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SENATE BILL DRS35246-TQxf-20 (03/15)

Short Title: North Carolina Farm Act of 2017.

(Public)

Sponsors: Senators B. Jackson, Sanderson, and Brock (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND CERTAIN LAWS GOVERNING AGRICULTURAL MATTERS.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** G.S. 106-498 reads as rewritten:

5 "**§ 106-498. Bond required.**

6 No permit shall be issued to a handler until such handler has furnished the Commissioner of  
7 Agriculture a bond satisfactory to the Commissioner in an amount of not less than ten thousand  
8 dollars (\$10,000). The Commissioner may require a new bond or he may require the amount of  
9 any bond to be increased if he finds it necessary for the protection of the producer. Such bond  
10 shall be payable to the State and shall be conditioned upon the fulfilling of all financial  
11 obligations incurred by the handler with all producers with whom the handler  
12 ~~contracts~~ transacts business. Any producer alleging any injury by the fraud, deceit, willful  
13 injury or failure to comply with the terms of any ~~written contract~~ agreement by a handler may  
14 bring suit on the bond against the principal and his surety in any court of competent jurisdiction  
15 and may recover the damages found to be caused by such acts complained of."

16 **SECTION 1.(b)** This section becomes effective October 1, 2017.

17 **SECTION 2.1.** G.S. 153A-340(b) reads as rewritten:

- 18 "(b) (1) These regulations may not affect property used for bona fide farm purposes  
19 ~~only as provided in subdivision (3) of this subsection. This purposes;~~  
20 provided, however, that this subsection does not limit regulation under this  
21 Part with respect to the use of farm property for nonfarm purposes.  
22 (2) Except as provided in G.S. 106-743.4 for farms that are subject to a  
23 conservation agreement under G.S. 106-743.2, bona fide farm purposes  
24 include the production and activities relating or incidental to the production  
25 of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy,  
26 livestock, poultry, and all other forms of agriculture, as defined in  
27 G.S. 106-581.1. For purposes of this subdivision, "when performed on the  
28 farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of  
29 the county and any other farm owned or leased to or from others by the bona  
30 fide farm operator, no matter where located. For purposes of this  
31 subdivision, the production of a nonfarm product that the Department of  
32 Agriculture and Consumer Services recognizes as a "Goodness Grows in  
33 North Carolina" product that is produced on a farm subject to a conservation  
34 agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes  
35 of determining whether a property is being used for bona fide farm purposes,



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1 any of the following shall constitute sufficient evidence that the property is  
2 being used for bona fide farm purposes:

- 3 a. A farm sales tax exemption certificate issued by the Department of  
4 Revenue.  
5 b. A copy of the property tax listing showing that the property is  
6 eligible for participation in the present use value program pursuant to  
7 G.S. 105-277.3.  
8 c. A copy of the farm owner's or operator's Schedule F from the owner's  
9 or operator's most recent federal income tax return.  
10 d. A forest management plan.  
11 e. A Farm Identification Number issued by the United States  
12 Department of Agriculture Farm Service Agency.

13 ~~(3) The definitions set out in G.S. 106-802 apply to this subdivision. A county  
14 may adopt zoning regulations governing swine farms served by animal waste  
15 management systems having a design capacity of 600,000 pounds steady  
16 state live weight (SSLW) or greater provided that the zoning regulations  
17 may not have the effect of excluding swine farms served by an animal waste  
18 management system having a design capacity of 600,000 pounds SSLW or  
19 greater from the entire zoning jurisdiction."~~

20 **SECTION 2.2.** G.S. 106-743.4(a) reads as rewritten:

21 "(a) Property that is subject to a conservation agreement under G.S. 106-743.2 that  
22 remains in effect may receive up to twenty-five percent (25%) of its gross sales from the sale of  
23 nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations  
24 under G.S. 153A-340(b). For purposes of G.S. 153A-340(b), the production of any nonfarm  
25 product that the Department of Agriculture and Consumer Services recognizes as a "Goodness  
26 Grows in North Carolina" product that is produced on a farm that is subject to a conservation  
27 agreement under G.S. 106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from  
28 this subsection shall have the burden of establishing that the property's sale of nonfarm  
29 products did not exceed twenty-five percent (25%) of its gross sales. A county may adopt an  
30 ordinance pursuant to this section that sets forth the standards necessary for proof of  
31 compliance.

32 ~~Nothing in this section shall affect the county's authority to zone swine farms pursuant to  
33 G.S. 153A-340(b)(3)."~~

34 **SECTION 3.(a)** Rule. – Until the effective date of the revised permanent rule that  
35 the Environmental Management Commission is required to adopt pursuant to Section 3(c) of  
36 this act, the Commission shall implement 15A NCAC 02D .1806 as provided in subsection (b)  
37 of this section.

38 **SECTION 3.(b)** Implementation. – Notwithstanding subsection (c) of 15A NCAC  
39 02D .1806, the Commission shall classify facilities that store products that are (i) grown,  
40 produced, or generated on one or more agricultural operations and (ii) that are "renewable  
41 energy resources" as defined in G.S. 62-133.8(a)(8), as agricultural operations that are exempt  
42 from the requirements of the Rule.

43 **SECTION 3.(c)** Additional Rule-Making Authority. – The Commission shall adopt  
44 rules to amend 15A NCAC 02D .1806 consistent with subsection (b) of this section.

45 **SECTION 3.(d)** Effective Date. – Section 3(b) of this act expires on the date that  
46 rules adopted pursuant to subsection (c) of this act become effective. The remainder of this act  
47 is effective when it becomes law.

48 **SECTION 4.(a)** G.S. 105-277.3 reads as rewritten:

49 **"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.**

1 (a) Classes Defined. – The following classes of property are designated special classes  
2 of property under authority of Section 2(2) of Article V of the North Carolina Constitution and  
3 must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

4 (1) Agricultural land. – Individually owned agricultural land consisting of one  
5 or more tracts, one of which satisfies the requirements of this subdivision.  
6 For agricultural land used as a farm for aquatic species, as defined in  
7 G.S. 106-758, the tract must meet the income requirement for agricultural  
8 land and must consist of at least five acres in actual production or produce at  
9 least 20,000 pounds of aquatic species for commercial sale annually,  
10 regardless of acreage. For all other agricultural land, the tract must meet the  
11 income requirement for agricultural land and must consist of at least 10 acres  
12 that are in actual production. Land in actual production includes land under  
13 improvements used in the commercial production or growing of crops,  
14 plants, or animals.

15 To meet the income requirement, agricultural land must, for the three  
16 years preceding January 1 of the year for which the benefit of this section is  
17 claimed, have produced an average gross income of at least one thousand  
18 dollars (\$1,000). Gross income includes income from the sale of the  
19 agricultural products produced from the land, grazing fees for livestock, any  
20 payments received under a governmental soil conservation or land  
21 retirement program, and the amount paid to the taxpayer during the taxable  
22 year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform  
23 Act of 2004.

24 ...."

25 **SECTION 4.(b)** This section is effective for taxes imposed for taxable years  
26 beginning on or after July 1, 2017.

27 **SECTION 5.** G.S. 68-17 reads as rewritten:

28 "**§ 68-17. Impounding livestock at large; right to recover costs and ~~damages~~damages;**  
29 **abandoned livestock.**

30 (a) Any person may take up any livestock running at large or straying and impound the  
31 same; and such impounder may recover from the owner the reasonable costs of impounding  
32 and maintaining the livestock as well as damages to the impounder caused by such livestock,  
33 and may retain the livestock, with the right to use with proper care until such recovery is had.  
34 Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in order to  
35 locate the owner.

36 (b) Livestock is deemed to be abandoned when (i) it is placed in the custody of any  
37 other person for treatment, boarding, or care; (ii) the owner of the livestock does not retake  
38 custody of the animal within one month after the last day the owner paid a fee to the custodian  
39 for the treatment, boarding, or care of the livestock; and (iii) the custodian has made reasonable  
40 attempts to collect any past-due fees during the one-month period. If, after the end of the  
41 one-month period, the custodian of the abandoned livestock has been unsuccessful in collecting  
42 the past-due fees and the owner of the livestock has not retaken custody of the livestock, the  
43 custodian may sell or transfer the livestock by executing an affidavit that identifies the buyer or  
44 transferee of the livestock and certifies compliance with the criteria and requirements of this  
45 subsection. If the custodian is unable to sell or transfer the livestock, the custodian may, but  
46 shall not be required to, otherwise humanely dispose of the abandoned livestock. A custodian  
47 shall provide written notice of the provisions of this subsection in conspicuous type to the  
48 owner of livestock at the time the livestock is delivered for treatment, boarding, or care, as  
49 follows: "Pursuant to N.C. General Statutes § 68-17(b), the owner of this facility is entitled to  
50 sell, transfer, or otherwise humanely dispose of any livestock abandoned at this facility."

1                   **SECTION 6.** Except as otherwise provided, this act is effective when it becomes  
2 law.