GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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HOUSE BILL 1770
Committee Substitute Favorable 5/9/07

Short Title: Fees/Future Conveyance/Conserv. Agreements. (Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE AUTHORITY OF THE PARTIES TO CONSERVATION AND PRESERVATION AGREEMENTS TO INCLUDE PROVISIONS IN THE AGREEMENTS FOR THE PAYMENT OF FEES UPON FUTURE CONVEYANCE OF PROPERTY SUBJECT TO THE AGREEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 121-38 reads as rewritten:

"**§ 121-38. Validity of agreements.**

(a) No conservation or preservation agreement shall be unenforceable because of

(1) Lack of privity of estate or contract, or

(2) Lack of benefit to particular land or person, or

(3) The assignability of the benefit to another holder as defined in this Article.

(b) ~~Such~~ These agreements are interests in land and may be acquired by any holder in the same manner as it may acquire other interests in land.

(c) ~~Such~~ These agreements may be effective perpetually or for shorter stipulated periods of time.

(d) ~~Such~~ These agreements may impose present, future, or continuing obligations on either party to the agreement, or their successors, in furtherance of the purposes of the agreement.

(e) These agreements may contain provisions which require the payment of a fee upon a future conveyance of the property which is subject to the agreement. The fee shall be paid by the grantor in the future conveyance to the holder as defined in this Article. The fee may be in an amount set forth in the agreement, or it may be a percentage of the consideration or value of the interest conveyed. If the conveyance includes in one deed property that is subject to an agreement and property that is not subject to an agreement, the grantor shall specify the amount of consideration or value received for the portion of the property that is subject to the agreement. The fee shall be paid at the time of the conveyance and shall be the obligation of the grantor. The fee

shall be payable for all future conveyances subject to limitations set forth herein or limitations specified in the agreement."

SECTION 2. This act is effective when it becomes law.