SENATE BILL 388: Qualifying Farmer Zoo Sales Tax Exemption.

2021-2022 General Assembly

Committee:		**Date:**	July 13, 2022
Introduced by:		**Prepared by:**	Trina Griffin Staff Attorney
Analysis of:	S.L. 2022-45		

OVERVIEW: S.L. 2022-45 does the following three things:

- ***Allows qualifying farmers that also have zoo operations to purchase items for the zoo under their qualifying farmer sales tax exemption certificate, effective for items purchased on or after January 1, 2023. (Part I)***
- ***Creates a new sales tax exemption for certain items purchased by a wildlife manager for wildlife management activities, effective for items purchased on or after October 1, 2022. (Part II)***
- ***Modifies and expands the property tax classification for wildlife conservation land, effective for taxes imposed for taxable years beginning on or after July 1, 2022. Property classified as wildlife conservation land is assessed and taxed at a value lower than its fair market value. (Part III)***

Except as otherwise provided, this act became effective July 7, 2022.

PART I: EXPAND THE SALES TAX EXEMPTION FOR QUALIFYING FARMERS TO INCLUDE CERTAIN PURCHASES MADE FOR A ZOO OPERATED BY THE QUALIFYING FARMER

A qualifying farmer or a farmer with a conditional exemption certificate can purchase many items used in the farming operation without paying sales and use tax on the items. To be a qualifying farmer, a person must have an annual income from farming operations for the preceding taxable year of $10,000 or more or have an average annual income from farming operations for the three preceding taxable years of $10,000. A person who does not meet the definition of a qualifying farmer can apply to the Department of Revenue for a conditional exemption certificate if the person certifies that the person intends to engage in farming operations and will timely file income tax returns that reflect the person's farming operations. A conditional exemption certificate is valid for the year it is issued and the following two taxable years.

The items that can be exempt from sales tax when purchased by a person with a farmer sales tax exemption certificate and used in the person's farming operations include the following:

- Fuel, piped natural gas, and electricity.
- Farm equipment and attachments and repair parts for farm equipment.
- Containers used in the production of animals.
- Substances purchased for use on animals, such as vaccines and medications.
- Facilities and building materials for the housing, raising, or feeding of animals.
- Repair, maintenance, and installation services.

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

Part I allows a qualifying farmer or a person with a conditional exemption certificate who also has a zoo operation to purchase items for use in the zoo operations exempt from sales and use tax. The act does not change the definition of a qualifying farmer. A person must meet the income requirement to qualify as a farmer through the person's farming operations. The act does not expand the items that are exempt from tax, but it does expand the purposes for which a farmer can purchase the item and receive the exemption to include for use in the farmer's zoo operations. An item is used for zoo operations if it is used for the housing, raising, or feeding of animals for public display.

This Part becomes effective January 1, 2023, and applies to purchases made on or after that date.

PART II: CREATE A SALES TAX EXEMPTION FOR LISTED ITEMS PURCHASED BY A WILDLIFE MANAGER AND USED FOR WILDLIFE CONSERVATION PURPOSES

Part II creates a new sales tax exemption for a person who owns land classified and taxed as wildlife conservation land under G.S. 105-277.15. Under this property tax statute, land that meets specific size, ownership, and use requirements can be appraised, assessed, and taxed as if it were forestland or agricultural land. The items that can be exempt must be items specifically listed in the statute and must be used for one or more of the activities for which wildlife conservation must be used to qualify for the property tax classification. A wildlife manager must apply to the Secretary of Revenue for a sales tax exemption certificate and the certificate is valid for three years. The exemption expires at the end of the three-year period but can be renewed. This exemption becomes effective October 1, 2022,[1] and applies to purchases made on or after that date.

The items that are exempt from sales tax if purchased by a wildlife manager and used for wildlife activities are like the items currently exempt if purchased by a qualifying farmer and used for farming purposes. To be a qualifying farmer, a person must have an annual income from farming activities for the preceding year of at least $10,000 or have an average annual income over the preceding three years of at least $10,000. A wildlife manager does not have an income-producing requirement. The wildlife manager must have a written wildlife habitat conservation agreement with the North Carolina Wildlife Resources Commission. The items that can be exempt from sales tax include the following:

- Feed and feeders.
- Rodenticides, insecticides, herbicides, fungicides, and pesticides.
- Machinery, fuel, and fuel storage tanks.
- Materials, supplies, fixtures, and equipment that becomes part of or used for an impoundment, wetland, or ephemeral pool; erosion control; access infrastructure such as bridges, gravel, and culverts; wildlife structures such as nest boxes, road crossing development, and fencing.

The sales tax exemption also applies to items purchased to fulfill a contract with a person who holds a wildlife manager exemption certificate and to items purchased to perform a service for a person who holds a wildlife manager exemption certificate. The sales tax exemption for qualifying farmers has similar provisions. A sales tax exemption for items purchased and used by a wildlife manager for wildlife activities reduces the cost associated with those activities.

PART III: EXPAND AND MODIFY THE PROPERTY TAXATION OF WILDLIFE CONSERVATION LAND

Since 1973, the General Assembly has provided special property tax treatment for farmland that taxes the land at its present-use value (PUV) as opposed to its fair market value (FMV). The difference between the taxes due on the land at its FMV and its PUV are known as deferred taxes. When the land loses its

[1] The exemption is the only time-limited sales tax exemption that needs to be renewed, and the Department needs time to develop the necessary software to properly implement it.

eligibility for the program, the land is taxed at its FMV for the year in which it loses it classification and the deferred taxes for the three previous years becomes due and payable, with interest. In 2008, the General Assembly provided a similar property tax incentive to encourage the conservation of land for wildlife species and habitat protection. In 2018, the General Assembly expanded the wildlife conservation land program (WCLP) to include land managed as a reserve for hunting, fishing, shooting, or wildlife observation or activities.

To qualify as wildlife conservation land, the land must be the following size, ownership, and use requirements:

- Size – The land must consist of at least 20 contiguous acres.
- Ownership – There are two ownership requirements:
    - Qualifying owner – The land must be owned by an individual, a family business entity, or a family trust.
    - Length of ownership – The land must be owned by the same qualifying owner for at least five years. If the land is owned by a family business entity or a family trust, the land meets this requirement if it has been owned by one or more members of the entity or trust for the required time.
    - Exception to length of ownership – If the land is classified as wildlife conservation land when it is acquired and the new qualifying 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 tax assessor within 60 days after acquiring the property and signs the wildlife habitat conservation agreement in effect for the property.
- Use – The land must be managed under a written wildlife habitat conservation agreement (WLCA) with the NC Wildlife Resources Commission that is in effect as of January 1 of the year for which the benefit is claimed. The WLCA must require the owner to maintain the land for one of the following management actions:
    - The protection of priority species. There is a pre-requisite that the land must have been enrolled in the PUV program at the time the WLCA is signed.
    - The conservation of priority wildlife habitats. There is a pre-requisite that the land must have been enrolled in the PUV program at the time the WLCA is signed.
    - Land managed and actively used as a wildlife reserve for hunting, fishing, shooting, wildlife observation, or wildlife activities, upon which wildlife management activities are conducted to ensure the propagation of a sustaining breeding, migrating, or wintering population of indigenous wild animals. There is no pre-requisite for this management activity.

The WCLP is limited in the amount of acreage that can qualify in a county for the reduced property tax valuation:

- No more than 800 acres in a county for wildlife conservation land used as a wildlife reserve.
- No more than 100 acres in a county for wildlife conservation land used as wildlife species protection or wildlife habitat protection.

Part III makes the following substantive changes to the WCLP:

- Provides that additional acres can qualify for enrollment in the WLCP once the initial qualifying tract of 20 acres is met provided it consists of at least one acre and it meets the ownership and use requirements. If the land is used for wildlife habitat protection, the additional acreage must be in the same county as the initial qualifying tract. If the land is used for wildlife species protection or wildlife reserve, then the additional acreage does not need to be in the same county as the initial qualifying tract.
- Increases the acreage in a county that can qualify for the WLCP as wildlife species protection or wildlife habitat protection from 100 acres to 200 acres.
- Decreases the amount of time an owner must own the land to participate in the WCLP from five years to four years. The current length of ownership time for an owner of farmland to qualify for PUV is currently four years.
- Expands the qualifying ownership requirement to include a combination of one or more of the three current ownership types as tenants in common. The current three ownership types are individuals, family business entities, and family trusts. The change also provides that if the land is owned by tenants in common, that the owner meets the length of ownership requirement if the land was owned by one or more of the tenants for the required time.
- Creates three exceptions to the four-year ownership requirement:
  - If the land is the owner's place of residence, then it meets the ownership requirement. The PUV program has this same exception.
  - If the owner of land enrolled in the WCLP acquires additional land that shares a common boundary with the enrolled land, then the acquired land meets the ownership requirement. The PUV program has a similar exception.
  - If the land is acquired through transfer or inheritance from a relative, then land meets the ownership requirement if the land was owned by the relative for the required time. The PUV program has this same exception.
- Removes the PUV enrollment pre-requisite for land that is enrolled in the WCLP as wildlife species protection or wildlife habitat protection. This change provides consistency among the three wildlife conservation management activities and allows property to come into the WCLP without first being enrolled in the farmland PUV program.

Part III makes the following non-substantive changes to the WCLP:

- Clarifies that the initial 20 contiguous acres necessary to qualify for the WCLP must be in the same county.
- Clarifies that the 60-day application requirement applies to the application for enrollment in the WCLP filed with the tax assessor.
- Stylistic and conforming changes to the statute.

Part III became effective for taxes imposed for taxable years beginning on or after July 1, 2022.

**Cindy Avrette, counsel to the Senate Finance Committee, substantially contributed to this summary.*