

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**HOUSE BILL 1465**

Short Title: Allow Family Business to Lease Farmland. (Public)

Sponsors: Representatives Brubaker; Luebke, G. Allen, Hill, McGee, Miner, Wainwright, Wood, Glazier, Goodwin, and Mitchell.

Referred to: Finance.

May 17, 2004

A BILL TO BE ENTITLED  
AN ACT TO ALLOW FARMLAND OWNED BY A FAMILY BUSINESS TO KEEP  
ITS PRESENT-USE VALUE TAX STATUS WHEN LEASED FOR FARM USE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-277.2 reads as rewritten:

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

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

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

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

(2) Forestland. – Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit,

1 but the wasteland included in the unit must be appraised under the  
2 use-value schedules as wasteland. A forest unit may consist of more  
3 than one tract of forestland, but at least one of the tracts must meet the  
4 requirements in G.S. 105-277.3(a)(3), and each tract must be under a  
5 sound management program.

6 (3) Horticultural land. – Land that is a part of a horticultural unit that is  
7 actively engaged in the commercial production or growing of fruits or  
8 vegetables or nursery or floral products under a sound management  
9 program. Horticultural land includes woodland and wasteland that is a  
10 part of the horticultural unit, but the woodland and wasteland included  
11 in the unit must be appraised under the use-value schedules as  
12 woodland or wasteland. A horticultural unit may consist of more than  
13 one tract of horticultural land, but at least one of the tracts must meet  
14 the requirements in G.S. 105-277.3(a)(2), and each tract must be under  
15 a sound management program. If the horticultural land includes less  
16 than 20 acres of woodland, then the woodland portion is not required  
17 to be under a sound management program. Also, woodland is not  
18 required to be under a sound management program if it is determined  
19 that the highest and best use of the woodland is to diminish wind  
20 erosion of adjacent horticultural land or protect water quality of  
21 adjacent horticultural 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.

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 ~~following conditions: conditions listed in this sub-subdivision.~~  
41 For the purpose of this sub-subdivision, the terms 'having as its  
42 principal business' and 'actively engaged in the business of the  
43 entity' include the leasing of the land for one of the activities

- 1                    described in subdivisions (1), (2), and (3) only if all members of  
2                    the business 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.
- 11                    c.        A trust that was created by a natural person who transferred the  
12                                   land to the trust and each of whose beneficiaries who is  
13                                   currently entitled to receive income or principal meets one of  
14                                   the following conditions:
- 15                                   1.        Is the creator of the trust or the creator's relative.
- 16                                   2.        Is a second trust whose beneficiaries who are currently  
17                                   entitled to receive income or principal are all either the  
18                                   creator of the first trust or the creator's relatives.
- 19                    d.        A testamentary trust that meets all of the following conditions:
- 20                                   1.        It was created by a natural person who transferred to the  
21                                   trust land that qualified in that person's hands for  
22                                   classification under G.S. 105-277.3.
- 23                                   2.        At the time of the creator's death, the creator had no  
24                                   relatives as defined in this section as of the date of death.
- 25                                   3.        The trust income, less reasonable administrative  
26                                   expenses, is used exclusively for educational, scientific,  
27                                   literary, cultural, charitable, or religious purposes as  
28                                   defined in G.S. 105-278.3(d).
- 29                    e.        Tenants in common, if each tenant is either a natural person or a  
30                                   business entity described in sub-subdivision b. of this  
31                                   subdivision. Tenants in common may elect to treat their  
32                                   individual shares as owned by them individually in accordance  
33                                   with G.S. 105-302(c)(9). The ownership requirements of  
34                                   G.S. 105-277.3(b) apply to each tenant in common who is a  
35                                   natural person, and the ownership requirements of  
36                                   G.S. 105-277.3(b1) apply to each tenant in common who is a  
37                                   business entity.
- 38                    (4a)    Member. – A shareholder of a corporation, a partner of a general or  
39                                   limited partnership, or a member of a limited liability company.
- 40                    (5)     Present-use value. – The value of land in its current use as agricultural  
41                                   land, horticultural land, or forestland, based solely on its ability to  
42                                   produce income and assuming an average level of management. A rate  
43                                   of nine percent (9%) shall be used to capitalize the expected net  
44                                   income of forestland. The capitalization rate for agricultural land and

1 horticultural land is to be determined by the Use-Value Advisory  
2 Board as provided in G.S. 105-277.7.

3 (5a) Relative. – Any of the following:

- 4 a. A spouse or the spouse's lineal ancestor or descendant.  
5 b. A lineal ancestor or a lineal descendant.  
6 c. A brother or sister, or the lineal descendant of a brother or  
7 sister. For the purposes of this sub-subdivision, the term brother  
8 or sister includes stepbrother or stepsister.  
9 d. An aunt or an uncle.  
10 e. A spouse of a person listed in paragraphs a. through d.

11 For the purpose of this subdivision, an adoptive or adopted relative  
12 is a relative and the term "spouse" includes a surviving spouse.

13 (6) Sound management program. – A program of production designed to  
14 obtain the greatest net return from the land consistent with its  
15 conservation and long-term improvement.

16 (7) Unit. – One or more tracts of agricultural land, horticultural land, or  
17 forestland. Multiple tracts must be under the same ownership. If the  
18 multiple tracts are located within different counties, they must be  
19 within 50 miles of a tract qualifying under G.S. 105-277.3(a) and share  
20 one of the following characteristics:

- 21 a. Type of classification.  
22 b. Use of the same equipment or labor force."

23 **SECTION 2.** This act is effective for taxes imposed for taxable years  
24 beginning on or after July 1, 2004.