation easement that
30 qualifies for the conservation tax credit provided in G.S. 105-130.34 and
31 G.S. 105-151.12. The exception provided in this subsection applies only to that part of
32 the property that is subject to the easement.

33 (e) Exception for Turkey Disease. – Agricultural land that meets all of the
34 following conditions is considered to be in actual production and to meet the minimum
35 gross income requirements:

36 (1) The land was in actual production in turkey growing within the
37 preceding two years and qualified for present use value treatment
38 while it was in actual production.

39 (2) The land was taken out of actual production in turkey growing solely
40 for health and safety considerations due to the presence of Poulter
41 Enteritis Mortality Syndrome among turkeys in the same county or a
42 neighboring county.

43 (3) The land is otherwise eligible for present use value treatment.

1 (f) Sound Management Program for Agricultural Land and Horticultural Land. –
2 If the property owner demonstrates any one of the following factors with respect to
3 agricultural land or horticultural land, then the land is operated under a sound
4 management program:

- 5 (1) Enrollment in and compliance with an agency-administered and
6 approved farm management plan.
- 7 (2) Compliance with a set of best management practices.
- 8 (3) Compliance with a minimum gross income per acre test.
- 9 (4) Evidence of net income from the farm operation.
- 10 (5) Evidence that farming is the farm operator's principal source of
11 income.
- 12 (6) Certification by a recognized agricultural or horticultural agency
13 within the county that the land is operated under a sound management
14 program.

15 Operation under a sound management program may also be demonstrated by evidence
16 of other similar factors. As long as a farm operator meets the sound management
17 requirements, it is irrelevant whether the property owner received income or rent from
18 the farm operator.

19 (g) Sound Management Program for Forestland. – If the owner of forestland
20 demonstrates that the forestland complies with a written sound forest management plan
21 for the production and sale of forest products, then the forestland is operated under a
22 sound management program."
23

24 **PART IV: EFFECTIVE DATES**

25 **SECTION 4.** Part I of this act is effective July 1, 2011; Sections 1.2-1.4
26 apply to taxes imposed for taxable years beginning on or after that date. Part II of this
27 act is effective for taxes imposed for taxable years beginning on or after July 1, 2009.
28 Part III of this act is effective for taxes imposed for taxable years beginning on or after
29 July 1, 2008. Notwithstanding G.S. 105-277.4(a), an application submitted for the
30 2008-2009 taxable year under G.S. 105-277.4 for the classification of land owned by a
31 business entity or a trust is considered timely if it is filed on or before September 1,
32 2008. The remainder of this act is effective when it becomes law.