

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 841

Short Title: Urban Farms/Zoning Laws Exclusion. (Public)

Sponsors: Representatives Ramsey, Moffitt, and Whitmire (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Government.

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE COUNTIES AND CITIES WITH LIMITED ZONING AUTHORITY
3 OVER CERTAIN LARGE-SCALE POULTRY FARMS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 160A-360 reads as rewritten:

6 "§ 160A-360. Territorial jurisdiction.

7 ...

8 (k) As used in this subsection, "bona fide farm purposes" is as described in
9 G.S. 153A-340. As used in this subsection, "property" means a single tract of property or an
10 identifiable portion of a single tract. Property that is located in the geographic area of a
11 municipality's extraterritorial jurisdiction and that is used for bona fide farm purposes is exempt
12 from exercise of the municipality's extraterritorial jurisdiction under this Article. Property
13 located in the corporate limits of a municipality and that is used for bona fide farm purposes is
14 exempt from exercise of the municipality's powers under this Article, unless the exercise of
15 zoning power is required by a compelling public safety, health, or environmental protection
16 interest. Property that is located in the geographic area of a municipality's extraterritorial
17 jurisdiction and that ceases to be used for bona fide farm purposes shall become subject to
18 exercise of the municipality's extraterritorial jurisdiction under this Article."

19 SECTION 2. G.S. 153A-340 reads as rewritten:

20 "§ 153A-340. Grant of power.

21 (a) For the purpose of promoting health, safety, morals, or the general welfare, a county
22 may adopt zoning and development regulation ordinances. These ordinances may be adopted as
23 part of a unified development ordinance or as a separate ordinance. A zoning ordinance may
24 regulate and restrict the height, number of stories and size of buildings and other structures, the
25 percentage of lots that may be occupied, the size of yards, courts and other open spaces, the
26 density of population, and the location and use of buildings, structures, and land for trade,
27 industry, residence, or other purposes. The ordinance may provide density credits or severable
28 development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.

29 (b) (1) These regulations may affect property used for bona fide farm purposes only
30 as provided in subdivision (3) of this subsection. This subsection does not
31 limit regulation under this Part with respect to the use of farm property for
32 nonfarm purposes.

33 (2) Except as provided in G.S. 106-743.4 for farms that are subject to a
34 conservation agreement under G.S. 106-743.2, bona fide farm purposes
35 include the production and activities relating or incidental to the production



1 of crops, fruits, vegetables, ornamental and flowering plants, dairy,
 2 livestock, poultry, and all other forms of agriculture as defined in
 3 ~~G.S. 106-581.1~~. G.S. 106-581.1, including small-scale retail operations at the
 4 bona fide farm with a primary function of selling products grown or
 5 produced on the farm. For purposes of this subdivision, the production of a
 6 nonfarm product that the Department of Agriculture and Consumer Services
 7 recognizes as a "Goodness Grows in North Carolina" product that is
 8 produced on a farm subject to a conservation agreement under
 9 G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining
 10 whether a property is being used for bona fide farm purposes, any of the
 11 following shall constitute sufficient evidence that the property is being used
 12 for bona fide farm purposes:

- 13 a. A farm sales tax exemption certificate issued by the Department of
- 14 Revenue.
- 15 b. A copy of the property tax listing showing that the property is
- 16 eligible for participation in the present use value program pursuant to
- 17 G.S. 105-277.3.
- 18 c. A copy of the farm owner's or operator's Schedule F from the owner's
- 19 or operator's most recent federal income tax return.
- 20 d. A forest management plan.
- 21 e. A Farm Identification Number issued by the United States
- 22 Department of Agriculture Farm Service Agency.

23 (3) The definitions set out in G.S. 106-802 apply to this subdivision. A county
 24 may adopt zoning regulations governing swine farms served by animal waste
 25 management systems having a design capacity of 600,000 pounds steady
 26 state live weight (SSLW) or greater provided that the zoning regulations
 27 may not have the effect of excluding swine farms served by an animal waste
 28 management system having a design capacity of 600,000 pounds SSLW or
 29 greater from the entire zoning jurisdiction.

30"

31 **SECTION 3.** This act is effective when it becomes law.