

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SESSION LAW 2022-45
SENATE BILL 388

AN ACT TO EXPAND THE EXEMPTION FOR FARMERS TO INCLUDE CERTAIN SALES TO A QUALIFYING FARMER FOR A ZOO, TO EXEMPT QUALIFYING ITEMS FROM SALES TAX IF PURCHASED BY A WILDLIFE MANAGER FOR WILDLIFE MANAGEMENT ACTIVITIES, AND TO MAKE CHANGES TO THE PROPERTY TAXATION OF WILDLIFE CONSERVATION LAND.

The General Assembly of North Carolina enacts:

PART I. EXPAND THE SALES TAX EXEMPTION FOR FARMERS TO INCLUDE 10 CERTAIN SALES TO A QUALIFYING FARMER FOR A ZOO

SECTION 1.(a) G.S. 105-164.13E is amended by adding a new subsection to read:

"(a1) Zoo Exemption. – A qualifying farmer or conditional farmer who operates a zoo in addition to the farmer's farming operations is allowed a sales and use tax exemption under this subsection for the items used in the farmer's zoo operations. The income derived from the farmer's zoo operations is not included for purposes of determining if the farmer meets the qualifications for a qualifying farmer under subsection (a) of this section or the qualifications for a conditional farmer under subsection (b) of this section. The items that may be exempt from sales and use tax are the items listed under subsection (a) of this section that are purchased by a qualifying farmer or conditional farmer and used by the farmer primarily in zoo operations. The provisions of subsections (c) and (c1) of this section apply to the exemption provided in this subsection. For purposes of this subsection, an item is used in a farmer's zoo operations if it is used for the housing, raising, or feeding of animals for public display."

SECTION 1.(b) This section becomes effective January 1, 2023, and applies to sales made on or after that date.

PART II. EXEMPT QUALIFYING ITEMS FROM SALES TAX IF PURCHASED BY A WILDLIFE MANAGER FOR WILDLIFE MANAGEMENT ACTIVITIES

SECTION 2.(a) Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.13F. Exemption for wildlife managers.

(a) Definitions. – The following definitions apply in this section:

- (1) Wildlife management activities. – One or more of the activities for which wildlife conservation land must be used to qualify for the wildlife conservation land classification under G.S. 105-277.15.
- (2) Wildlife manager. – A person who owns land classified and taxed as wildlife conservation land under G.S. 105-277.15.

(b) Exemption. – Certain items purchased by a wildlife manager and used primarily for wildlife management activities may be exempt from sales and use tax under this section. The items that may be exempt under this section are:

- (1) Feed and feeders.



- (2) Rodenticides, insecticides, herbicides, fungicides, and pesticides when their application is prescribed in and compatible with the objectives of the Wildlife Habitat Conservation Agreement.
- (3) Commercial fertilizer, lime, land plaster, mulch, plant plugs, seedlings, saplings, seeds, and seed inoculants.
- (4) Machinery used for one or more of the purposes listed in this subdivision. The term "machinery" includes implements that have moving parts or are operated by an animal. The term does not include implements operated solely by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes. The purposes for which the machinery must be used are:
 - a. To establish, restore, enhance, or maintain wildlife habitats.
 - b. To access or develop access to wildlife habitats.
 - c. To implement other wildlife management practices, including land and forest conservation and management.
- (5) Fuel that is measured by a separate meter or another separate device and used only to operate machinery exempt under subdivision (4) of this subsection and used for one or more of the purposes listed in subdivision (4) of this subsection. Examples of a separate device include a tank, a container, and a transfer tank.
- (6) Fuel storage tanks, containers, transfer tanks, and pumps when used only to provide fuel to operate machinery exempt under subdivision (4) of this subsection and used for one or more of the purposes listed in subdivision (4) of this subsection.
- (7) Materials, supplies, fixtures, and equipment that become part of or are used for one or more of the following:
 - a. The construction, repair, or improvement of an impoundment, wetland, or ephemeral pool specifically designed, constructed, and used for the benefit of one or more wildlife species.
 - b. Erosion control.
 - c. The installation and maintenance of infrastructure used to access land areas for wildlife management activities. Examples of this type of infrastructure include bridges, culverts, and gravel.
 - d. The construction and maintenance of structures used by wildlife for reproduction, travel, or cover. Examples of this type of structure include nest boxes, road crossing development, and structures providing cover or other valuable functions for life processes.
 - e. The construction and maintenance of fencing, signage, and other exclusion methods to protect wildlife from access by people or other species or to manipulate livestock access as a method of habitat management.
- (8) Repair, maintenance, and installation services for items exempt under this subsection.

(c) Exemption Certificate. – A wildlife manager may apply to the Secretary for an exemption certificate under G.S. 105-164.28A. The exemption certificate is valid for three years and may be renewed. The exemption certificate expires when the wildlife manager ceases to engage in wildlife management activities or when the land no longer qualifies for classification and taxation under G.S. 105-277.15. A person who no longer qualifies for an exemption certificate under this section must notify the Secretary within 30 days to cancel the exemption number.

(d) Contract with a Wildlife Manager. – A qualifying item listed in subdivision (7) of subsection (b) of this section purchased to fulfill a contract with a person who holds a wildlife

manager exemption certificate issued under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased directly by the person who holds the exemption certificate. A contractor that purchases one of the items allowed an exemption under this section must provide an exemption certificate to the retailer that includes the name of the wildlife manager certificate holder and the exemption number issued to the wildlife manager by the Department pursuant to G.S. 105-164.28A. A contractor that purchases an item exempt from tax under this subsection must maintain records to substantiate that it is used to fulfill a contract with a person who holds a wildlife manager exemption certificate. The records must be maintained for at least three years.

(e) Services for Wildlife Manager. – An item exempt under subsection (b) of this section purchased to perform a service for a person who holds a wildlife manager exemption certificate issued under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased directly by the person who holds the exemption certificate. A person that purchases one of the items allowed an exemption under this subsection must provide an exemption certificate to the retailer that includes the name of the wildlife manager certificate holder and the exemption number issued to the wildlife manager by the Department pursuant to G.S. 105-164.28A. A person that purchases an item exempt from tax under this subsection must maintain records to substantiate that it is used to provide a service for a person who holds a wildlife manager exemption certificate. The records must be maintained for at least three years."

SECTION 2.(b) This section becomes effective October 1, 2022, and applies to sales occurring on or after that date.

PART III. MAKE CHANGES TO THE PROPERTY TAXATION OF WILDLIFE CONSERVATION LAND

SECTION 3.(a) G.S. 105-277.15(c)(1) is recodified as G.S. 105-277.15(c1), G.S. 105-277.15(c)(2) is recodified as G.S. 105-277.15(c2), and G.S. 105-277.15(c)(3) is recodified as G.S. 105-277.15(c3), and the sub-subdivisions and sub-sub-subdivisions are renumbered accordingly.

SECTION 3.(b) G.S. 105-277.15, as amended by subsection (a) of this section, reads as rewritten:

"§ 105-277.15. Taxation of wildlife conservation land.

(a) Definitions. – The following definitions apply in this section:

...

(6) Wildlife conservation land. – Land that meets the size, ownership, and use requirements of this section.

(b) Classification. – Wildlife conservation land is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and must be appraised, assessed, and taxed ~~in accordance with this section. Wildlife conservation land classified under this section must be appraised and assessed as if it were classified under G.S. 105-277.3 as agricultural land as follows:~~

(1) Wildlife conservation land used for wildlife species protection under subdivision (c3)(1) of this section must be appraised and assessed as if it were classified under G.S. 105-277.3 as forestland.

(2) Wildlife conservation land used for wildlife habitat protection under subdivision (c3)(2) of this section must be appraised and assessed as if it were classified under G.S. 105-277.3 as forestland.

(3) Wildlife conservation land used for wildlife reserve under subdivision (c3)(3) of this section must be appraised and assessed as if it were classified under G.S. 105-277.3 as agricultural land.

~~(e) Requirements. – Land qualifies as wildlife conservation land if it meets the following size, ownership, and use requirements:~~

(c1) Size. – The land must consist of at least 20 contiguous ~~aeres-~~acres located in the same county. Once the initial qualifying tract of 20 contiguous acres has been met, one or more additional acres that meet the ownership and use requirements of this section may qualify for enrollment. If the land is used for wildlife habitat protection under subdivision (c3)(2) of this section, then the additional acreage must be located in the same county as the qualifying 20-acre tract.

(c2) Ownership. – The land must be owned by an individual, a family business entity, ~~or a family trust and trust,~~ or a combination of one or more of the three entities as tenants in common. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with G.S. 105-302(c)(9). The land must have been owned by the same owner for the previous ~~five-~~four years, except as follows:

- (1) If the land is the owner's place of residence, then it meets the ownership requirements.
- (2) If an owner of land enrolled as wildlife conservation land under this section acquires additional land that shares a common boundary with the enrolled land, then the acquired land meets the ownership requirement.
- ~~(1)(3)~~ (3) If the land is owned by a family business entity, the land meets the ownership requirement if the land was owned by one or more members of the family business entity for the required time.
- ~~(2)(4)~~ (4) If the land is owned by a family trust, the land meets the ownership requirement if the land was owned by one or more beneficiaries of the family trust for the required time.
- ~~(3)(5)~~ (5) If an owner acquires the land that was classified as wildlife conservation land under this section when it was acquired and the owner continues to use the land as wildlife conservation land, then the land meets the ownership requirement if the new owner files an application with the county assessor within 60 days after acquiring the property and signs the wildlife habitat conservation agreement in effect for the ~~property within 60 days after acquiring the property.~~
- (6) If the land is owned as tenants in common, the land meets the ownership requirement if the land was owned by one or more of the tenants for the required time.
- (7) If the land is acquired through transfer or inheritance from a relative, the land meets the ownership requirement if the land was owned by the relative for the required time.

(c3) Use. – The land must ~~meet all of the following requirements:~~ be managed under a written wildlife habitat conservation agreement with the North Carolina Wildlife Resources Commission that is in effect as of January 1 of the year for which the benefit of this section is claimed and that requires the owner to do one or more of the following:

- (1) ~~The land must be managed under a written wildlife habitat conservation agreement with the North Carolina Wildlife Resources Commission that is in effect as of January 1 of the year for which the benefit of this section is claimed and that requires the owner to do one or more of the following:~~ Wildlife species protection. – Protect an animal species that lives on the land and, as of January 1 of the year for which the benefit of this section is claimed, is on a North Carolina protected animal list published by the Commission under G.S. 113-333.
 - a. ~~Protect an animal species that lives on the land and, as of January 1 of the year for which the benefit of this section is claimed, is on a North Carolina protected animal list published by the Commission under G.S. 113-333.~~

(2) Wildlife habitat protection. – Conserve any of the following priority animal wildlife habitats: longleaf pine forest, early successional habitat, small wetland community, stream and riparian zone, rock outcrop, or bat cave.

~~b. Conserve any of the following priority animal wildlife habitats: longleaf pine forest, early successional habitat, small wetland community, stream and riparian zone, rock outcrop, or bat cave.~~

(3) Wildlife reserve. – Create and actively and regularly use as a reserve for hunting, fishing, shooting, wildlife observation, or wildlife activities, provided that the land is inspected by a certified wildlife biologist at least quintennially to ensure that at least three of the seven activities listed in this subdivision are maintained to propagate a sustaining breeding, migrating, or wintering population of indigenous wild animals for human use, including food, medicine, or recreation. The Commission shall adopt rules needed to administer the inspection requirements of and activities mandated by this subdivision. The activities are as follows:

~~e. Create and actively and regularly use as a reserve for hunting, fishing, shooting, wildlife observation, or wildlife activities, provided that the land is inspected by a certified wildlife biologist at least quintennially to ensure that at least three of the seven activities listed in this sub-sub-subdivision are maintained to propagate a sustaining breeding, migrating, or wintering population of indigenous wild animals for human use, including food, medicine, or recreation. The Commission shall adopt rules needed to administer the inspection requirements of and activities mandated by this sub-sub-subdivision.~~

~~(1)a. Supplemental food.~~

~~(2)b. Supplemental water.~~

~~(3)c. Supplemental shelter.~~

~~(4)d. Habitat control.~~

~~(5)e. Erosion control.~~

~~(6)f. Predator control.~~

~~(7)g. Census of animal population on the land.~~

~~(2) For land used pursuant to sub-sub-subdivisions 1. or 2. of sub-subdivision a. of this subdivision, it must have been classified under G.S. 105-277.3 when the wildlife habitat conservation agreement was signed or the owner must demonstrate to both the Wildlife Resources Commission and the assessor that the owner used the land for a purpose specified in the signed wildlife habitat conservation agreement for three years preceding the January 1 of the year for which the benefit of this section is claimed.~~

(d) Restrictions. – The following restrictions apply to the classification allowed under this section:

(1) ~~For land used pursuant to sub-sub-subdivision 3. of sub-subdivision a. of subdivision (3) of subsection (e) of this section, as a wildlife reserve under subdivision (c3)(3) of this section, no more than 800 acres of an owner's land in a county may be classified under this section. For all other land classified under this section, no more than 100-200 acres of an owner's land in a county may be classified under this section.~~

...

(h) Administration. – An owner who applies for the classification allowed under this section must attach a copy of the owner's written wildlife habitat agreement required under subsection ~~(e)-(c3)~~ of this section. An owner who fails to notify the county assessor when land

classified under this section loses its eligibility for classification is subject to a penalty in the amount set in G.S. 105-277.5."

SECTION 3.(c) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2022.

PART IV. EFFECTIVE DATE

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2022.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:57 p.m. this 7th day of July, 2022