

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 349

Short Title: Easements to Fill/Consideration.

(Public)

Sponsors: Senator Sherron.

Referred to: State Personnel and State Government.

March 28, 1991

A BILL TO BE ENTITLED

**AN ACT TO PERMIT THE SALE OF EASEMENTS TO FILL FOR LESS THAN
FAIR MARKET VALUE.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 146-6(c) reads as rewritten:

"(c) If any owner of land adjoining any navigable water desires to fill in the area immediately in front of his land, he may apply to the Department of Administration for an easement to make such fill. The applicant shall deliver to each owner of riparian property adjoining that of the applicant, a copy of the application filed with the Department of Administration, and each such person shall have 30 days from the date of such service to file with the Department of Administration written objections to the granting of the proposed easement. If the Department of Administration finds that the purpose of the proposed fill is to reclaim lands theretofore lost to the owner by natural causes, no easement to fill shall be required. In such a case the Department shall give the applicant written permission to proceed with the project. If the purpose of the proposed fill is not to reclaim lands lost by natural causes and the Department finds that the proposed fill will not impede navigation or otherwise interfere with the use of the navigable water by the public or injure any adjoining riparian owner, it shall issue to such applicant an easement to fill and shall fix the consideration to be paid for the easement, subject to the approval of the Governor and Council of State in each instance. The granting by the State of the written permission or easement so to fill shall be deemed conclusive evidence and proof that the applicant has complied with all requisite conditions precedent to the issuance of such written permission or easement, and his right shall not thereafter be subject to challenge by reason of any alleged omission on

1 his part. None of the provisions of this section shall relieve any riparian owner of the
2 requirements imposed by the applicable laws and regulations of the United States.
3 Upon completion of such filling, the Governor and Council of State may, upon request,
4 direct the execution of a quitclaim deed therefor to the owner to whom the easement
5 was granted, conveying the land so raised, upon such terms as are deemed proper by the
6 Department and approved by the Governor and Council of State.

7 Transactions undertaken pursuant to this subsection shall not be subject to the
8 provisions of G.S. 146-29.1."

9 Sec. 2. This act is effective upon ratification.