

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 646*
Agriculture/Environment and Natural Resources Committee Substitute Adopted
7/23/07
Finance Committee Substitute Adopted 7/26/07

Short Title: Enact WASC Recommendations.

(Public)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR WORKING WATERFRONT PROPERTY, TO ESTABLISH THE ADVISORY COMMITTEE FOR THE COORDINATION OF WATERFRONT ACCESS, TO MAKE EXPANDED PUBLIC ACCESS TO COASTAL WATERS A PRIORITY IN PLANNING STATE ROAD PROJECTS, TO INCREASE FEES FOR VESSEL TITLING; TO WAIVE PERMIT FEES FOR EMERGENCY COASTAL AREA MANAGEMENT ACT PERMITS, AND TO DIRECT A STUDY OF CONSTRUCTION AND REPAIR IN REGULATED FLOOD ZONES, AS RECOMMENDED BY THE WATERFRONT ACCESS STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. PROPERTY TAX RELIEF FOR WORKING WATERFRONT PROPERTY.

SECTION 1. Article 12 of Subchapter II of Chapter 105 of the General Statutes is amended by adding the following new section to read:

"§ 105-277.14. Taxation of working waterfront property.

(a) Definitions. – The following definitions apply in this section:

(1) Coastal fishing waters. – Defined in G.S. 113-129.

(2) Commercial fishing operation. – Defined in G.S. 113-168.

(3) Fish processing. – Processing fish, as defined in G.S. 113-129, for sale.

(4) Working waterfront property. – Any of the following:

a. A pier that extends into coastal fishing waters and limits access to those who pay a fee.

1 b. Real property that is adjacent to coastal fishing waters and is
2 primarily used for a commercial fishing operation or fish
3 processing.

4 (b) Classification. – Working waterfront property is designated a special class of
5 property under Section 2(2) of Article V of the North Carolina Constitution and must be
6 appraised, assessed, and taxed in accordance with this section. Working waterfront
7 property must be taxed on the basis of the value of the property in its present use rather
8 than on its true value.

9 (c) Deferred Taxes. – The difference between the taxes that are due on working
10 waterfront property taxed on the basis of its present use and that would be due if the
11 property were taxed on the basis of its true value is a lien on the property. The
12 difference in taxes must be carried forward in the records of each taxing unit as deferred
13 taxes. The deferred taxes become due when the property no longer qualifies as working
14 waterfront property. The tax for the fiscal year that opens in the calendar year in which
15 deferred taxes become due is computed as if the property had not been classified for that
16 year, and taxes for the preceding three fiscal years that have been deferred are
17 immediately payable, together with interest, as provided in G.S. 105-360 for unpaid
18 taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates
19 on which they originally became due. If only a part of the property no longer qualifies
20 as working waterfront property, the assessor must determine the amount of deferred
21 taxes applicable to that part and that amount becomes payable with interest. Upon the
22 payment of any taxes deferred under this section for the three years immediately
23 preceding a disqualification, all liens arising under this subsection are extinguished.

24 (d) Application. – To obtain the benefit of this section, the owner of working
25 waterfront property must submit an application for classification and exclusion to the
26 assessor of the county in which the property is located, and the assessor must approve
27 the application. An application must contain the information and be in the form required
28 by the assessor. An initial application must be filed during the regular listing period of
29 the year for which the benefit of this classification is first claimed or within 30 days of
30 the date shown on a notice of change in valuation made pursuant to G.S. 105-286 or
31 G.S. 105-287. A new application is not required to be submitted unless the property is
32 transferred or becomes ineligible for classification under this section."

33 34 **PART II. ADVISORY COMMITTEE FOR THE COORDINATION OF** 35 **WATERFRONT ACCESS.**

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37 **SECTION 2.1.** There is established the Advisory Committee for the
38 Coordination of Waterfront Access within the Department of Environment and Natural
39 Resources. The Advisory Committee shall be composed of the following members:

- 40 (1) The Secretary of Environment and Natural Resources or the
41 Secretary's designee, Chair.
- 42 (2) The Director of the Division of Coastal Management of the
43 Department of Environment and Natural Resources or the Director's
44 designee.

- 1 (3) The Director of the Division of Parks and Recreation of the
2 Department of Environment and Natural Resources or the Director's
3 designee.
4 (4) The Director of the Division of Marine Fisheries of the Department of
5 Environment and Natural Resources or the Director's designee.
6 (5) The Director of the Division of Aquariums of the Department of
7 Environment and Natural Resources or the Director's designee.
8 (6) The Executive Director of the Wildlife Resources Commission or the
9 Executive Director's designee.
10 (7) A representative of the State Property Office appointed by the
11 Secretary of Administration.
12 (8) The Executive Director of North Carolina Sea Grant.
13 (9) One local government representative appointed by the North Carolina
14 League of Municipalities.
15 (10) One local government representative appointed by the North Carolina
16 Association of County Commissioners.

17 **SECTION 2.2.** The Advisory Committee for the Coordination of Waterfront

18 Access shall:

- 19 (1) Develop a coordinated plan for providing greater waterfront access in
20 the State. This plan shall specifically address geographic diversity of
21 waterfront access, diversity of types of waterfront access, and funding
22 for waterfront access. The entities represented on the Advisory
23 Committee shall adhere to the plan to the maximum extent practicable.
24 (2) Develop recommendations for increasing and improving waterfront
25 access in the State.

26 **SECTION 2.3.** The Advisory Committee shall report its progress in
27 implementing this Part, including any recommendations developed pursuant to this Part,
28 to the Joint Legislative Commission on Seafood and Aquaculture no later than October
29 1 of each year. The first report required by this section shall be submitted no later than
30 October 1, 2008.

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32 **PART III. DIRECT THE DEPARTMENT OF TRANSPORTATION TO**
33 **EXPAND PUBLIC ACCESS TO COASTAL WATERS.**

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35 **SECTION 3.1.** G.S. 136-18 is amended by adding a new subdivision to

36 read:

37 "(40) To expand public access to coastal waters in its road project planning
38 and construction programs. The Department shall work with the
39 Wildlife Resources Commission, other State agencies, and other
40 entities to ensure that public access to coastal waters is expanded along
41 the roadways, bridges, and other transportation infrastructure owned or
42 maintained by the Department. The Department shall report on its
43 progress in expanding public access to coastal waters to the Joint

1 Legislative Commission on Seafood and Aquaculture no later than
2 March 1 of each year."

3 **SECTION 3.2.** The first report required by G.S. 136-18, as enacted by this
4 section, is due no later than March 1, 2008.

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6 **PART IV. INCREASE BOATING FUNDING.**

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8 **SECTION 4.1.** G.S. 75A-3(c) reads as rewritten:

9 "(c) The Boating Account is established within the Wildlife Resources Fund
10 created under G.S. 143-250. Interest and other investment income earned by the
11 Account accrues to the Account. All moneys collected pursuant to the numbering and
12 titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax
13 revenue is credited to the Account under G.S. 105-449.126. The Commission shall use
14 revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for
15 the administration and enforcement of this Chapter; for activities relating to boating and
16 water safety including education and waterway marking and improvement; and for
17 boating access area acquisition, development, and maintenance. The Commission shall
18 use at least three dollars (\$3.00) of each one-year certificate of number fee and at least
19 nine dollars (\$9.00) of each three-year certificate of number fee collected under the
20 numbering provisions of G.S. 75A-5 for boating access area acquisition, development,
21 and maintenance."

22 **SECTION 4.2.** G.S. 75A-5(a) reads as rewritten:

23 "(a) Application for Certificate of Number and Fees. – The owner of each vessel
24 requiring numbering by this State shall file an application for a certificate of number
25 with the Commission. The Commission shall furnish application forms and shall
26 prescribe the information contained in the application form. The application shall be
27 signed by the owner of the vessel or the owner's agent and shall be accompanied by a
28 ~~fee of ten dollars (\$10.00) fee.~~ The fee is fifteen dollars (\$15.00) for a one-year period
29 ~~or by a fee of twenty five dollars (\$25.00) forty dollars (\$40.00) for a three-year period;~~
30 ~~provided, however, there shall be no fee charged for period.~~ The fee does not apply to
31 vessels owned and operated by nonprofit rescue squads if they are operated exclusively
32 for rescue purposes, including rescue training. The owner shall have the option of
33 selecting a one-year numbering period or a three-year numbering period. Upon receipt
34 of the application in approved form, the Commission shall enter the application in its
35 records and issue the owner a certificate of number stating the identification number
36 awarded to the vessel and the name and address of the owner, and a validation decal
37 indicating the expiration date of the certificate of number. The owner shall paint on or
38 attach to each side of the bow of the vessel the identification number in such manner as
39 may be prescribed by rules of the Commission in order that it may be clearly visible.
40 The identification number shall be maintained in legible condition. The validation decal
41 shall be displayed on the starboard bow of the vessel immediately following the
42 number. The certificate of number shall be pocket size and shall be available for
43 inspection on the vessel for which the certificate is issued at all times the vessel is in
44 operation. Any person charged with failing to so carry a certificate of number shall not

1 be convicted if the person produces in court a certificate of number previously issued to
2 the owner that was valid at the time of the alleged violation."

3 **SECTION 4.3.** G.S. 75A-5(c) reads as rewritten:

4 "(c) Change of Ownership. – Should the ownership of a vessel change, a new
5 application form with a fee of ~~ten dollars (\$10.00) for a one year period or by a fee of~~
6 ~~twenty five dollars (\$25.00) for a three year period~~ in the amount set in subsection (a)
7 of this section shall be filed with the Commission and a new certificate bearing the same
8 identification number shall be awarded to the new owner in the same manner as an
9 original certificate of number. Possession of the certificate shall in cases involving
10 prosecution for violation of any provision of this Chapter be prima facie evidence that
11 the person whose name appears on the certificate is the owner of the vessel referred to
12 on the certificate."

13 **SECTION 4.4.** G.S. 75A-5(h) reads as rewritten:

14 "(h) Renewal of Certificates. – An owner of a vessel awarded a certificate of
15 number pursuant to this Chapter shall renew the certificate on or before the first day of
16 the month after which the certificate expires; otherwise, the certificate shall lapse and be
17 void until such time as it may thereafter be renewed. Application for renewal shall be
18 submitted on a form approved by the Commission and shall be accompanied by a fee of
19 ~~ten dollars (\$10.00) for a one year period or by a fee of twenty five dollars (\$25.00) for~~
20 ~~a three year period; provided, there shall be no fee~~ in the amount set in subsection (a) of
21 this section. No fee is required for a period of one year for renewal of certificates of
22 number that have been previously issued to commercial fishing vessels as defined in
23 G.S. 75A-5.1, upon compliance with all of the requirements of that section."

24 **PART V. WAIVER OF FEES FROM CAMA EMERGENCY PERMITS.**

25 **SECTION 5.** G.S. 113A-118(f) reads as rewritten:

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27 "(f) The Secretary may issue special emergency permits under this Article. These
28 permits may only be issued in those extraordinary situations in which life or structural
29 property is in imminent danger as a result of storms, sudden failure of man-made
30 structures, or similar occurrence. These permits may carry any conditions necessary to
31 protect the public interest, consistent with the emergency situation and the impact of the
32 proposed development. If an application for an emergency permit includes work beyond
33 that necessary to reduce imminent dangers to life or property, the emergency permit
34 shall be limited to that development reasonably necessary to reduce the imminent
35 danger; all further development shall be considered under ordinary permit procedures.
36 This emergency permit authority of the Secretary shall extend to all development in
37 areas of environmental concern, whether major or minor development, and the
38 mandatory notice provisions of G.S. 113A-119(b) shall not apply to these emergency
39 permits. To the extent feasible, these emergency permits shall be coordinated with any
40 emergency permits required under G.S. 113-229(e1). The fees associated with any
41 permit issued pursuant to this subsection or rules adopted pursuant to this subsection
42 shall be waived."
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1 **PART VI. STUDY CONSTRUCTION AND REPAIR IN REGULATED FLOOD**
2 **ZONES.**

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4 **SECTION 6.** The Division of Emergency Management of the Department of
5 Crime Control and Public Safety shall study ways to facilitate the construction and
6 repair of water dependent structures such as fish processing and packing facilities and
7 boat repair and building facilities located in regulated flood zones. The Division shall
8 report the results of its study, including any recommendations, to the Joint Legislative
9 Commission on Seafood and Aquaculture by March 1, 2008.

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11 **PART VII. EFFECTIVE DATE.**

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13 **SECTION 7.** Section 1 of this act is effective for taxes imposed for taxable
14 years beginning on or after July 1, 2008. Sections 4.1 through 4.4 of this act become
15 effective January 1, 2008. The remainder of this act is effective when it becomes law.