

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 256

Short Title: Ownership Requirements for Use Value.

(Public)

Sponsors: Senator Hartsell.

Referred to: Finance.

February 27, 2001

A BILL TO BE ENTITLED

AN ACT TO EXPAND PRESENT-USE VALUE CLASSIFICATION TO CERTAIN
BUSINESS ENTITIES AND TO CLARIFY THE OWNERSHIP
REQUIREMENTS FOR PRESENT-USE VALUE CLASSIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.2(4) is repealed.

SECTION 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 shall be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7. To come within one of these classifications, the property must meet one of the ownership requirements in G.S. 105-277.3A.

(1) Agricultural land. – ~~Individually owned agricultural~~ Agricultural land consisting of one or more tracts, one of which consists of at least 10 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 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 and any payments received under a governmental soil conservation or land retirement program. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

(2) Horticultural land. – ~~Individually owned horticultural~~ 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

1 claimed, have met the applicable minimum gross income requirement.
2 Land in actual production includes land under improvements used in
3 the commercial production or growing of fruits or vegetables or
4 nursery or floral products. Land that has been used to produce
5 evergreens intended for use as Christmas trees must have met the
6 minimum gross income requirements established by the Department of
7 Revenue for the land. All other horticultural land must have produced
8 an average gross income of at least one thousand dollars (\$1,000).
9 Gross income includes income from the sale of the horticultural
10 products produced from the land and any payments received under a
11 governmental soil conservation or land retirement program.

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

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

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

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

22 ~~(3) At the time of transfer to the current owner, it qualified for~~
23 ~~classification in the hands of a business entity or trust that transferred~~
24 ~~the land to the current owner who was a member of the business entity~~
25 ~~or a beneficiary of the trust, as appropriate.~~

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

31 ~~(b2) Exception to Ownership Requirements. – G.S. 105-277.4(c) provides that~~
32 ~~deferred taxes are payable if land fails to meet any condition or requirement for~~
33 ~~classification. Accordingly, if land fails to meet an ownership requirement due to a~~
34 ~~change of ownership, G.S. 105-277.4(c) applies. Despite this failure and the resulting~~
35 ~~liability for taxes under G.S. 105-277.4(c), the land may qualify for classification in the~~
36 ~~hands of the new owner if both of the following conditions are met, even if the new~~
37 ~~owner does not meet all of the ownership requirements of subsections (b) and (b1) of~~
38 ~~this section with respect to the land:~~

39 ~~(1) The land was appraised at its present use value or was eligible for~~
40 ~~appraisal at its present use value at the time title to the land passed to~~
41 ~~the new owner.~~

42 ~~(2) At the time title to the land passed to the new owner, the owner owned~~
43 ~~other land classified under subsection (a).~~

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

1 (d) Exception for Conservation Reserve Program. – Land enrolled in the federal
2 Conservation Reserve Program authorized by 16 U.S.C. § 1381 is considered to be in
3 actual production, and income derived from participation in the federal Conservation
4 Reserve Program may be used in meeting the minimum gross income requirements of
5 this section either separately or in combination with income from actual production.
6 Land enrolled in the federal Conservation Reserve Program shall be assessed as
7 agricultural land if it is planted in vegetation other than trees, or as forestland if it is
8 planted in trees.

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

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

15 (2) The land was taken out of actual production in turkey growing solely
16 for health and safety considerations due to the presence of Poul
17 Enteritis Mortality Syndrome among turkeys in the same county or a
18 neighboring county.

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

20 **SECTION 3.** Chapter 105 of the General Statutes is amended by adding a
21 new section to read:

22 "**§ 105-277.3A. Agricultural, horticultural, and forestland – Ownership**
23 **requirements.**

24 (a) Natural Person. – The property may come within one of the classifications in
25 G.S. 105-277.3 if a natural person owns it. For the purposes of this subsection, property
26 owned as tenants by the entirety, tenants in common, and any other similar type of
27 ownership would qualify as long as the ownership consisted solely of natural persons.

28 For the purposes of this subsection, a natural person who is an income beneficiary of
29 a trust that owns land may elect to treat the person's beneficial share of the land as
30 owned by that person. If the person's beneficial interest is not an identifiable share of
31 land but can be established as a proportional interest in the trust income, the person's
32 beneficial share of land is a percentage of the land owned by the trust that corresponds
33 to the beneficiary's proportional interest in the trust income.

34 If a natural person owns the property, then one of the following conditions must also
35 be satisfied:

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

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

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

1 **(b) Business Entity.** – The property may come within one of the classifications in
2 G.S. 105-277.3 if it is owned by a business entity that meets all of the following
3 conditions:

4 **(1)** Its principal business is agricultural land, horticultural land, or
5 forestland.

6 **(2)** Its members are all either a natural person actively engaged in the
7 business of the entity or a relative of a member who is actively
8 engaged in the business of the entity.

9 **(3)** It has owned the land, or one or more of its members has owned the
10 land, for the four years immediately preceding January 1 of the year
11 for which the benefit of G.S. 105-277.3 is claimed.

12 For the purposes of this subsection, a natural person who is a member of a business
13 entity, other than a corporation, that owns land may elect to treat the person's share of
14 the land as owned by that person. The person's share is a percentage of the land owned
15 by the business entity that corresponds to the person's percentage of ownership in the
16 entity.

17 **(c) A Trust.** – The property may come within one of the classifications in G.S.
18 105-277.3 if it is owned by a trust that meets all of the following conditions:

19 **(1)** It was created by a natural person who transferred land to the trust.

20 **(2)** The land was owned by the trust or by one or more of its creators for
21 the four years immediately preceding January 1 of the year for which
22 the benefit of G.S. 105-277.3 is claimed.

23 **(3)** Each of the trust's beneficiaries who is currently entitled to receive
24 income or principal meets one of the following conditions:

25 **a.** Is the creator of the trust or the creator's relative.

26 **b.** Is a second trust whose beneficiaries who are currently entitled
27 to receive income or principal are all either the creator of the
28 first trust or the creator's relatives.

29 **(d) A Testamentary Trust.** – The property may come within one of the
30 classifications in G.S. 105-277.3 if it is owned by a testamentary trust that meets all of
31 the following conditions:

32 **(1)** It was created by a natural person who transferred to the trust land that
33 qualified in that person's hands for classification under G.S. 105-277.3.

34 **(2)** At the time of the creator's death, the creator had no relatives as of the
35 date of death.

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

39 **(e) Exception to Four-Year Ownership Requirement.** – Notwithstanding the
40 provisions of this section, if land fails to meet an ownership requirement due to a
41 change of ownership, the land may qualify for classification in the hands of the new
42 owner if both of the following conditions are met:

1 (1) The land was appraised at its present-use value or was eligible for
2 appraisal at its present-use value at the time title to the land passed to
3 the new owner.

4 (2) At the time title to the land passed to the new owner, the owner owned
5 other land classified under G.S. 105-277.3.

6 (f) Exception to Principal Business Ownership Requirement. – Notwithstanding
7 the provisions of G.S. 105-277.4(c), if land fails to meet the ownership requirement
8 under subdivision (b)(1) of this section due to a change in the form of ownership, the
9 land may qualify for classification in the hands of the new owner and no deferred taxes
10 are payable under G.S. 105-277.4(c), if all of the following conditions are met:

11 (1) The land was appraised at its present-use value at the time title to the
12 land passed to the new owner.

13 (2) The land was previously owned by a business entity whose principal
14 business was agricultural land, horticultural land, or forestland.

15 (3) The members or shareholders of the new owner are the same as the
16 members or shareholders of the previous business entity that owned
17 the land or, they are relatives of the members or shareholders of the
18 previous business entity that owned the land.

19 (4) The use of the land has not changed."

20 **SECTION 4.** This act is effective for taxes imposed for taxable years
21 beginning on or after July 1, 2000.