

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH60456-SY-19 (4/13)

Short Title: Protect Private Drinking Water Wells. (Public)

Sponsors: Representative B. Allen.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT PUBLIC HEALTH AND WATER QUALITY FOR
3 RESIDENTS OF THE STATE THAT RECEIVE DRINKING WATER FROM
4 PRIVATE WELLS BY REQUIRING TESTING OF CERTAIN WATER
5 QUALITY PARAMETERS PRIOR TO THE TRANSFER, LEASE, OR RENTAL
6 OF PROPERTY SERVED BY A PRIVATE WELL; TO REQUIRE
7 NOTIFICATION OF GROUNDWATER CONTAMINATION TO WELL
8 OWNERS AND WELL USERS THAT LIVE OR WORK NEAR A
9 CONTAMINATED WELL; TO ESTABLISH AN EMERGENCY DRINKING
10 WATER FUND; AND TO APPROPRIATE FUNDS.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** Chapter 130A of the General Statutes is amended by adding a
13 new Article to read:

14 "Article 10A.

15 "Private Drinking Water Wells.

16 **"§ 130A-330.1. Purpose.**

17 The purpose of this Article is to ensure the safety and quality of potable water
18 delivered from private drinking water wells in the State.

19 **"§ 130A-330.2. Definitions.**

20 The following definitions shall apply throughout this Article:

21 (1) 'Certified laboratory' means a facility that has received interim or final
22 certification by either the United States Environmental Protection
23 Agency or the Department for performing bacteriological, chemical or
24 other analyses on water.

25 (2) 'Contaminant' means any physical, chemical, biological, or
26 radiological substance or matter in water.

- 1 (3) 'Department' means the Department of Environment and Natural
2 Resources.
- 3 (4) 'Drinking water standards' means drinking water rules adopted by the
4 Commission pursuant to Article 10 of this Chapter that establish
5 maximum contaminant levels for drinking water.
- 6 (5) 'Fund' means the Emergency Drinking Water Fund established by G.S.
7 130A-330.8.
- 8 (6) 'Owner' means each person having a recorded present or future interest
9 in real estate that is identified in a real estate contract but shall not
10 mean or include the trustee in a deed of trust, or the owner or holder of
11 a mortgage, deed of trust, mechanic's or materialman's lien, or other
12 lien or security interest in the real property, or the owner of any
13 easement or license encumbering the real property.
- 14 (7) 'Private well' means a drinking water well that has less than 15 service
15 connections or that does not regularly serve 25 or more individuals.
- 16 (8) 'Purchaser' means each person or entity named as 'buyer' or 'purchaser'
17 in a real estate contract.
- 18 (9) 'Real estate contract' means a contract for the transfer of ownership of
19 real property.
- 20 (10) 'Real property' means a lot, tract, or parcel of land, and any business or
21 dwelling unit located thereon that is described in a real estate contract.
- 22 (11) 'Transfer' means the transfer, sale, exchange, installment land sales
23 contract, option, or lease with option to purchase of real estate
24 property.
- 25 (12) 'Water test' means a test of drinking water conducted in accordance
26 with G.S. 130A-330.5 and rules adopted by the Commission pursuant
27 to this Article.
- 28 (13) 'Well user' means a person or group of persons residing in the same
29 dwelling unit or working at the same business at which drinking water
30 is supplied from a private well.

31 **"§ 130A-330.3. Scope of the Article.**

32 The provisions of this Article shall apply to all transfers of real property in the State
33 unless the transfer occurs under one of the following conditions:

- 34 (1) Transfers pursuant to court order, including transfers ordered by a
35 court in administration of an estate, transfers pursuant to a writ of
36 execution, transfers by foreclosure sale, transfers by a trustee in
37 bankruptcy, transfers by eminent domain, and transfers resulting from
38 a decree for specific performance.
- 39 (2) Transfers to a beneficiary from the grantor or his successor in interest
40 in a deed of trust, or to a mortgagee from the mortgagor or his
41 successor in interest in a mortgage, if the indebtedness is in default;
42 transfers by a trustee under a deed of trust or a mortgagee under a
43 mortgage, if the indebtedness is in default; transfers by a trustee under
44 a deed of trust or a mortgagee under a mortgage pursuant to a

1 foreclosure sale, or transfers by a beneficiary under a deed of trust who
2 has acquired the real property at a sale conducted pursuant to a
3 foreclosure sale under a deed of trust.

4 (3) Transfers by a fiduciary in the course of the administration of a
5 decedent's estate, guardianship, conservatorship, or trust.

6 (4) Transfers from one or more co-owners solely to one or more other
7 co-owners.

8 (5) Transfers made solely to a spouse or a person or persons in the lineal
9 line of consanguinity of one or more transferors.

10 (6) Transfers between spouses resulting from a decree of divorce or a
11 distribution pursuant to Chapter 50 of the General Statutes or
12 comparable provision of another state.

13 (7) Transfers made by virtue of the record owner's failure to pay any
14 federal, State, or local taxes.

15 (8) Transfers to or from the State or any political subdivision of the State.

16 **"§ 130A-330.4. Water test required before transfer of real property; rental or**
17 **leased properties.**

18 (a) No person shall transfer real property to which water is supplied from a
19 private well for human consumption unless a water test has been conducted on the well
20 in accordance with this Article within the previous six months.

21 (b) A closing on the transfer of real property to which water is supplied from a
22 private well for human consumption shall not occur unless both the owner and the
23 purchaser have received and reviewed a copy of the results of the most recent water test.
24 At closing, the owner and purchaser both shall certify in writing that they have received
25 and reviewed the results of the most recent water test.

26 (c) A lessor of any rental or leased property to which water is supplied from a
27 private well for human consumption shall conduct a water test pursuant to this Article at
28 least once every three years. The lessor shall provide a copy of the results of the most
29 recent water test to the tenants of each rental or leased property no later than 30 days
30 after receipt of the test results. The lessor shall also provide a copy of the results of the
31 most recent water test to a new lessee prior to the signing of a rental or lease agreement.

32 **"§ 130A-330.5. Water test procedures.**

33 (a) The Commission shall establish criteria and procedures for a test of water
34 provided from a private well to determine whether a well provides water that complies
35 with drinking water standards. The criteria and procedures shall include an analysis for
36 at least the following contaminants:

37 (1) Bacteria (total coliform).

38 (2) Nitrates.

39 (3) Heavy metals.

40 (4) Volatile organic compounds.

41 (b) The Commission may require testing for additional contaminants in areas of
42 the State where additional contaminants may pose a threat to public health.

43 (c) A water test conducted pursuant to this Article shall be completed by a
44 certified laboratory.

1 (d) The Commission shall develop a standard report form that certified
2 laboratories shall use to report the results of a water test conducted pursuant to this
3 Article.

4 **"§ 130A-330.6. Submission of testing results to Department; public notification.**

5 (a) A certified laboratory shall submit results of the water test to the owner no
6 later than 15 days after completion of the analysis.

7 (b) A certified laboratory shall electronically submit the results of a water test
8 conducted pursuant to this Article to the Department no later than 15 days after
9 completion of the analysis. If the test results indicate the presence of a contaminant in
10 excess of drinking water standards, the Department shall provide notice of the
11 exceedance to all of the following:

12 (1) The local health department that serves the county in which the well is
13 located.

14 (2) Owners of real property served by any other private well that is located
15 within a 1,500-foot radius of the well.

16 (3) Well users who occupy a dwelling or work at a business within a
17 1,500-foot radius of the well.

18 (c) The Commission shall establish criteria and procedures for notification
19 required by this section. The notification shall be issued in both English and Spanish
20 and shall include all of the following information:

21 (1) The location of the contaminated well.

22 (2) The name, drinking water standard, and level of exceedance of each
23 detected contaminant present that exceeds the drinking water
24 standards.

25 (3) The potential health effects of each contaminant that exceeds the
26 drinking water standards.

27 (4) Contact information for the local health department and the closest
28 office of the Department.

29 (5) Any other information required by the rules of the Commission.

30 **"§ 130A-330.7. Groundwater contamination database.**

31 The Department shall maintain a database of the results of water tests submitted by
32 laboratories pursuant to this Article. The database shall include geographic information
33 sufficient to map the groundwater resources of the State and to map areas in which
34 groundwater contamination exceeds drinking water standards.

35 **"§ 130A-330.8. Emergency Drinking Water Fund.**

36 There is established under the control and direction of the Department the
37 Emergency Drinking Water Fund. The Fund shall be a nonreverting, interest-bearing
38 fund consisting of monies appropriated to the Fund by the General Assembly and
39 investment interest credited to the Fund. The Fund may be used to pay for the provision
40 of alternative drinking water supplies for parties affected by groundwater contamination
41 on a temporary or permanent basis. The Department shall disburse monies from the
42 Fund based on financial need and on the risk to public health posed by groundwater
43 contamination.

44 **"§ 130A-330.9. Annual report.**

1 The Department, in consultation with the Commission and county health
2 departments, shall report no later than 1 November of each year to the Environmental
3 Review Commission, the House and Senate Appropriations Subcommittees on Natural
4 and Economic Resources, and the Fiscal Research Division on the implementation of
5 this Article. The report shall include the purpose and amount of all expenditures from
6 the Fund during the prior fiscal year, a discussion of the benefits and deficiencies
7 realized as a result of the Article, and may also include recommendations for any
8 legislative action."

9 **SECTION 2.** There is appropriated from the General Fund to the Emergency
10 Drinking Water Fund established by G.S. 130A-330.8, as enacted by Section 1 of this
11 act, the sum of one million dollars (\$1,000,000) for the 2005-2006 fiscal year and the
12 sum of one million dollars (\$1,000,000) for the 2006-2007 fiscal year.

13 **SECTION 3.** There is appropriated from the General Fund to the
14 Department of Environment and Natural Resources the sum of two hundred eighty-six
15 thousand dollars (\$286,000) for the 2005-2006 fiscal year and the sum of two hundred
16 eighty-six thousand dollars (\$286,000) for the 2006-2007 fiscal year to implement the
17 provisions of this act.

18 **SECTION 4.** It is the intent of the General Assembly that the funds
19 appropriated by this act shall be recurring funds.

20 **SECTION 5.** Nothing in this act shall be construed to limit or preempt the
21 authority of a local health department or local board of health to make or cause to be
22 made an inspection or test of a private well as may be necessary to ensure the health and
23 safety of residents of the State.

24 **SECTION 6.** The first report required pursuant to G.S. 130A-330.9, as
25 enacted by Section 1 of this act, is due on or before 1 November 2006.

26 **SECTION 7.** Section 1 of this act becomes effective 1 January 2006.
27 Sections 2 through 4 of this act become effective 1 July, 2005. Sections 5 through 7 of
28 this act are effective when it becomes law.