

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SENATE BILL 646
RATIFIED BILL**

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 property that has, for the most recent three-year period, produced an average gross income of at least one thousand dollars (\$1,000):

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

b. Real property that is adjacent to coastal fishing waters and is primarily used for a commercial fishing operation or fish processing, including adjacent land that is under improvements used for one of these purposes.

(b) Classification. – Working waterfront property is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed on the basis of the value of the property in its present use rather than on its true value. Working waterfront property includes land reasonably necessary for the convenient use of the property.

(c) Deferred Taxes. – The difference between the taxes that are due on working waterfront property taxed on the basis of its present use and that would be due if the property were taxed on the basis of its true value is a lien on the property. The difference in taxes must be carried forward in the records of each taxing unit as deferred taxes. The deferred taxes become due when the property no longer qualifies as working waterfront property. The tax for the fiscal year that opens in the calendar year in which deferred taxes become due is computed as if the property had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred are

immediately payable, together with interest, as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. If only a part of the property no longer qualifies as working waterfront property, the assessor must determine the amount of deferred taxes applicable to that part and that amount becomes payable with interest. Upon the payment of any taxes deferred under this section for the three years immediately preceding a disqualification, all liens arising under this subsection are extinguished.

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

PART II. ADVISORY COMMITTEE FOR THE COORDINATION OF WATERFRONT ACCESS.

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

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

SECTION 2.2. The Advisory Committee for the Coordination of Waterfront Access shall:

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

SECTION 2.3. The Advisory Committee shall report its progress in implementing this Part, including any recommendations developed pursuant to this Part,

to the Joint Legislative Commission on Seafood and Aquaculture no later than October 1 of each year. The first report required by this section shall be submitted no later than October 1, 2008.

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

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

"(40) To expand public access to coastal waters in its road project planning and construction programs. The Department shall work with the Wildlife Resources Commission, other State agencies, and other government entities to address public access to coastal waters along the roadways, bridges, and other transportation infrastructure owned or maintained by the Department. The Department shall adhere to all applicable design standards and guidelines in implementation of this enhanced access. The Department shall report on its progress in expanding public access to coastal waters to the Joint Legislative Commission on Seafood and Aquaculture and to the Joint Legislative Transportation Oversight Commission no later than March 1 of each year."

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

PART IV. INCREASE BOATING FUNDING.

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

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

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

"(a) Application for Certificate of Number and Fees. – The owner of each vessel requiring numbering by this State shall file an application for a certificate of number with the Commission. The Commission shall furnish application forms and shall prescribe the information contained in the application form. The application shall be signed by the owner of the vessel or the owner's agent and shall be accompanied by a ~~fee of ten dollars (\$10.00) fee.~~ The fee is fifteen dollars (\$15.00) for a one-year period or by a fee of twenty five dollars (\$25.00) forty dollars (\$40.00) for a three-year period; ~~provided, however, there shall be no fee charged for period.~~ The fee does not apply to vessels owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training. The owner shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the Commission shall enter the application in its records and issue the owner a certificate of number stating the identification number awarded to the vessel and the name and address of the owner, and a validation decal

indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules of the Commission in order that it may be clearly visible. The identification number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the vessel immediately following the number. The certificate of number shall be pocket size and shall be available for inspection on the vessel for which the certificate is issued at all times the vessel is in operation. Any person charged with failing to so carry a certificate of number shall not be convicted if the person produces in court a certificate of number previously issued to the owner that was valid at the time of the alleged violation."

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

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

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

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

PART V. WAIVER OF FEES FROM CAMA EMERGENCY PERMITS.

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

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

PART VI. STUDY CONSTRUCTION AND REPAIR IN REGULATED FLOOD ZONES.

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

PART VII. EFFECTIVE DATE.

SECTION 7. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2009. Sections 4.1 through 4.4 of this act become effective January 1, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Beverly E. Perdue
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2007