

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 2012

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

Sponsors: Representatives B. Allen; Adams, Coleman, Faison, Harrison, Jones, Luebke, Pierce, Ross, Sutton, Wainwright, Weiss, and Womble.

Referred to: Environment and Natural Resources, if favorable, Appropriations.

May 16, 2006

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 A GROUNDWATER
10 CONTAMINATION DATABASE; TO ESTABLISH AN EMERGENCY
11 DRINKING WATER FUND; AND TO APPROPRIATE FUNDS.

12 The General Assembly of North Carolina enacts:

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

"Article 10A.

"Private Drinking Water Wells.

17 **"§ 130A-330.1. Purpose.**

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

20 **"§ 130A-330.2. Definitions.**

21 The following definitions shall apply throughout this Article:

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

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

- 1 (3) 'Department' means the Department of Environment and Natural
2 Resources.
- 3 (4) 'Fund' means the Emergency Drinking Water Fund established by
4 G.S. 130A-330.7.
- 5 (5) 'Groundwater standards' means water quality standards for
6 groundwater adopted by the Environmental Management Commission
7 pursuant to G.S. 143-214.1.
- 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 groundwater standards. The criteria and procedures shall include an analysis for at
36 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 (e) A certified laboratory shall submit results of the water test to the owner no
5 later than 15 days after completion of any analysis required by transfer, sale, or lease of
6 property or as required to obtain a well permit under a local well program. A certified
7 laboratory shall electronically submit the results of a water test conducted pursuant to
8 this Article to the Department and to the State Health Director no later than 15 days
9 after completion of the analysis.

10 **"§ 130A-330.6. Emergency Drinking Water Fund.**

11 There is established under the control and direction of the Department the
12 Emergency Drinking Water Fund. The Fund shall be a nonreverting, interest-bearing
13 fund consisting of monies appropriated to the Fund by the General Assembly and
14 investment interest credited to the Fund. The Fund may be used to pay for the provision
15 of alternative drinking water supplies for parties affected by groundwater contamination
16 on a temporary or permanent basis. The Department shall disburse monies from the
17 Fund based on financial need and on the risk to public health posed by groundwater
18 contamination.

19 **"§ 130A-330.7. Annual report.**

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

28 **SECTION 2.** Article 21 of Chapter 143 of the General Statutes is amended
29 by adding a new part to read:

30 "Part 11. Groundwater Quality Database.

31 **"§ 143-215.74J. Database established.**

32 The Department shall establish a Groundwater Quality Database as a resource center
33 and repository for the results of groundwater quality monitoring conducted and
34 submitted pursuant to programs administered by the Department under Articles 9, 10,
35 and 10A of Chapter 130A and Articles 21 and 21A of Chapter 143 of the General
36 Statutes. The Department shall:

- 37 (1) Collect, maintain, and make available the information contained in the
38 Database in a manner that is accessible to State agencies, local
39 governments, and the general public.
40 (2) Assess the quality and reliability of the data and organize the Database
41 in a usable format. The Database shall include geographic information
42 sufficient to map the groundwater resources of the State and to map
43 areas in which groundwater contamination exceeds groundwater
44 standards.

- 1 (3) Prescribe the format for submission of information and ensure quality
2 control for all data collected or submitted.

3 **"§ 143-215.74K. Public notification.**

4 (a) The definitions in G.S. 130A-330.2 apply to this section. For water tests of
5 private wells submitted to the Department pursuant to Article 10A of Chapter 130A, the
6 Department shall add this information to the Groundwater Quality Database. If the
7 water test results indicate an exceedance of groundwater standards, the Department
8 shall, within 15 business days of receipt of the water test results, provide notice of the
9 exceedance to all of the following:

- 10 (1) The local health department that serves the county in which the well is
11 located.
12 (2) Owners of real property served by any other private well that is located
13 within a 1,500-foot radius of the well.
14 (3) Well users who occupy a dwelling or work at a business within a
15 1,500-foot radius of the well.

16 (b) The Department shall provide notice for all groundwater quality samples
17 submitted for inclusion in the Groundwater Quality Database that exceed groundwater
18 standards to all of the following:

- 19 (1) The local health department that serves the county in which the
20 sampling location is located.
21 (2) Owners of real property served by a private well that is located within
22 a 1,500-foot radius of the sampling location.
23 (3) Well users who occupy a dwelling or work at a business within a
24 1,500-foot radius of the sampling location.

25 (c) The Commission, in consultation with the State Health Director, shall
26 establish criteria and procedures for notification required by this section. The
27 notification shall be issued in both English and Spanish and shall include all of the
28 following information:

- 29 (1) The location of the well from which the sample was collected.
30 (2) The name, groundwater standard, and level of exceedance of each
31 detected contaminant present that exceeds groundwater standards.
32 (3) The potential health effects of each contaminant that exceeds the
33 groundwater standards.
34 (4) Contact information for the local health department and the closest
35 office of the Department.
36 (5) Any other information required by the rules of the Commission.

37 **"§ 143-215.74L. Annual report.**

38 The Department shall report no later than 1 November of each year to the
39 Environmental Review Commission on the status of groundwater quality in the State.
40 The report shall include information on the status of the groundwater quality Database,
41 public notification efforts, groundwater monitoring efforts conducted by the
42 Department, and trends in groundwater quality, movement, and quantity. The report
43 may also include issues related to groundwater quality, deficiencies in groundwater
44 quality information, and recommendations, if any, to improve the Department's

1 understanding of the quality, movement, and quantity of groundwater resources in the
2 State."

3 **SECTION 3.** The Department of Environment and Natural Resources shall
4 evaluate current programs to identify existing groundwater quality information that may
5 be incorporated into the Groundwater Quality Database established in Section 2 of this
6 act. The Department shall complete this review on or before 1 January 2007. The
7 Department shall evaluate the effectiveness of current public notification requirements
8 for known exceedances of groundwater standards in providing accurate and timely
9 information to users of private drinking water wells. The Department shall report to the
10 Environmental Review Commission on or before 1 March 2007 on the implementation
11 of this section.

12 **SECTION 4.** There is appropriated from the General Fund to the Emergency
13 Drinking Water Fund established by G.S. 130A-330.6, as enacted by Section 1 of this
14 act, the sum of one million dollars (\$1,000,000) for the 2006-2007 fiscal year.

15 **SECTION 5.** There is appropriated from the General Fund to the
16 Department of Environment and Natural Resources the sum of two hundred eighty-six
17 thousand dollars (\$286,000) for the 2006-2007 fiscal year to implement the provisions
18 of this act.

19 **SECTION 6.** It is the intent of the General Assembly that the funds
20 appropriated by this act shall be recurring funds.

21 **SECTION 7.** Nothing in this act shall be construed to limit or preempt the
22 authority of a local health department or local board of health to make or cause to be
23 made an inspection or test of a private well as may be necessary to ensure the health and
24 safety of residents of the State.

25 **SECTION 8.** The first report required pursuant to G.S. 130A-330.7, as
26 enacted by Section 1 of this act, is due on or before 1 November 2007. The first report
27 required pursuant to G.S. 143-215.74L, as enacted by Section 2 of this act, is due on or
28 before 1 November 2007.

29 **SECTION 9.** Sections 1 and 2 of this act become effective 1 January 2007.
30 Sections 3, 6, 7, 8, and 9 are effective when the act becomes law. Sections 4 and 5 of
31 this act become effective 1 July 2006.