

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

S

D

SENATE BILL 388
Finance Committee Substitute Adopted 8/31/21
House Committee Substitute Favorable 6/22/22
Corrected Copy 6/27/22
House Committee Substitute #2 Favorable 6/28/22
PROPOSED HOUSE COMMITTEE SUBSTITUTE S388-PCS45594-TQf-50

Short Title: Qualifying Farmer Zoo Sales Tax Exemption.

(Public)

Sponsors:

Referred to:

March 30, 2021

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

7 The General Assembly of North Carolina enacts:

8
9 **PART I. EXPAND THE SALES TAX EXEMPTION FOR FARMERS TO INCLUDE 10
10 CERTAIN SALES TO A QUALIFYING FARMER FOR A ZOO**

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

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

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

25
26 **PART II. EXEMPT QUALIFYING ITEMS FROM SALES TAX IF PURCHASED BY A
27 WILDLIFE MANAGER FOR WILDLIFE MANAGEMENT ACTIVITIES**

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

30 **"§ 105-164.13F. Exemption for wildlife managers.**

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



* S 3 8 8 - P C S 4 5 5 9 4 - T Q F - 5 0 *

- 1 (1) Wildlife management activities. – One or more of the activities for which
2 wildlife conservation land must be used to qualify for the wildlife
3 conservation land classification under G.S. 105-277.15.
- 4 (2) Wildlife manager. – A person who owns land classified and taxed as wildlife
5 conservation land under G.S. 105-277.15.
- 6 (b) Exemption. – Certain items purchased by a wildlife manager and used primarily for
7 wildlife management activities may be exempt from sales and use tax under this section. The
8 items that may be exempt under this section are:
- 9 (1) Feed and feeders.
- 10 (2) Rodenticides, insecticides, herbicides, fungicides, and pesticides when their
11 application is prescribed in and compatible with the objectives of the Wildlife
12 Habitat Conservation Agreement.
- 13 (3) Commercial fertilizer, lime, land plaster, mulch, plant plugs, seedlings,
14 saplings, seeds, and seed inoculants.
- 15 (4) Machinery used for one or more of the purposes listed in this subdivision. The
16 term "machinery" includes implements that have moving parts or are operated
17 by an animal. The term does not include implements operated solely by hand
18 or motor vehicles required to be registered under Chapter 20 of the General
19 Statutes. The purposes for which the machinery must be used are:
- 20 a. To establish, restore, enhance, or maintain wildlife habitats.
- 21 b. To access or develop access to wildlife habitats.
- 22 c. To implement other wildlife management practices, including land
23 and forest conservation and management.
- 24 (5) Fuel that is measured by a separate meter or another separate device and used
25 only to operate machinery exempt under subdivision (4) of this subsection and
26 used for one or more of the purposes listed in subdivision (4) of this
27 subsection. Examples of a separate device include a tank, a container, and a
28 transfer tank.
- 29 (6) Fuel storage tanks, containers, transfer tanks, and pumps when used only to
30 provide fuel to operate machinery exempt under subdivision (4) of this
31 subsection and used for one or more of the purposes listed in subdivision (4)
32 of this subsection.
- 33 (7) Materials, supplies, fixtures, and equipment that become part of or are used
34 for one or more of the following:
- 35 a. The construction, repair, or improvement of an impoundment,
36 wetland, or ephemeral pool specifically designed, constructed, and
37 used for the benefit of one or more wildlife species.
- 38 b. Erosion control.
- 39 c. The installation and maintenance of infrastructure used to access land
40 areas for wildlife management activities. Examples of this type of
41 infrastructure include bridges, culverts, and gravel.
- 42 d. The construction and maintenance of structures used by wildlife for
43 reproduction, travel, or cover. Examples of this type of structure
44 include nest boxes, road crossing development, and structures
45 providing cover or other valuable functions for life processes.
- 46 e. The construction and maintenance of fencing, signage, and other
47 exclusion methods to protect wildlife from access by people or other
48 species or to manipulate livestock access as a method of habitat
49 management.
- 50 (8) Repair, maintenance, and installation services for items exempt under this
51 subsection.

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

8 (d) Contract with a Wildlife Manager. – A qualifying item listed in subdivision (7) of
9 subsection (b) of this section purchased to fulfill a contract with a person who holds a wildlife
10 manager exemption certificate issued under G.S. 105-164.28A is exempt from sales and use tax
11 to the same extent as if purchased directly by the person who holds the exemption certificate. A
12 contractor that purchases one of the items allowed an exemption under this section must provide
13 an exemption certificate to the retailer that includes the name of the wildlife manager certificate
14 holder and the exemption number issued to the wildlife manager by the Department pursuant to
15 G.S. 105-164.28A. A contractor that purchases an item exempt from tax under this subsection
16 must maintain records to substantiate that it is used to fulfill a contract with a person who holds
17 a wildlife manager exemption certificate. The records must be maintained for at least three years.

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

28 **SECTION 2.(b)** This section becomes effective October 1, 2022, and applies to sales
29 occurring on or after that date.
30

31 **PART III. MAKE CHANGES TO THE PROPERTY TAXATION OF WILDLIFE** 32 **CONSERVATION LAND**

33 **SECTION 3.(a)** G.S. 105-277.15(c)(1) is recodified as G.S. 105-277.15(c1),
34 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
35 recodified as G.S. 105-277.15(c3), and the sub-subdivisions and sub-sub-subdivisions are
36 renumbered accordingly.

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

39 **"§ 105-277.15. Taxation of wildlife conservation land.**

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

41 ...

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

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

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

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

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

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

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

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

20 (1) If the land is the owner's place of residence, then it meets the ownership
21 requirements.

22 (2) If an owner of land enrolled as wildlife conservation land under this section
23 acquires additional land that shares a common boundary with the enrolled
24 land, then the acquired land meets the ownership requirement.

25 ~~(4)~~(3) If the land is owned by a family business entity, the land meets the ownership
26 requirement if the land was owned by one or more members of the family
27 business entity for the required time.

28 ~~(2)~~(4) If the land is owned by a family trust, the land meets the ownership
29 requirement if the land was owned by one or more beneficiaries of the family
30 trust for the required time.

31 ~~(3)~~(5) If an owner acquires the land that was classified as wildlife conservation land
32 under this section when it was acquired and the owner continues to use the
33 land as wildlife conservation land, then the land meets the ownership
34 requirement if the new owner files an application with the county assessor
35 within 60 days after acquiring the property and signs the wildlife habitat
36 conservation agreement in effect for the property within 60 days after
37 acquiring the property.

38 (6) If the land is owned as tenants in common, the land meets the ownership
39 requirement if the land was owned by one or more of the tenants for the
40 required time.

41 (7) If the land is acquired through transfer or inheritance from a relative, the land
42 meets the ownership requirement if the land was owned by the relative for the
43 required time.

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

48 (1) The land must be managed under a written wildlife habitat conservation
49 agreement with the North Carolina Wildlife Resources Commission that is in
50 effect as of January 1 of the year for which the benefit of this section is claimed
51 and that requires the owner to do one or more of the following: Wildlife species

- 1 protection. – Protect an animal species that lives on the land and, as of January
 2 1 of the year for which the benefit of this section is claimed, is on a North
 3 Carolina protected animal list published by the Commission under
 4 G.S. 113-333.
- 5 a. ~~Protect an animal species that lives on the land and, as of January 1 of~~
 6 ~~the year for which the benefit of this section is claimed, is on a North~~
 7 ~~Carolina protected animal list published by the Commission under~~
 8 ~~G.S. 113-333.~~
- 9 (2) Wildlife habitat protection. – Conserve any of the following priority animal
 10 wildlife habitats: longleaf pine forest, early successional habitat, small
 11 wetland community, stream and riparian zone, rock outcrop, or bat cave.
- 12 b. ~~Conserve any of the following priority animal wildlife habitats:~~
 13 ~~longleaf pine forest, early successional habitat, small wetland~~
 14 ~~community, stream and riparian zone, rock outcrop, or bat cave.~~
- 15 (3) Wildlife reserve. – Create and actively and regularly use as a reserve for
 16 hunting, fishing, shooting, wildlife observation, or wildlife activities,
 17 provided that the land is inspected by a certified wildlife biologist at least
 18 quintennially to ensure that at least three of the seven activities listed in this
 19 subdivision are maintained to propagate a sustaining breeding, migrating, or
 20 wintering population of indigenous wild animals for human use, including
 21 food, medicine, or recreation. The Commission shall adopt rules needed to
 22 administer the inspection requirements of and activities mandated by this
 23 subdivision. The activities are as follows:
- 24 e. ~~Create and actively and regularly use as a reserve for hunting, fishing,~~
 25 ~~shooting, wildlife observation, or wildlife activities, provided that the~~
 26 ~~land is inspected by a certified wildlife biologist at least quintennially~~
 27 ~~to ensure that at least three of the seven activities listed in this~~
 28 ~~sub-sub-subdivision are maintained to propagate a sustaining~~
 29 ~~breeding, migrating, or wintering population of indigenous wild~~
 30 ~~animals for human use, including food, medicine, or recreation. The~~
 31 ~~Commission shall adopt rules needed to administer the inspection~~
 32 ~~requirements of and activities mandated by this sub-sub-subdivision.~~
- 33 (1)a. Supplemental food.
 34 (2)b. Supplemental water.
 35 (3)c. Supplemental shelter.
 36 (4)d. Habitat control.
 37 (5)e. Erosion control.
 38 (6)f. Predator control.
 39 (7)g. Census of animal population on the land.
- 40 (2) ~~For land used pursuant to sub-sub-subdivisions 1. or 2. of sub-subdivision a.~~
 41 ~~of this subdivision, it must have been classified under G.S. 105-277.3 when~~
 42 ~~the wildlife habitat conservation agreement was signed or the owner must~~
 43 ~~demonstrate to both the Wildlife Resources Commission and the assessor that~~
 44 ~~the owner used the land for a purpose specified in the signed wildlife habitat~~
 45 ~~conservation agreement for three years preceding the January 1 of the year for~~
 46 ~~which the benefit of this section is claimed.~~
- 47 (d) Restrictions. – The following restrictions apply to the classification allowed under
 48 this section:
- 49 (1) ~~For land used pursuant to sub-sub-subdivision 3. of sub-subdivision a. of~~
 50 ~~subdivision (3) of subsection (c) of this section, as a wildlife reserve under~~
 51 ~~subdivision (c3)(3) of this section, no more than 800 acres of an owner's land~~

1 in a county may be classified under this section. For all other land classified
2 under this section, no more than ~~100~~200 acres of an owner's land in a county
3 may be classified under this section.

4 ...
5 (h) Administration. – An owner who applies for the classification allowed under this
6 section must attach a copy of the owner's written wildlife habitat agreement required under
7 subsection ~~(e)~~(c3) of this section. An owner who fails to notify the county assessor when land
8 classified under this section loses its eligibility for classification is subject to a penalty in the
9 amount set in G.S. 105-277.5."

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

12
13 **PART IV. EFFECTIVE DATE**

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