

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH50477-LD-100C (3/19)

Short Title: Protect Private Drinking Well Users' Health.

(Public)

Sponsors: Representative Harrison.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT PUBLIC HEALTH AND WATER QUALITY FOR RESIDENTS OF
3 THE STATE WHO RECEIVE DRINKING WATER FROM PRIVATE DRINKING
4 WATER WELLS OR IMPROVED SPRINGS.

5 The General Assembly of North Carolina enacts:

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

8 "Article 10A.

9 "Protection of Private Drinking Water Wells and Improved Springs.

10 **"§ 130A-330.1. Purpose.**

11 The purpose of this Article is to ensure the safety and quality of potable water from private
12 drinking water wells and improved springs in the State.

13 **"§ 130A-330.2. Definitions.**

14 As used in this Article:

- 15 (1) 'Certified laboratory' has the same meaning as in G.S. 130A-313.
16 (2) 'Contaminant' has the same meaning as in G.S. 130A-313.
17 (3) 'Department' means the Department of Environment and Natural Resources.
18 (4) 'Drinking water rules' has the same meaning as in G.S. 130A-313.
19 (5) 'Fund' means the Bernard Allen Memorial Emergency Drinking Water Fund
20 established by G.S. 87-98.
21 (6) 'Groundwater standards' means water quality standards for groundwater
22 adopted by the Environmental Management Commission pursuant to
23 G.S. 143-214.1.
24 (7) 'Improved spring' means a natural release of groundwater to the surface
25 without the assistance of a pump that has been protected by casing, grouting,
26 and sealing, as required by Article 7 of Chapter 87 of the General Statutes.
27 (8) 'Owner' means each person who has a recorded present or future interest in
28 real estate and each person who is named in a real estate contract except that
29 'owner' does not mean or include the trustee in a deed of trust, or the owner
30 or holder of a mortgage, deed of trust, mechanic's or materialman's lien, or
31 other lien or security interest in the real property, or the owner of any
32 easement or license encumbering the real property.
33 (9) 'Private drinking water well' has the same meaning as in G.S. 87-85.
34 (10) 'Purchaser' means each person or entity named as 'buyer' or 'purchaser' in a
35 real estate contract.



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- 1 (11) 'Real estate contract' means a contract for the transfer of ownership of real
2 property.
- 3 (12) 'Real property' means a lot, tract, or parcel of land, and any business
4 dwelling unit located thereon that is described in a real estate contract.
- 5 (13) 'Transfer' means the transfer, sale, exchange, installment land sales contract,
6 option, or lease with option to purchase of real estate property.
- 7 (14) 'Water test' means a test of drinking water conducted in accordance with
8 G.S. 130A-330.4 and rules adopted by the Commission pursuant to this
9 Article.
- 10 (15) 'Well user' means a person or group of persons residing in the same dwelling
11 unit or working at the same business at which drinking water is supplied
12 from a private drinking water well or improved spring.

13 **"§ 130A-330.3. Scope of the Article.**

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

- 16 (1) Transfers pursuant to court order, including transfers ordered by a court in
17 administration of an estate, transfers pursuant to a writ of execution,
18 transfers by foreclosure sale, transfers by a trustee in bankruptcy, transfers
19 by eminent domain, and transfers resulting from a decree for specific
20 performance.
- 21 (2) Transfers to a beneficiary from the grantor or his successor in interest in a
22 deed of trust, or to a mortgagee from the mortgagor or his successor in
23 interest in a mortgage, if the indebtedness is in default; transfers by a trustee
24 under a deed of trust or a mortgagee under a mortgage, if the indebtedness is
25 in default; transfers by a trustee under a deed of trust or a mortgagee under a
26 mortgage pursuant to a foreclosure sale; or transfers by a beneficiary under a
27 deed of trust who has acquired the real property at a sale conducted pursuant
28 to a foreclosure sale under a deed of trust.
- 29 (3) Transfers by a fiduciary in the course of the administration of a decedent's
30 estate, guardianship, conservatorship, or trust.
- 31 (4) Transfers from one or more co-owners solely to one or more other
32 co-owners.
- 33 (5) Transfers made solely to a spouse or a person or persons in the lineal line of
34 consanguinity of one or more transferors.
- 35 (6) Transfers between spouses resulting from a decree of divorce or a
36 distribution pursuant to Chapter 50 of the General Statutes or comparable
37 provision of another state.
- 38 (7) Transfers made by virtue of the record owner's failure to pay any federal,
39 State, or local taxes.
- 40 (8) Transfers to or from the State or any political subdivision of the State.

41 **"§ 130A-330.4. Water testing criteria and procedures.**

42 (a) The Commission shall establish criteria and procedures to test water provided from
43 private drinking water wells and improved springs to determine whether the water complies
44 with drinking water rules. The criteria and procedures shall include an analysis for at least the
45 following contaminants:

- 46 (1) Bacteria (total coliform).
- 47 (2) Nitrates.
- 48 (3) Heavy metals.
- 49 (4) Volatile organic compounds where potential sources of these contaminants
50 are present.
- 51 (5) Radon.

1 (a) The Department shall notify, to the extent practicable, all residents aged 18 and over
2 who reside within a 1,500-foot radius of the known boundaries of each groundwater
3 contamination site or incident identified in the Database or otherwise known to the Department.
4 The notification shall be issued in both English and Spanish and shall include all of the
5 following information:

- 6 (1) The location of the groundwater contamination.
- 7 (2) The name of each contaminant known to be present at the groundwater
8 contamination site or incident at levels that exceed a groundwater or
9 drinking water standard, the groundwater standard, and the level of
10 exceedance of each contaminant that exceeds a groundwater or drinking
11 water standard.
- 12 (3) The potential health effects that may result from exposure to each
13 contaminant that exceeds a groundwater or drinking water standard.
- 14 (4) Instructions explaining how the well user resident can voluntarily request a
15 water test of water provided from a private drinking water well by contacting
16 the local well program, required under G.S. 87-97 and administered by the
17 local health department that serves the county in which the well is located.
- 18 (5) Contact information for the local well program and the closest regional
19 office of the Department.

20 (b) The Department shall offer well users notified under subsection (a) of this section
21 free water tests to test water provided from a private drinking water well pursuant to
22 G.S. 130A-330.4. The Department shall provide all of the following information to each well
23 user whose well water is tested under this subsection:

- 24 (1) The location of the well from which the sample was collected.
- 25 (2) The name, groundwater standard, and level of each contaminant for which
26 the well was tested.
- 27 (3) The potential health effects of each contaminant detected in the water
28 sample.
- 29 (4) If any contamination is found to exceed groundwater standards, instructions
30 for how the resident can seek alternative drinking water supplies or
31 treatment of contaminated water from the Department on a temporary or
32 permanent basis and whether the resident is eligible to have these costs paid
33 from the Bernard Allen Memorial Emergency Drinking Water Fund
34 pursuant to G.S.87-98.
- 35 (5) Contact information for the local well program and the closest regional
36 office of the Department.
- 37 (6) Any other information required by the rules of the Commission.

38 (c) If the results of any water test known to the Department indicate an exceedance of
39 groundwater or drinking water standards, the Department shall provide notice of the
40 exceedance to all of the following within 15 business days of receipt of the water test results:

- 41 (1) The local health department that serves the county in which the well or
42 improved spring is located.
- 43 (2) Owners of real property served by any other private drinking water well or
44 improved spring that is located within a 1,500-foot radius of the well or
45 improved spring.
- 46 (3) Well users who occupy a dwelling or work at a business within a 1,500-foot
47 radius of the well or improved spring.

48 (d) The notification required under subsection (c) of this section shall be issued in both
49 English and Spanish and shall include all of the information required for notification under
50 subdivisions (1) through (6) of subsection (b) of this section.

1 (e) The Commission, in consultation with the State Health Director, shall establish
2 criteria and procedures for notification required by this section.

3 **"§ 143-215.74R. Grants to local well programs for well tests.**

4 (a) To facilitate coordination and support of notification and testing activities under
5 G.S. 143-215.74Q with the local well programs required under G.S. 87-97 and administered by
6 the local health departments, the Department shall develop a program to provide grants to cover
7 the costs of notification and water tests of water provided from private drinking water wells in
8 the vicinity of known groundwater contamination. The Department shall approve grants to any
9 eligible local well program that applies for grant funds so long as funds are available. The
10 Department shall consider for grant assistance any local well program that meets all of the
11 following criteria:

12 (1) The local well program identified one or more groundwater contamination
13 sites or incidents that it determines pose a threat to public health, based on
14 the toxicity of contaminants, the known concentration and geographic extent
15 of contamination, the contaminants' propensity to migrate, and the number of
16 drinking water wells estimated to be in the area.

17 (2) The local well program provides notice in accordance with the provisions of
18 G.S. 143-215.74Q(a).

19 (3) The local well program provides free water tests and these water tests are
20 conducted in accordance with the provisions of G.S. 143-215.74Q(b), and, in
21 addition, the certified laboratory that conducted the water test must
22 electronically submit the results of the water test to the Department no later
23 than 30 days after completion of the analysis.

24 (b) Grants under this section shall not exceed twenty thousand dollars (\$20,000) to each
25 local well program for any calendar year.

26 (c) The Department shall establish any additional criteria for eligibility to receive grants
27 under this section.

28 **"§ 143-215.74S. Annual report.**

29 The Department shall report no later than 1 October of each year to the Environmental
30 Review Commission on the status of groundwater quality in the State. The report shall include
31 information on the status of the Groundwater Quality Database, public notification efforts,
32 groundwater monitoring efforts conducted by the Department, and trends in groundwater
33 quality. The report may also include an analysis of issues related to groundwater quality,
34 identification of deficiencies in groundwater quality information, and recommendations to
35 improve the quality of groundwater resources in the State."

36 **SECTION 3.** G.S. 87-97(a) reads as rewritten:

37 "(a) Mandatory Local Well Programs. – Each county, through the local health
38 department that serves the county, shall implement a private drinking water well permitting,
39 inspection, and testing program. Local health departments shall administer the program and
40 enforce the minimum well construction, permitting, inspection, repair, and testing requirements
41 set out in this Article and rules adopted pursuant to this Article. Local well programs may
42 provide notification and free water testing of private drinking water wells under
43 G.S. 143-215.74R."

44 **SECTION 4.** The first report required pursuant to G.S. 143-215.74S, as enacted by
45 Section 2 of this act, is due on or before October 1, 2010.

46 **SECTION 5.(a)** There is appropriated from the General Fund to the Department of
47 Environment and Natural Resources the sum of two hundred fifty thousand dollars (\$250,000)
48 for the 2009-2010 fiscal year and the sum of two hundred fifty thousand dollars (\$250,000) for
49 the 2010-2011 fiscal year for the Division of Environmental Health to allocate as follows:

50 (1) The sum of one hundred sixty thousand dollars (\$160,000) for the
51 2009-2010 fiscal year and the sum of one hundred sixty thousand dollars

1 (\$160,000) for the 2010-2011 fiscal year shall be used to provide grants to
2 local health departments for their mandatory local well programs under
3 G.S. 87-97 for conducting water tests under G.S. 143-215.74Q, as enacted
4 by Section 2 of this act.

- 5 (2) The sum of ninety thousand dollars (\$90,000) for the 2009-2010 fiscal year
6 and the sum of ninety thousand dollars (\$90,000) for the 2010-2011 fiscal
7 year shall be used by the Department to implement Part 12 of Article 21 of
8 Chapter 143 of the General Statutes, as enacted by Section 2 of this act.

9 **SECTION 5.(b)** It is the intention of the General Assembly that the appropriation
10 under subsection (a) of this act be a recurring appropriation.

11 **SECTION 6.** Nothing in this act shall be construed to limit or preempt the
12 authority of a local health department or local board of health to make or cause to be made an
13 inspection or test of a private well as may be necessary to ensure the health and safety of the
14 residents of the State.

15 **SECTION 7.** Nothing in this act shall be construed to modify the liability of any
16 person who is responsible for an exceedance of groundwater or drinking water standards to the
17 State or to third parties.

18 **SECTION 8.** Sections 2, 3, and 5 of this act become effective July 1, 2009.
19 G.S. 130A-330.5, as enacted by Section 1 of this act, becomes effective January 1, 2010. The
20 remainder of Article 10A of Chapter 130A of the General Statutes, as enacted by Section 1 of
21 this act, and Sections 4, 6, 7, and 8 of this act are effective when this act becomes law.