



1 requirements in G.S. 105-277.3(a)(3), and each tract must be under a  
2 sound management program.

3 (3) Horticultural land. – Land that is a part of a horticultural unit that is  
4 actively engaged in the commercial production or growing of fruits or  
5 vegetables or nursery or floral products under a sound management  
6 program. Horticultural land includes all woodland and wasteland ~~that~~  
7 ~~is a part of~~ in the horticultural unit, but the woodland and wasteland  
8 included in the unit shall be appraised under the use-value schedules as  
9 woodland or wasteland. A horticultural unit may consist of more than  
10 one tract of horticultural land, but at least one of the tracts must meet  
11 the requirements in G.S. 105-277.3(a)(2), and each tract must be under  
12 a sound management program.

13 (4) Individually owned. – Owned by one of the following:

14 a. A natural person. For the purpose of this section, a natural  
15 person who is an income beneficiary of a trust that owns land  
16 may elect to treat the person's beneficial share of the land as  
17 owned by that person. If the person's beneficial interest is not an  
18 identifiable share of land but can be established as a  
19 proportional interest in the trust income, the person's beneficial  
20 share of land is a percentage of the land owned by the trust that  
21 corresponds to the beneficiary's proportional interest in the trust  
22 income. For the purpose of this section, a natural person who is  
23 a member of a business entity, other than a corporation, that  
24 owns land may elect to treat the person's share of the land as  
25 owned by that person. The person's share is a percentage of the  
26 land owned by the business entity that corresponds to the  
27 person's percentage of ownership in the entity.

28 b. A business entity having as its principal business one of the  
29 activities described in subdivisions (1), (2), and (3) and whose  
30 members are all natural persons who meet one or more of the  
31 following conditions:

32 1. The member is actively engaged in the business of the  
33 entity.

34 2. The member is a relative of a member who is actively  
35 engaged in the business of the entity.

36 3. The member is a relative of, and inherited the  
37 membership interest from, a decedent who met one or  
38 both of the preceding conditions after the land qualified  
39 for classification in the hands of the business entity.

40 c. A trust that was created by a natural person who transferred the  
41 land to the trust and each of whose beneficiaries who is

- 1 currently entitled to receive income or principal meets one of  
2 the following conditions:
- 3 1. Is the creator of the trust or the creator's relative.
  - 4 2. Is a second trust whose beneficiaries who are currently  
5 entitled to receive income or principal are all either the  
6 creator of the first trust or the creator's relatives.
- 7 d. A testamentary trust that meets all of the following conditions:
- 8 1. It was created by a natural person who transferred to the  
9 trust land that qualified in that person's hands for  
10 classification under G.S. 105-277.3.
  - 11 2. At the time of the creator's death, the creator had no  
12 relatives as defined in this section as of the date of death.
  - 13 3. The trust income, less reasonable administrative  
14 expenses, is used exclusively for educational, scientific,  
15 literary, cultural, charitable, or religious purposes as  
16 defined in G.S. 105-278.3(d).
- 17 (4a) Member. – A shareholder of a corporation, a partner of a general or  
18 limited partnership, or a member of a limited liability company.
- 19 (5) Present-use value. – The value of land in its current use as agricultural  
20 land, horticultural land, or forestland, based solely on its ability to  
21 produce income, using a rate of nine percent (9%) to capitalize the  
22 expected net income of the property and assuming an average level of  
23 management.
- 24 (5a) Relative. – Any of the following:
- 25 a. A spouse or the spouse's lineal ancestor or descendant.
  - 26 b. A lineal ancestor or a lineal descendant.
  - 27 c. A brother or sister, or the lineal descendant of a brother or  
28 sister. For the purposes of this sub-subdivision, the term brother  
29 or sister includes stepbrother or stepsister.
  - 30 d. An aunt or an uncle.
  - 31 e. A spouse of a person listed in paragraphs a. through d.
- 32 For the purpose of this subdivision, an adoptive or adopted relative  
33 is a relative and the term "spouse" includes a surviving spouse.
- 34 (6) Sound management program. – A program of production designed to  
35 obtain the greatest net return from the land consistent with its  
36 conservation and long-term improvement. In determining the greatest  
37 net return, no minimum profitability level may be applied.

38 **SECTION 2.** G.S. 105-277.3(b2) reads as rewritten:

39 "(b2) Exception to Ownership Requirements. – G.S. 105-277.4(c) provides that  
40 deferred taxes are payable if land fails to meet any condition or requirement for  
41 classification. Accordingly, if land fails to meet an ownership requirement due to a  
42 change of ownership, G.S. 105-277.4(c) applies. Despite this failure and the resulting

1 liability for taxes under G.S. 105-277.4(c), the land may qualify for classification in the  
2 hands of the new owner if both of the following conditions are met, even if the new  
3 owner does not meet all of the ownership requirements of subsections (b) and (b1) of  
4 this section with respect to the land:

5 (1) The land was appraised at its present use value or was eligible for  
6 appraisal at its present use value at the time title to the land passed to  
7 the new owner.

8 (2) At the time title to the land passed to the new owner, the new owner  
9 acquires the land for the purposes of and continues to use the land for  
10 the purposes it was ~~owned~~ ~~other land~~ classified under subsection  
11 (a)-(a) of this section while under previous ownership."

12 **SECTION 3.** G.S. 105-277.4(c) reads as rewritten:

13 "(c) Deferred Taxes. – Land meeting the conditions for classification under G.S.  
14 105-277.3 shall be taxed on the basis of the value of the land for its present use. The  
15 difference between the taxes due on the present-use basis and the taxes that would have  
16 been payable in the absence of this classification, together with any interest, penalties,  
17 or costs that may accrue thereon, are a lien on the real property of the taxpayer as  
18 provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the  
19 records of the taxing unit or units as deferred taxes. The taxes become due and payable  
20 when the land fails to meet any condition or requirement for classification. The tax for  
21 the fiscal year that opens in the calendar year in which deferred taxes become due is  
22 computed as if the land had not been classified for that year, and taxes for the preceding  
23 three fiscal years that have been deferred are immediately payable, together with  
24 interest as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred  
25 taxes due as if they had been payable on the dates on which they originally became due.  
26 If only a part of the qualifying tract of land fails to meet a condition or requirement for  
27 classification, a determination shall be made of the amount of deferred taxes applicable  
28 to that part and that amount becomes payable with interest as provided above. Upon the  
29 payment of any taxes deferred in accordance with this section for the three years  
30 immediately preceding a disqualification, all liens arising under this subsection are  
31 extinguished. The deferred taxes for any given year may be paid in that year without the  
32 qualifying tract of land becoming ineligible for deferred status."

33 **SECTION 4.** Commission Established. – There is established a Use Value  
34 and Land Taxation Study Commission.

35 **SECTION 4.1.** Membership. – The Commission shall consist of 16  
36 members who shall be appointed as follows:

37 (1) The President Pro Tempore of the Senate shall appoint eight members,  
38 including a member of the North Carolina Tax Assessors Association,  
39 a member of the North Carolina Forestry Association, a representative  
40 of the Department of Environment and Natural Resources, a member  
41 of the public at large, the chair of the Senate Committee on

1 Agriculture, Environment, and Natural Resources, and three members  
2 of the Senate.

- 3 (2) The Speaker of the House of Representatives shall appoint eight  
4 members, including a representative of the Department of Agriculture  
5 and Consumer Services, a representative of the North Carolina  
6 Association of County Commissioners, a representative of a  
7 conservation organization, a representative of the North Carolina Farm  
8 Bureau, the chair of the House Committee on Agriculture, and three  
9 members of the House of Representatives.

10 A representative of the Property Tax Division of the Department of Revenue  
11 shall serve as a voting ex officio member. Vacancies shall be filled by the original  
12 appointing authority.

13 **SECTION 4.2.** Mission. – The mission of the Commission is to study,  
14 examine, and, if necessary, recommend changes to the use value system.

15 **SECTION 4.3.** Duties. – The Commission shall:

- 16 (1) Examine the implementation and application of the current use value  
17 statutes.  
18 (2) Evaluate other tax credits, including adjustments to and credits for ad  
19 valorem taxes, to encourage agricultural, forestry, and horticultural use  
20 of land.  
21 (3) Evaluate the treatment of undeveloped land in ad valorem tax.  
22 (4) Evaluate the possibility of tax incentives to encourage conservation  
23 and environmental protection of land.  
24 (5) Review other issues related to the taxation of agricultural land,  
25 horticultural land, and forestland, including reducing the acreage  
26 requirement for land to qualify as forestland.

27 **SECTION 4.4.** Report. – The Commission shall submit a final written report  
28 of its findings and recommendations on or before the convening of the 2003 Session of  
29 the General Assembly and may submit a report to the 2002 Regular Session of the 2001  
30 General Assembly. All reports shall be filed with the President Pro Tempore of the  
31 Senate and the Speaker of the House of Representatives, the Principal Clerks of the  
32 Senate and the House of Representatives, and the Legislative Librarian. The report  
33 shall include draft legislation to implement its recommendations along with an analysis  
34 of the fiscal impact of each recommendation. The Commission shall terminate upon  
35 filing its final report.

36 **SECTION 4.5.** Expenses of Members. – Members of the Commission shall  
37 be paid per diem, subsistence, and travel allowances as follows:

- 38 (1) Commission members who are also members of the General  
39 Assembly, at the rate established in G.S. 120-3.1;  
40 (2) Commission members who are officials or employees of the State or  
41 local government agencies, at the rate established in G.S. 138-6;  
42 (3) All other Commission members, at the rate established in G.S. 138-5.

1           **SECTION 4.6.** Cochairs; Meetings. – Cochairs of the Commission shall be  
2 designated by the Speaker of the House of Representatives and the President Pro  
3 Tempore of the Senate from among their respective appointees. The Commission shall  
4 meet upon the call of the chairs. A majority of the members of the Commission shall  
5 constitute a quorum.

6           The Commission may meet during a regular or special session of the General  
7 Assembly, subject to approval of the Speaker of the House of Representatives and the  
8 President Pro Tempore of the Senate. The Legislative Services Commission shall grant  
9 adequate meeting space to the Commission in the State Legislative Building or the  
10 Legislative Office Building.

11           **SECTION 4.7.** Staff. – With the prior approval of the Legislative Services  
12 Commission, the Legislative Services Officer shall assign professional staff to assist in  
13 the work of the Commission. With the prior approval of the Legislative Services  
14 Commission, the Commission may hold its meetings in the State Legislative Building or  
15 the Legislative Office Building.

16           **SECTION 4.8.** Cooperation by Government Agencies. – The Commission  
17 may call upon any department, agency, institution, or officer of the State or any political  
18 subdivision of the State for facilities, data, or other assistance. All State departments and  
19 agencies, local governments, and their subdivisions shall cooperate with the  
20 Commission and, upon request, shall furnish to the Commission and its staff any  
21 information in their possession or available to them.

22           **SECTION 4.9.** Funding. – From funds appropriated to the General  
23 Assembly, the Legislative Services Commission shall allocate funds for the expenses of  
24 the Commission.

25           **SECTION 5.** Sections 1 through 3 of this act are effective for taxes imposed  
26 for taxable years beginning on or after January 1, 2002. The remainder of this act is  
27 effective when it becomes law.