

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 834
May 4, 2021
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10355-MH-79

Short Title: Protect Citizens of State from Sinkholes. (Public)

Sponsors: Representative Logan.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE CITIZENS OF NORTH CAROLINA FROM SINKHOLES
3 CAUSED BY ABANDONED MINES.

4 The General Assembly of North Carolina enacts:

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6 **DEQ PRE-REGULATORY ABANDONED MINE PROGRAM**

7 **SECTION 1.(a)** The sum of three hundred thousand dollars (\$300,000) in recurring
8 funds and one hundred fifty thousand dollars (\$150,000) in nonrecurring funds for the 2021-2022
9 fiscal year is appropriated to the Department of Environmental Quality to be allocated to the
10 Pre-Regulatory Abandoned Mine Program established by this section. The Department may
11 establish up to three full-time positions with the funds appropriated by this section.

12 **SECTION 1.(b)** Article 7 of Chapter 74 of the General Statutes is amended by
13 adding a new section to read:

14 **"§ 74-69. Pre-regulatory abandoned mines.**

15 (a) The following definitions apply in this section:

16 (1) Imminent hazard. – A pre-regulatory mine that (i) is causing contamination of
17 groundwater or a surface water used as a source of drinking water or (ii) is
18 causing or in case of collapse would cause the formation of a sinkhole or other
19 subsidence that would cause the destruction or otherwise render unusable
20 structures or other improvements to real estate.

21 (2) Pre-regulatory mine. – A mine or quarry in the State that was abandoned prior
22 to June 11, 1971.

23 (b) The Secretary of the Department shall establish a program for the location,
24 assessment, and notification of threats to the public from land subsidence due to pre-regulatory
25 mines from funds appropriated to the Department for this purpose. As part of this program, the
26 Secretary shall do the following:

27 (1) Locate pre-regulatory mines and assess the level of threat they pose to human
28 health and safety, to the environment, and to public or private structures or
29 other improvements to real property.

30 (2) Using a risk-based approach, determine the priority for remediation of the
31 risks of pre-regulatory mines and develop and implement remedial action
32 plans for pre-regulatory mines in the order of their priority as determined
33 under this subdivision.

34 (c) The Secretary shall not develop or implement a remedial action plan for a
35 pre-regulatory mine unless the Secretary determines that sufficient funds will be available to pay
36 the costs of development and implementation of a remedial action plan under this section.



1 (d) A unit of local government that voluntarily undertakes assessment or remediation of
2 a pre-regulatory mine may request that the Department reimburse the costs of assessment of the
3 pre-regulatory mine and implementation of measures necessary to remediate or mitigate risk at
4 the site to eliminate an imminent hazard. The Department shall provide reimbursement under this
5 subsection if the Department finds all of the following:

6 (1) The unit of local government undertakes assessment and remediation or
7 mitigation of risk under a plan approved by the Department.

8 (2) The unit of local government provides a certified accounting of costs incurred
9 for assessment and remediation.

10 (3) Each contract for assessment and remediation complies with the requirements
11 of Articles 3D and 8 of Chapter 143 of the General Statutes.

12 (4) Remedial or risk mitigation actions are limited to measures necessary to abate
13 the imminent hazard.

14 (e) A private party that voluntarily undertakes assessment or remediation of a
15 pre-regulatory mine may request that the Department reimburse the costs of assessment of the
16 pre-regulatory mine and implementation of measures necessary to remediate or mitigate risk at
17 the site to eliminate an imminent hazard. The Department shall provide reimbursement under this
18 subsection if the Department finds all of the following:

19 (1) The private party undertakes assessment and remediation or mitigation of risk
20 under a plan approved by the Department.

21 (2) The private party provides a certified accounting of costs incurred for
22 assessment and remediation.

23 (3) Remedial or risk mitigation actions are limited to measures necessary to abate
24 the imminent hazard.

25 (f) The Department may adopt rules to implement this section.

26 (g) The Department shall annually report no later than October 1 to the Joint Legislative
27 Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal
28 Research Division regarding the activities of the pre-regulatory mine program established by this
29 section, including the priority list of pre-regulatory mines and the status of remedial or risk
30 mitigation activities undertaken at each site."

31 **SECTION 1.(c)** The Department of Environmental Quality Pre-Regulatory Mine
32 Program established in G.S. 74-69, as enacted by subsection (b) of this section, shall investigate
33 the occurrence, cause, and monetary damages caused by sinkholes and other subsidence of land
34 on residential structures in the State discovered by the Program incident to its establishment of
35 the priority list of pre-regulatory mines. The Department shall make a report of its findings no
36 later than December 1, 2022, to the Joint Legislative Oversight Committee on Agriculture and
37 Natural and Economic Resources and the Fiscal Research Division.

38 39 **REAL ESTATE DISCLOSURE**

40 **SECTION 2.(a)** Article 9 of Chapter 39 of the General Statutes is amended by adding
41 a new section to read:

42 **"§ 39-51. Property located above quarry, cemetery, mine as a material fact.**

43 In offering real property for conveyance, rent, or lease, the fact that the real property, or any
44 portion thereof, is located above a quarry, cemetery, mine, or a similar feature shall be deemed
45 material. A party to the conveyance, rental, or lease of real property, or an agent of any said party,
46 may not knowingly make a false statement regarding the property's location above a quarry,
47 cemetery, mine, or a similar feature."

48 **SECTION 2.(b)** Chapter 47E of the General Statutes is amended by adding a new
49 section to read:

50 **"§ 47E-4.2. Required disclosure of certain hazardous land conditions.**

(a) With regard to transfers described in G.S. 47E-1 and G.S. 47E-2(b), the owner of the real property shall furnish to a purchaser a hazardous land conditions mandatory disclosure statement. The disclosure shall be conspicuous, shall be in boldface type, and shall be as follows:

HAZARDOUS LAND CONDITIONS DISCLOSURE

A property can be located above certain man-made features, such as quarries, cemeteries, mines, or similar features, that create or have the potential to create sinkholes, collapse holes, or other conditions that are hazardous to life and property. With regard to the existence of quarries, cemeteries, mines, or similar features, Seller makes the following disclosures:

	<u>Yes</u>	<u>No</u>
<u>Seller is aware of the existence of a</u>	—	—
<u>Buyer Initials</u>		
	<u>quarry, cemetery, mine, or a similar</u>	
	<u>feature located on or under the property.</u>	

(b) The North Carolina Real Estate Commission shall develop and require the use of a hazardous land conditions mandatory disclosure statement to comply with the requirements of this section. The disclosure statement shall specify that the transfers identified in G.S. 47E-2(a) are exempt from this requirement, but the transfers identified in G.S. 47E-2(b) are not. The disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics or conditions."

SECTION 2.(c) This section becomes effective October 1, 2021, and applies to offers for conveyance, rent, or lease occurring on or after that date.

SINKHOLE INSURANCE

SECTION 3. Article 44 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 3. Policies Related to Movement of Earth, Sinkholes, or Any Other Round Collapse.
"§ 58-44-125. Homeowner's policy requirements.

Any homeowner's insurance policy shall provide coverage against loss caused by movement of earth, sinkholes, or any other ground collapse if any portion of the residential real property is located above a quarry, cemetery, mine, or a similar feature. If, at the time of loss, a developer's policy covers the same risk, the developer's policy provides primary insurance. For the purposes of this Part, the term "developer" has the same meaning as in G.S. 160D-102."

SINKHOLE LIABILITY

SECTION 4. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 47.

"Sinkholes.

"§ 66-460. Liability and duties of residential real property developers.

(a) For the purposes of this Article, the term "developer" has the same meaning as in G.S. 160D-102.

(b) If any portion of residential real property is located above a quarry, cemetery, mine, or a similar feature, all of the following shall apply to any developer of the property:

(1) The developer shall assume liability for movement of earth, sinkholes, or any other ground collapse.

(2) Before entering into any real property contract, the developer shall notify the real property contractor in writing of the existence of the quarry, cemetery, mine, or other similar feature. For purposes of this subdivision, real property contract and real property contractor have the same meaning as in G.S. 105-164.3.

1 (3) The developer shall insure and keep insured each building on the developed
2 property to the extent of not less than eighty percent (80%) of the current
3 insurable value, as determined by the insured and insurer, against loss caused
4 by movement of earth, sinkholes, or any other ground collapse."
5

6 **EFFECTIVE DATE**

7 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
8 law.