

## North Carolina PACE Enabling Laws

N.C. Gen. Stat. § 106-744

Current through the 2019 Regular Session of the General Assembly

### **§ 106-744. Purchase of agricultural conservation easements; establishment of North Carolina Agricultural Development and Farmland Preservation Trust Fund and Advisory Committee.**

(a) A county may, with the voluntary consent of landowners, acquire by purchase agricultural conservation easements over qualifying farmland as defined by G.S. 106-737.

(b) For purposes of this section, "agricultural conservation easement" means a negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement:

- (1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations;
- (1a) May permit agricultural uses as necessary to promote agricultural development associated with the family farm; and
- (2) Shall be perpetual in duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question.

(c) There is established a "North Carolina Agricultural Development and Farmland Preservation Trust Fund" to be administered by the Commissioner of Agriculture. The Trust Fund shall consist of all monies received for the purpose of purchasing agricultural conservation easements or funding programs that promote the development and sustainability of farming and assist in the transition of existing farms to new farm families, or monies transferred from counties or private sources. The Trust Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3. The Commissioner shall use Trust Fund monies for any of the following purposes:

- (1) For the purchase of agricultural conservation easements, including transaction costs.
- (2) For the costs of public and private enterprise programs that will promote profitable and sustainable family farms through assistance to farmers in developing and implementing plans for the production of food, fiber, and value-added products, agritourism activities, marketing and sales of agricultural products produced on the farm, and other agriculturally related business activities.
- (3) To fund conservation agreements to bring into or maintain farmland in active production of food, fiber, and other agricultural products.
- (4) For the costs of administering the program under this Article, including the cost of staff and staff support.

(c1) The Commissioner shall distribute Trust Fund monies for only the purposes under subsection (c) of this section, including transaction costs, as follows:

- (1) To a private nonprofit conservation organization that matches thirty percent (30%) of the Trust Fund monies it receives with funds from sources other than the Trust Fund.
- (2) To counties according to the match requirements under subsection (c2) of this section.

(3) To the Department of Agriculture and Consumer Services for the purchase of agricultural conservation easements or agreements to be held by the Department.

(c2) A county that is a development tier two or three county, as these tiers are defined in G.S. 143B-437.08, and that has prepared a countywide farmland protection plan shall match fifteen percent (15%) of the Trust Fund monies it receives with county funds. A county that has not prepared a countywide farmland protection plan shall match thirty percent (30%) of the Trust Fund monies it receives with county funds. A county that is a development tier one county, as defined in G.S. 143B-437.08, and that has prepared a countywide farmland protection plan shall not be required to match any of the Trust Fund monies it receives with county funds.

(c3) The Commissioner of Agriculture shall adopt rules governing the use, distribution, investment, and management of Trust Fund monies.

(d) This section shall apply to agricultural conservation easements falling within its terms. This section shall not be construed to make unenforceable any restriction, easement, covenant, or condition that does not comply with the requirements of this section.

This section shall not be construed to invalidate any farmland preservation program.

This section shall not be construed to diminish the powers of any public entity, agency, or instrumentality to acquire by purchase, gift, devise, inheritance, eminent domain, or otherwise and to use property of any kind for public purposes.

This section shall not be construed to authorize any public entity, agency, or instrumentality to acquire by eminent domain an agricultural conservation easement.

(e) As used in subsection (c2) of this section, a countywide farmland protection plan means a plan that satisfies all of the following requirements:

- (1) The countywide farmland protection plan shall contain a list and description of existing agricultural activity in the county.
- (2) The countywide farmland protection plan shall contain a list of existing challenges to continued family farming in the county.
- (3) The countywide farmland protection plan shall contain a list of opportunities for maintaining or enhancing small, family-owned farms and the local agricultural economy.
- (4) The countywide farmland protection plan shall describe how the county plans to maintain a viable agricultural community and shall address farmland preservation tools, such as agricultural economic development, including farm diversification and marketing assistance; other kinds of agricultural technical assistance, such as farm infrastructure financing, farmland purchasing, linking with younger farmers, and estate planning; the desirability and feasibility of donating agricultural conservation easements, and entering into voluntary agricultural districts.
- (5) The countywide farmland protection plan shall contain a schedule for implementing the plan and an identification of possible funding sources for the long-term support of the plan.

(f) A countywide farmland protection plan that meets the requirements of subsection (e) of this section may be formulated with the assistance of an agricultural advisory board designated pursuant to G.S. 106-739.

(g) There is established the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee. The Advisory Committee shall be administratively located within the Department of Agriculture and Consumer Services and shall advise the Commissioner on the prioritization and allocation of funds, the development of criteria for awarding funds, program planning, and other areas

where monies from the Trust Fund can be used to promote the growth and development of family farms in North Carolina. The Advisory Committee shall be composed of 19 members as follows:

- (1) The Commissioner of Agriculture or the Commissioner's designee, who shall serve as the Chair of the Advisory Committee.
- (2) The Secretary of Commerce or the Secretary's designee.
- (3) The Secretary of Environmental Quality or the Secretary's designee.
- (4) Three practicing farmers, one appointed by the Governor, one appointed by the President Pro Tempore of the Senate, and one appointed by the Speaker of the House of Representatives.
- (5) The Dean of the College of Agriculture and Life Sciences at North Carolina State University or the Dean's designee.
- (6) The Dean of the School of Agriculture and Environmental Sciences at North Carolina Agricultural and Technical State University or the Dean's designee.
- (7) The chair of the Rural Infrastructure Authority within the Department of Commerce or the chair's designee.
- (8) The Executive Director of the Conservation Trust for North Carolina or the Executive Director's designee.
- (9) The Executive Director of the North Carolina Farm Transition Network or the Executive Director's designee.
- (10) The President of the North Carolina Association of Soil and Water Conservation Districts or the President's designee.
- (11) The Executive Director of the Rural Advancement Foundation International - USA or the Executive Director's designee.
- (12) The Executive Director of the North Carolina Agribusiness Council or the Executive Director's designee.
- (13) The President of the North Carolina State Grange or the President's designee.
- (14) The President of the North Carolina Farm Bureau Federation, Inc., or the President's designee.
- (15) The President of the North Carolina Black Farmers and Agriculturalists Association or the President's designee.
- (16) The President of the North Carolina Forestry Association or the President's designee.
- (17) The Executive Director of the North Carolina Association of County Commissioners or the Executive Director's designee.

(h) The Advisory Committee shall meet at least quarterly. The Department of Agriculture and Consumer Services shall provide the Advisory Committee with administrative and secretarial staff. Members of the Advisory Committee shall be entitled to per diem pursuant to G.S. 138-5 or G.S. 138-6, as appropriate. The Advisory Committee shall make recommendations to the Commissioner on the distribution of monies from the Trust Fund at least annually. The Commissioner shall take the recommendations of the Advisory Committee into consideration in making decisions on the distribution of monies from the Trust Fund.

(i) The Advisory Committee shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources regarding the activities of the Advisory Committee, the agriculture easements purchased, and agricultural projects funded during the previous year.

*History: 1991, c. 734, s. 1; 2000-171, ss. 1, 2; 2005-390, ss. 4, 17; 2006-252, s. 2.12; 2007-495, s. 23; 2009-303, ss. 1, 2, 3; 2009-484, s. 12; 2013-360, s. 15.26(a); 2015-241, s. 14.30(v); 2015-263, s. 13(b).*

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