

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 762
Agriculture, Energy, and Environment Committee Substitute Adopted 5/24/22
Finance Committee Substitute Adopted 5/25/22
PROPOSED HOUSE COMMITTEE SUBSTITUTE S762-PCS15453-TQf-46

Short Title: North Carolina Farm Act of 2022.

(Public)

Sponsors:

Referred to:

May 24, 2022

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS OF THIS
3 STATE.

4 The General Assembly of North Carolina enacts:

5
6 **CLARIFY THE APPLICABILITY OF THE FARM BUILDING EXCEPTION TO THE**
7 **BUILDING CODE**

8 **SECTION 1.** G.S. 143-138(b4) reads as rewritten:

9 "(b4) Exclusion for Certain Farm Buildings. – Building rules do not apply to (i) farm
10 buildings that are located outside the building-rules jurisdiction of any municipality, (ii) farm
11 buildings that are located inside the building-rules jurisdiction of any municipality if the farm
12 buildings are greenhouses or therapeutic equine facilities, (iii) a primitive camp, or (iv) a
13 primitive farm building. For the purposes of this subsection:

14 (1) ~~For the purposes of this subdivision, a~~ A "farm building" means any
15 nonresidential building or structure that is used for a bona fide farm purpose
16 as provided in ~~G.S. 153A-340.~~ G.S. 160D-903(a). A "farm building" shall
17 include:

- 18 a. Any structure used or associated with equine activities, including, but
19 not limited to, the care, management, boarding, or training of horses
20 and the instruction and training of riders. Structures that are associated
21 with equine activities include, but are not limited to, free standing or
22 attached sheds, barns, or other structures that are utilized to store any
23 equipment, tools, commodities, or other items that are maintained or
24 used in conjunction with equine activities. The specific types of equine
25 activities, structures, and uses set forth in this subdivision are for
26 illustrative purposes, and should not be construed to limit, in any
27 manner, the types of activities, structures, or uses that may be
28 considered under this subsection as exempted from building rules. A
29 farm building that might otherwise qualify for exemption from
30 building rules shall remain subject only to an annual safety inspection
31 by the applicable city or county building inspection department of any
32 grandstand, bleachers, or other spectator-seating structures in the farm
33 building. An annual safety inspection shall include an evaluation of
34 the overall safety of spectator-seating structures as well as ensuring



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1 the spectator-seating structure's compliance with any building codes
 2 related to the construction of spectator-seating structures in effect at
 3 the time of the construction of the spectator-seating.

4 b. Any structure used for the display and sale of produce, no more than
 5 1,000 square feet in size, open to the public for no more than 180 days
 6 per year, and certified by the Department of Agriculture and Consumer
 7 Services as a Certified Roadside Farm Market.

8 c. Any unoccupied structure built upon land owned by the State of North
 9 Carolina and administratively allocated to the North Carolina
 10 Department of Agriculture and Consumer Services or North Carolina
 11 State University which is used primarily for forestry production and
 12 research or agriculture production and research. The term "agriculture"
 13 has the same meaning as in G.S. 106-581.1. The term "unoccupied"
 14 does not exclude the keeping of livestock.

15 d. A building used primarily for the storage of agricultural commodities
 16 or products or storage and use of materials for agricultural purposes,
 17 whether or not the building is located on the same property where the
 18 agricultural commodities or products were produced, provided the
 19 building is surrounded and adjoined by public ways and yards, as those
 20 terms are defined in the 2018 North Carolina Building Code, of not
 21 less than 60 feet in width. The owner of a qualifying building under
 22 this sub-subdivision shall post a placard on the front of the building.
 23 The placard shall be not less than 24 inches by 24 inches in size with
 24 a red background, white reflective stripes, and a white reflective
 25 border. The placard shall display the words "Ag. Exempt" in white
 26 reflective letters not less than 12 inches tall.

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29 AGRICULTURAL USE CLARIFICATION

30 SECTION 2. G.S. 160D-903 reads as rewritten:

31 "§ 160D-903. Agricultural uses.

32 (a) Bona Fide Farming Exempt From County Zoning. – County zoning regulations may
 33 not affect property used for bona fide farm purposes; provided, however, that this section does
 34 not limit zoning regulation with respect to the use of farm property for nonfarm purposes. Except
 35 as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under
 36 G.S. 106-743.2, bona fide farm purposes include the production and activities relating or
 37 incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants,
 38 dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.
 39 Activities incident to the farm include existing or new residences constructed to the applicable
 40 residential building code situated on the farm occupied by the owner, lessee, or operator of the
 41 farm and other buildings or structures sheltering or supporting the farm use and operation. A
 42 building or structure that is used solely for storage of cotton, peanuts, or sweetpotatoes, or any
 43 byproduct of those commodities, is a bona fide farm purpose, including a building or structure
 44 on a property that does not have the documentation listed in subdivisions (1) through (4) of this
 45 subsection. For purposes of this section, "when performed on the farm" in G.S. 106-581.1(6)
 46 includes the farm within the jurisdiction of the county and any other farm owned or leased to or
 47 from others by the bona fide farm operator, no matter where located. For purposes of this section,
 48 the production of a nonfarm product that the Department of Agriculture and Consumer Services
 49 recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject
 50 to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of
 51 determining whether a property is being used for bona fide farm purposes, any of the following

1 is sufficient evidence that the property is being used for bona fide farm ~~purposes;~~ purposes, but
 2 other evidence may also be considered:

- 3 (1) A farm sales tax exemption certificate issued by the Department of Revenue.
- 4 (2) A copy of the property tax listing showing that the property is eligible for
 5 participation in the present-use value program pursuant to G.S. 105-277.3.
- 6 (3) A copy of the farm owner's or operator's Schedule F from the owner's or
 7 operator's most recent federal income tax return.
- 8 (4) A forest management plan.

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 11 **STUDY FAIR REPAIR REQUIREMENTS FOR MANUFACTURERS OF FARM**
 12 **EQUIPMENT**

13 **SECTION 3.** The Agriculture and Forestry Awareness Study Commission shall
 14 study whether to establish requirements for manufacturers of farm equipment to make
 15 documentation, parts, software, or tools required to diagnose, maintain, or repair electronically
 16 enabled farm equipment available to owners of the farm equipment or independent repair
 17 providers in the same manner as the documentation, parts, software, or tools are available to the
 18 manufacturer's authorized repair provider and, if so, the limitations and enforcement mechanisms
 19 that should apply to those requirements. In conducting the study, the Committee shall seek input
 20 from farm equipment manufacturers, independent repair providers and owners of farm
 21 equipment, the Department of Justice, and the Department of Agriculture and Consumer
 22 Services. The Commission shall report its findings, including any proposed legislation, prior to
 23 the convening of the 2023 Regular Session of the General Assembly.

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 25 **PRESERVE CONSERVATION EASEMENTS AFTER PROPERTY TAX**
 26 **FORECLOSURES**

27 **SECTION 4.(a)** G.S. 105-374(k) reads as rewritten:

28 "(k) Judgment of Sale. – Any judgment in favor of the plaintiff or any defendant taxing
 29 unit in an action brought under this section shall order the sale of the real property or as much as
 30 may be necessary for the satisfaction of all of the following:

- 31 (1) Taxes adjudged to be liens in favor of the plaintiff, other than taxes the amount
 32 of which has not been definitely determined, together with penalties, interest,
 33 and costs.
- 34 (2) Taxes adjudged to be liens in favor of other taxing units, other than taxes the
 35 amount of which has not yet been definitely determined, if those taxes have
 36 been alleged in answers filed by the other taxing units, together with penalties,
 37 interest, and costs.

38 The judgment shall appoint a commissioner to conduct the sale and shall order that the property
 39 be sold in fee simple, free and clear of all interests, rights, claims, and liens whatever, except that
 40 the sale shall be subject to (i) taxes the amount of which cannot be definitely determined at the
 41 time of the judgment, (ii) taxes and special assessments of taxing units which are not parties to
 42 the action, ~~and~~ (iii) in the discretion of the court, taxes alleged in other tax foreclosure actions or
 43 proceedings pending against the same real ~~property-property~~, and (iv) conservation agreements,
 44 as defined in G.S. 121-35(1).

45 In all cases in which no answer is filed within the time allowed by law, and in cases in which
 46 answers filed do not seek to prevent sale of the property, the clerk of the superior court may enter
 47 the judgment, subject to appeal as provided in G.S. 1-301.1."

48 **SECTION 4.(b)** G.S. 105-375(i) reads as rewritten:

49 "(i) Issuance of Execution. – At any time after three months and before two years from
 50 the indexing of the judgment as provided in subsection (b) of this section, execution shall be
 51 issued at the request of the tax collector in the same manner as executions are issued upon other

1 judgments of the superior court, and the real property shall be sold by the sheriff in the same
2 manner as other real property is sold under execution with the following exceptions:

- 3 (1) No debtor's exemption shall be allowed.
- 4 (2) At least 30 days prior to the day fixed for the sale, the sheriff shall send notice
5 by registered or certified mail, return receipt requested, to the taxpayer at the
6 taxpayer's last known address, in lieu of personal service, and to all lienholders
7 of record. If within 10 days following the mailing of a notice, a return receipt
8 has not been received by the sheriff indicating receipt of the notice, then the
9 sheriff shall make additional efforts to locate and notify the taxpayer, if not
10 yet notified, and all unnotified lienholders of record of the sale under
11 execution in accordance with subdivision (4) of subsection (c) of this section.
- 12 (3) The sheriff shall add to the amount of the judgment as costs of the sale any
13 postage expenses incurred by the tax collector and the sheriff in foreclosing
14 under this section.
- 15 (4) In any advertisement or posted notice of sale under execution, the sheriff may
16 (and at the request of the governing body shall) combine the advertisements
17 or notices for properties to be sold under executions against the properties of
18 different taxpayers in favor of the same taxing unit or group of units; however,
19 the property included in each judgment shall be separately described and the
20 name of the taxpayer specified in connection with each property.

21 The purchaser at the execution sale acquires title to the property in fee simple free and clear
22 of all claims, rights, interests, and liens except the liens of other taxes or special assessments not
23 paid from the purchase price and not included in the ~~judgment~~ judgment and conservation
24 agreements, as defined in G.S. 121-35(1)."

25 **FARMED CERVID ASSESSMENT CLARIFICATION**

26 **SECTION 5.** G.S. 106-1056 reads as rewritten:

27 **"§ 106-1056. Definitions.**

28 As used in this Article:

- 29 (1) "Association" means the North Carolina Deer and Elk Farmers Association.
- 30 (2) "Cervid farmer" means a person who (i) is a North Carolina resident and (ii)
31 holds at least one cervid in captivity subject to a captivity license issued by
32 the Department.
- 33 (3) "Department" means the Department of Agriculture and Consumer Services.
- 34 (4) "Farmed cervid" means any member of the Cervidae family that is held in
35 captivity and produced, bought, or sold for commercial purposes.
- 36 (5) "Farmed cervid feed" means any commercial feed, as defined in
37 G.S. 106-284.33, ~~labeled or marketed~~ sold to a cervid farmer for farmed
38 cervid use."

39 **SPECIFY THAT COMMERCIAL PRODUCTION OR GROWING OF ANIMALS FOR** 40 **PURPOSES OF PRESENT USE VALUE TAXATION INCLUDES BOARDING HORSES**

41 **SECTION 6.(a)** G.S. 105-277.2(1) reads as rewritten:

- 42 (1) Agricultural land. – Land that is a part of a farm unit that is actively engaged
43 in the commercial production or growing of crops, plants, or animals under a
44 sound management program. For purposes of this definition, the commercial
45 production or growing of animals includes the rearing, feeding, training,
46 caring, boarding, and managing of horses. Agricultural land includes
47 woodland and wasteland that is a part of the farm unit, but the woodland and
48 wasteland included in the unit must be appraised under the use-value
49 schedules as woodland or wasteland. A farm unit may consist of more than
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1 one tract of agricultural land, but at least one of the tracts must meet the
2 requirements in G.S. 105-277.3(a)(1), and each tract must be under a sound
3 management program. If the agricultural land includes less than 20 acres of
4 woodland, then the woodland portion is not required to be under a sound
5 management program. Also, woodland is not required to be under a sound
6 management program if it is determined that the highest and best use of the
7 woodland is to diminish wind erosion of adjacent agricultural land, protect
8 water quality of adjacent agricultural land, or serve as buffers for adjacent
9 livestock or poultry operations."

10 **SECTION 6.(b)** This section is effective for taxes imposed for taxable years
11 beginning on or after July 1, 2022.

12 **UPDATE BONA FIDE FARM CROSS REFERENCES**

13 **SECTION 7.(a)** G.S. 106-743.4(a) reads as rewritten:

14 "(a) Property that is subject to a conservation agreement under G.S. 106-743.2 that
15 remains in effect may receive up to twenty-five percent (25%) of its gross sales from the sale of
16 nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations
17 under ~~G.S. 153A-340(b)~~. G.S. 160D-903. For purposes of ~~G.S. 153A-340(b)~~, G.S. 160D-903,
18 the production of any nonfarm product that the Department of Agriculture and Consumer
19 Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm
20 that is subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. A
21 farmer seeking to benefit from this subsection shall have the burden of establishing that the
22 property's sale of nonfarm products did not exceed twenty-five percent (25%) of its gross sales.
23 A county may adopt an ordinance pursuant to this section that sets forth the standards necessary
24 for proof of compliance."
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26 **SECTION 7.(b)** G.S. 106-850(b)(10) reads as rewritten:

27 "(10) To be eligible for cost share funds under this program, each applicant must
28 establish that the applicant meets the definition of a bona fide farm as
29 described by ~~G.S. 153A-340(b)(2)~~. G.S. 160D-903(a)."

30 **SECTION 7.(c)** G.S. 130A-247(13) reads as rewritten:

31 "(13) "Temporary food establishment" means an establishment not otherwise
32 exempted from this part pursuant to G.S. 130A-250 that (i) prepares or serves
33 food, (ii) operates for a period of time not to exceed 30 days in one location,
34 and (iii) is affiliated with and endorsed by a transitory fair, carnival, circus,
35 festival, public exhibition, or agritourism business. For purposes of this
36 subdivision, "agritourism" means the same as in ~~G.S. 153A-340(b)(2a)~~.
37 G.S. 160D-903(a). Notwithstanding the time limit set out in this subdivision,
38 a local health department may, upon the request of a temporary food
39 establishment, grant a one-time, 15-day extension of the establishment's
40 permit if the establishment continues to meet all of the requirements of its
41 permit and applicable rules."

42 **SECTION 7.(d)** G.S. 130A-291.1(g) reads as rewritten:

43 "(g) Production of a crop in accordance with an approved nutrient management plan on
44 land that is permitted as a septage land application site is a bona fide farm purpose under
45 ~~G.S. 153A-340~~. G.S. 160D-903."

46 **SECTION 7.(e)** G.S. 139-60(c1) reads as rewritten:

47 "(c1) To be eligible for assistance under this program, each applicant must establish that
48 the applicant meets the definition of a bona fide farm as described by
49 ~~G.S. 153A-340(b)(2)~~. G.S. 160D-903(a)."

50 **SECTION 7.(f)** G.S. 153A-471(b)(6) reads as rewritten:

1 "(6) ~~G.S. 153A-340(b) (Zoning of Bona Fide Farms)~~ G.S. 160D-903(a) and (b)
2 shall apply to all areas within the county boundaries."

3 **SECTION 7.(g)** G.S. 160A-58.54(c) reads as rewritten:

4 "(c) As used in this subsection, "bona fide farm purposes" is as described in ~~G.S.~~
5 ~~153A-340.~~ G.S. 160D-903(a). As used in this subsection, "property" means a single tract of
6 property or an identifiable portion of a single tract. Property that is being used for bona fide farm
7 purposes on the date of the resolution of intent to consider annexation may not be annexed
8 without the written consent of the owner or owners of the property."
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10 **NONREVERSION OF FUNDS FOR NEMATODE MITIGATION RESEARCH**

11 **SECTION 8.** The funds appropriated by S.L. 2021-180 to the North Carolina
12 SweetPotato Commission for a contract with NC State University to study nematode mitigation
13 shall remain available until expended and shall not revert.
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15 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

16 **SECTION 9.** If any provision of this act or the application thereof to any person or
17 circumstances is held invalid, such invalidity shall not affect other provisions of this act that can
18 be given effect without the invalid provision or application, and, to this end, the provisions of
19 this act are declared to be severable.

20 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
21 law.