

SENATE BILL 752

By Gresham

AN ACT to amend Tennessee Code Annotated, Title 67,
relative to taxes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-8-412(c), is amended by deleting the subsection in its entirety and by substituting instead the following:

(c)

(1) Notwithstanding subsection (a), in any case of an estate where an executor could elect the special valuation for farm or other property under § 2032A of the Internal Revenue Code, without regard to § 2032A(b)(1)(C)(ii) and § 2032A(c)(6)(B) of the Internal Revenue Code, relative to material participation in the operation of the farm or other business by the decedent or members of the decedent's family, the special valuation shall also be available to the executor for Tennessee inheritance tax valuation purposes; except, that the value of qualified farmland resulting from electing to use the special valuation shall be excluded from the gross estate for Tennessee inheritance tax valuation purposes. For such purposes, the executor and any other person shall be subject to all conditions, definitions, requirements and limitations set out in § 2032A, with the exception of § 2032A(b)(1)(C)(ii) and § 2032A(c)(6)(B), which shall not be applicable. In addition, a lien shall arise in favor of the state comparable to that arising in favor of the United States under § 6324B of the Internal Revenue Code, and the lien shall be subject to the filing and priority provisions of § 67-1-1403. For purposes of this subdivision (c)(1), "qualified farmland" means any real property which is located in this state, is used as a farm for farming purposes, was acquired from

or passed from the decedent to a qualified heir of the decedent and which, on the date of the decedent's death, was being so used by the decedent or a member of the decedent's family, and is property designated in the agreement filed under § 2032A of the Internal Revenue Code.

(2) The commissioner shall prescribe procedures to provide that, in any case in which the executor makes a timely election under subdivision (c)(1) and substantially complies with the federal regulations pertaining to the election but the notice of election as filed does not contain all required information, or the signatures of one (1) or more necessary persons are not included on the agreement provided for in this subdivision, or the agreement does not contain all required information, the executor shall have reasonable time, not exceeding ninety (90) days, after notification of the failure or other deficiency, in which to provide the information or signatures.

SECTION 2. Tennessee Code Annotated, Section 67-8-412, is further amended by adding the following as new subsections, to be designated as subsections (d) and (e):

(d) Any disposition or severance of standing timber on a qualified woodland that is made pursuant to a forest stewardship plan developed under the Cooperative Forestry Assistance Act of 1978, 16 U.S.C. § 2103a, or an equivalent plan approved by the state forester, § 2032A(c)(2)(E) of the Internal Revenue Code shall not apply for Tennessee inheritance tax valuation purposes. This subsection (d) shall not apply if, during the ten-year period under § 2032A(c)(1) of the Internal Revenue Code, the qualified heir fails to comply with the applicable forest stewardship plan or equivalent plan.

(e)

(1) For Tennessee inheritance tax valuation purposes, the sale of a qualified conservation easement to a qualified organization shall not be deemed a disposition under § 2032A(c)(1)(A) of the Internal Revenue Code.

(2) Notwithstanding subsection (a), in any case of an estate where an executor could elect the exclusion under § 2031(c) of the Internal Revenue Code, relative to the value of land subject to a qualified conservation easement, the exclusion shall also be available to the executor for Tennessee inheritance tax valuation purposes; provided, however, that for such purposes, the exclusion limitation under § 2031(c)(3) of the Internal Revenue Code shall be five million dollars (\$5,000,000), and the applicable percentage under § 2031(c)(2) means fifty percent (50%) reduced, but not below zero, by two and one half (2 ½) percentage points for each percentage point, or fraction thereof, by which the value of the qualified conservation easement is less than thirty percent (30%) of the value of the land, determined without regard to the value of the easement and reduced by the value of any retained development right as defined in § 2031(c)(5) of the Internal Revenue Code. The values taken into account under the preceding sentence shall be such values as of the date of the contribution referred to in § 2031(c)(8)(B).

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.