

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-270
HOUSE BILL 529

AN ACT TO PROVIDE THAT DEFERRED TAXES DUE ON CERTAIN PROPERTY THAT IS TAXED AT ITS PRESENT-USE VALUE WILL BE PAID BY THE PERSON TO WHOM THE LAND IS TRANSFERRED IF THE PROPERTY IS TRANSFERRED BECAUSE OF CONDEMNATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-6 reads as rewritten:

"§ 40A-6. Reimbursement of owner for taxes paid on condemned property.

(a) An owner whose property is totally taken in fee simple by a condemnor exercising the power of eminent domain, under this Chapter or any other ~~statute~~statute, shall be entitled to reimbursement from the condemnor of the pro rata portion of real property taxes paid by the owner ~~which~~that are allocable to a period subsequent to vesting of title in the condemnor, or the effective date of possession of ~~such~~the real property, whichever is earlier.

(b) An owner who meets the following conditions is entitled to reimbursement from the condemnor for all deferred taxes paid by the owner pursuant to G.S. 105-277.4(c) as a result of the condemnation:

- (1) The owner is a natural person whose property is taken in fee simple by a condemnor exercising the power of eminent domain under this Chapter or any other statute.
- (2) The owner also owns agricultural land, horticultural land, or forestland that is contiguous to the condemned property and that is in active production.

The definitions in G.S. 105-277.2 apply in this subsection."

Section 2. G.S. 136-121.1 reads as rewritten:

"§ 136-121.1. Reimbursement of owner for taxes paid on condemned property.

(a) A property owner whose property is totally taken in fee simple by any condemning agency (as defined in G.S. 133-7(1)) exercising the power of eminent domain, under this Chapter or any other statute or charter provision, shall be entitled to reimbursement from the condemning agency of the pro rata portion of real property taxes paid ~~which~~that are allocable to a period subsequent to vesting of title in the agency, or the effective date of possession of ~~such~~the real property, whichever is earlier.

(b) An owner who meets the following conditions is entitled to reimbursement from the condemning agency for all deferred taxes paid by the owner pursuant to G.S. 105-277.4(c) as a result of the condemnation:

- (1) The owner is a natural person whose property is taken in fee simple by a condemning agency exercising the power of eminent domain under this Chapter or any other statute.
- (2) The owner also owns agricultural land, horticultural land, or forestland that is contiguous to the condemned property and that is in active production.

A potential condemning agency that seeks to acquire property by gift or purchase shall give the owner written notice of the provisions of this section. The definitions in G.S. 105-277.2 apply in this subsection."

Section 3. G.S. 105-277.4 reads as rewritten:

"§ 105-277.4. Agricultural, horticultural and forestland —~~Application for taxation at present-use value.~~— Application; appraisal at use value; appeal; deferred taxes.

(a) Application. — Property coming within one of the classes defined in G.S. 105-277.3 shall be eligible for taxation on the basis of the value of the property in its present use if a timely and proper application is filed with the assessor of the county in which the property is located. The application shall clearly show that the property comes within one of the classes and shall also contain any other relevant information required by the assessor to properly appraise the property at its present-use value. An initial application shall be filed during the regular listing period of the year for which the benefit of this classification is first claimed, or within 30 days of the date shown on a notice of a change in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be submitted unless the property is transferred or becomes ineligible for use-value appraisal because of a change in use or acreage.

(b) Appraisal at Present-use Value. — Upon receipt of a properly executed application, the assessor shall appraise the property at its present-use value as established in the schedule prepared pursuant to G.S. 105-317. In appraising the property at its present-use value, the assessor shall appraise the improvements located on qualifying land according to the schedules and standards used in appraising other similar improvements in the county. If all or any part of a qualifying tract of land is located within the limits of an incorporated city or town, the assessor shall furnish a copy of the property record showing both the present-use appraisal and the valuation upon which the property would have been taxed in the absence of this classification to the collector of the city or town. He shall also notify the tax collector of any changes in the appraisals or in the eligibility of the property for the benefit of this classification.

(b1) Appeal. — Decisions of the assessor regarding the qualification or appraisal of property under this section may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county commissioners. Decisions of the county board may be appealed to the Property Tax Commission.

(c) Deferred Taxes. — Property meeting the conditions for classification under G.S. 105-277.3 shall be taxed on the basis of the value of the property for its present

use. The difference between the taxes due on the present-use basis and the taxes which would have been payable in the absence of this classification, together with any interest, ~~penalties~~ ~~penalties~~, or costs that may accrue thereon, shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the taxing unit or units as deferred taxes, but shall not be payable, unless and until the property loses its eligibility for the benefit of this classification. The tax for the fiscal year that opens in the calendar year in which a disqualification occurs shall be computed as if the property had not been classified for that year, and taxes for the preceding three fiscal years which have been deferred as ~~provided herein~~, shall immediately be payable, together with interest thereon as provided in G.S. 105-360 for unpaid taxes which shall accrue on the deferred taxes due ~~herein~~ as if they had been payable on the dates on which they originally became due. If only a part of the qualifying tract of land loses its eligibility, a determination shall be made of the amount of deferred taxes applicable to that part and that amount shall become payable with interest as provided above. Upon the payment of any taxes deferred in accordance with this section for the three years immediately preceding a disqualification, all liens arising under this subsection shall be extinguished.

(d) Exceptions. – Notwithstanding the provisions of subsection (c), if a farm unit loses (c) of this section, if property loses its eligibility for present use value treatment classification solely due to a one of the following reasons, no deferred taxes are due and the lien for the deferred taxes is extinguished:

(1) There is a change in income caused by enrollment of land in the federal Conservation Reserve Program authorized by Title XII of the Food Security Act of 1985 (Pub. L. 99-198), as amended, no deferred taxes shall be owed and all present use value tax liens shall be extinguished. the property in the federal conservation reserve program established under 16 U.S.C. Chapter 58.

(e) ~~Notwithstanding the provisions of subsection (c) of this section, if real property qualified for present use appraisal~~

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

(3) The property is conveyed by gift to the State, a political subdivision of the State, or the United States, no deferred taxes shall be owed, and all present use value tax liens are extinguished. States."

Section 4. G.S. 40A-4 reads as rewritten:

"§ 40A-4. No prior purchase offer necessary.

The power to acquire property by condemnation shall not depend on any prior effort to acquire the same property by gift or purchase, nor shall the power to negotiate for the gift or purchase of property be impaired by initiation of condemnation proceedings. A potential condemnor who seeks to acquire property by gift or purchase shall give the owner written notice of the provisions of G.S. 40A-6."

Section 5. This act is effective when it becomes law and applies to transfers made on or after August 1, 1997.

In the General Assembly read three times and ratified this the 24th day of June, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:25 p.m. this 3rd day of July, 1997