

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE RESEARCH COMMISSION

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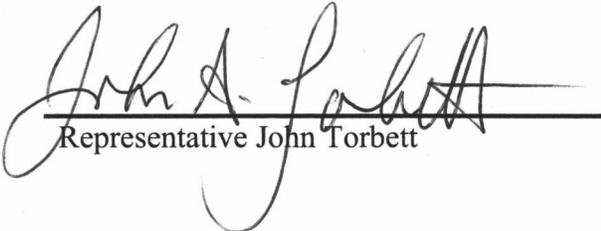
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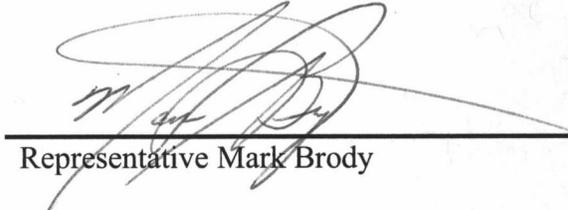


April 24, 2014

TO THE MEMBERS OF THE LEGISLATIVE RESEARCH COMMISSION:

Attached for your consideration is the report to the 2014 Regular Session of the 2013 General Assembly. This report was prepared by the Legislative Research Commission's Committee on Land Development, pursuant to G.S. 120-30.17(1).


Representative John Torbett


Representative Mark Brody

Co-Chairs
Committee on Land Development
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION
COMMITTEE ON LAND DEVELOPMENT
NORTH CAROLINA GENERAL ASSEMBLY



**REPORT TO THE
2014 SESSION
of the
2013 GENERAL ASSEMBLY
OF NORTH CAROLINA**

APRIL, 2014

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TRANSMITTAL LETTER

April 24, 2014

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TO THE MEMBERS OF THE 2014 REGULAR SESSION
OF THE 2013 GENERAL ASSEMBLY

The Legislative Research Commission herewith submits to you for your consideration its report and recommendations to the 2014 Regular Session of the 2013 General Assembly. The report was prepared by the Legislative Research Commission's Committee on Land Development, pursuant to G.S. 120-30.17(1).

Respectfully submitted,

Senator Thomas M. Apodaca

Representative Timothy K. Moore

Co-Chairs
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

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2013 – 2014

Senator Thomas M. Apodaca
Co-Chair

Representative Timothy K. Moore
Co-Chair

Senator Phil Berger, Ex Officio
Senator Dan Blue
Senator Harry Brown
Senator Martin L. Nesbitt, Jr.

Representative Thom Tillis, Ex Officio
Representative John M. Blust
Representative Justin P. Burr
Representative Becky Carney
Representative Mike D. Hager

PREFACE

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The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is co-chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, or their designees, and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission authorized the study of Land Development, under authority of G.S. 120-30.17(1). The Committee was chaired by Representative John Torbett and Representative Mark Brody, Co-Chairs of the Committee. The full membership of the Committee is listed under [Committee Membership](#). A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the **2013-2014** biennium.

COMMITTEE PROCEEDINGS

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The Legislative Research Commission's Committee on Land Development met four times after the 2013 Regular Session. The Committee's Charge can be found [here](#). Electronic copies of presentations to the Committee can be found [here](#). The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

January 30, 2014

The first meeting was held on Thursday, January 30, 2014, at 1:00 p.m. in Room 421, Legislative Office Building. Bill Patterson, Staff Attorney, delivered the Committee's charge. Co-Chair Torbett then explained to the Committee that the impetus for this study was the situation at the Magnolia Place senior community in Gaston County where a developer, Evergreen Development Group of Lowell, Inc. (Evergreen), failed to adequately install a retaining wall as required by law. Before abandoning the project, the now defunct developer partially built a "retaining fence" that has done little to stop the erosion from a wall of red mud located behind a row of townhomes. The homeowners have not taken legal action because it is cost prohibitive for them to do so. Co-Chair Torbett presented photographs of the situation at Magnolia Place. He further explained that this Committee's objective is to ascertain how to prevent a similar situation from happening in the future.

The Committee then posed questions to Jeff Britt, Robeson County Building Code Administrator and President of the North Carolina Building Inspectors Association. The questions centered around the issuance of certificates of compliance (also known as certificates of occupancy or "COs") by building inspectors where a developer has not complied with the requirements of a Sedimentation Control Plan (control plan) issued by the Department of Energy and Natural Resources (DENR) that requires the developer to construct a retaining wall. Mr. Britt provided his opinion that COs should not have been issued at Magnolia Place until the retaining wall, as required by DENR, had been built.

Then the Committee heard a presentation from Toby Vinson, Acting Section Chief/Chief Engineer, Division of Energy, Mineral and Land Resources – Land Quality Section, DENR. Mr. Vinson described the general process by which a developer obtains a control plan from DENR in accordance with the Sedimentation Pollution Control Act of 1973. Mr. Vinson specifically set out the timeline of events concerning the control plan issued for Magnolia Place and Evergreen's noncompliance with that plan. Mr. Vincent explained that because the wall of red mud at Magnolia Place could not be retained by vegetative cover, a retaining wall approximately 170 linear feet in length was required by the control plan approved in 1999. Mr. Vinson stated that once a retaining wall is required by the control plan, its subsequent construction must meet North Carolina

Building Code requirements, which are enforced by the local building inspection authority, not DENR.

Mr. Vinson explained that, although DENR does not enforce compliance with the Building Code, DENR does periodically inspect the site to ensure compliance with the control plan. For Magnolia Place, DENR required a modified control plan in 2009 after an inspection revealed an exposed cut slope 700 linear feet in length. A revised control plan was approved on October 13, 2009, which again stated that the proposed retaining wall must be approved by Gaston County. Gaston County approved a retaining wall plan presented by Evergreen in March 2010. Later that year, DENR inspectors noted that geotextile material was installed along the exposed slope, but the material had begun to erode, re-exposing the slope to erosion. A notice of violation was sent to Evergreen on July 12, 2010. DENR met with Evergreen's registered agent and extended the compliance deadline by 30 days. Another 30-day extension was granted on September 1, 2010. Evergreen was still in noncompliance with the control plan and notices of continuing violation were issued by DENR between October 2010 and March 2011. In April 2011, DENR issued a civil penalty in the amount of \$29,960.00. The Attorney General is responsible for collecting this penalty, but has not done so. Any penalty that is collected will go to the State Civil Penalty and Forfeiture Fund, not to the Magnolia Place residents.

Finally, the Committee heard from Constantine Poindexter of Surety One. Mr. Poindexter answered questions from the Committee about county bonding requirements. He stated that subdivision-specific bonds are difficult obligations to underwrite and they have a high breach rate and thus a high loss rate. Consequently, surety companies are reluctant to underwrite subdivision bonds. The majority of the subdivision bond obligations include common elements such as curbs, gutters, retaining walls, and culverts.

February 27, 2014

The second meeting was held on Thursday, February 27, 2014 at 1:00 p.m. at the Magnolia Place subdivision, Lowell, North Carolina. Representative Brody invited members of the Committee to tour the site. Next, the Committee posed questions to the following individuals:

- Toby Vinson, Acting Section Chief/Chief Engineer, Division of Energy, Mineral and Land Resources – Land Quality Section, DENR, took questions from the Committee
- Ryan Kormanik, Environmental Senior Specialist – Land Quality Section, DENR, Mooresville office
- Brian Sciba, Director of Building Inspections, Gaston County

The Committee's questions focused on the timeline of events with regard to the control plan, the site visits, and local inspections.

Upon inquiry, Mr. Sciba stated that, at the time of the Magnolia Place inspections, a local inspector did not have authority to deny a CO for the homes that abut the retaining wall because the homes themselves passed inspection. However, Mr. Sciba stated that Gaston County has since adopted a Sedimentation Control Program, thereby removing DENR from ordinary enforcement of erosion and sedimentation control issues. Gaston County has enacted soil erosion and sedimentation ordinances. A CO can be denied under these ordinances if the requirements of the control plan are not completed, and there is better communication between the inspectors and the Gaston County Sedimentation Control Program than existed between the inspectors and DENR.

Next, Joseph D. Alm, Stormwater Administrator, Gaston County Natural Resources Department confirmed that Gaston County adopted a Sedimentation Control Program in 2003. Mr. Alm told the Committee that because the Magnolia Place control plan was issued by DENR, DENR maintained oversight over the plan. The Gaston County Sedimentation Control Program only oversees projects that began after 2003.

The Committee then heard from Al Greene, Lowell City Manager, who answered questions about issuance of zoning and building permits. Next, Betty Bumgardner, President of the Magnolia Place Homeowners' Association spoke briefly and thanked the Committee for coming.

Finally, the Committee took public comment from the following individuals:

- Larry Simmonds, Mayor of Lowell
- Robin Culbertson
- Ruth Chaney
- Dennis Mercer
- Ralph Duncan
- Mary Reichl
- Lonnie Wilson

March 27, 2014

The third meeting was held on Thursday, March 27, 2014 at 1:00 p.m. in Room 421, Legislative Office Building. This meeting consisted primarily of Committee discussion concerning the final report – findings, recommendations, and possible legislation. Lisa Martin, Director of Government Affairs, North Carolina Homebuilders spoke to the Committee and stated that the Homebuilders have a long history of supporting sedimentation control. She further stated that the situation at Magnolia Place is unique because there are a number of local governments that have local sediment erosion control programs.

April 24, 2014

The final meeting was held on Thursday, April 24, 2014 at 1:00 p.m. in Room 421, Legislative Office Building. The Committee approved the final report.

FINDINGS AND RECOMMENDATIONS

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Based on information presented to the Legislative Research Commission Committee on Land Development during its regularly scheduled meetings, the Committee reports the following findings and makes the following recommendations to the 2014 Session of the 2013 General Assembly:

Findings

1. The erosion-related property damage sustained by residents of Magnolia Place in Gaston County resulted after the developer abandoned the project without completing required erosion control measures.
2. When a developer abandons a residential subdivision project before completing required soil erosion and sedimentation control measures, persons who move into completed dwellings may sustain property damage resulting from uncontrolled erosion.
3. The cost of pursuing legal remedies against a developer under these circumstances can pose a significant obstacle, especially when the developer has gone out of business.
4. In order to reduce the exposure of innocent homebuyers to erosion-related damage, regulatory authorities should have policies and procedures in place that ensure prompt detection of potential defaults in carrying out erosion control plan requirements.
5. At the time when permits and certificates of occupancy were issued for the construction and occupancy of the townhomes in Magnolia Place, the Department of Environment and Natural Resources (DENR) had responsibility for enforcing State erosion control requirements, and Gaston County building inspectors were responsible for enforcing the building code requirements.
6. To minimize the risk of property damage to purchasers of dwellings when a developer abandons a project before it is complete, there must be effective communication between authorities responsible for enforcing the requirements of a soil erosion and sedimentation control plan and those responsible for inspecting residential dwellings that may be threatened by the failure to complete the plan's requirements.
7. One factor that contributed to the erosion problems experienced by residents of Magnolia Place was the delay on the part of DENR and Gaston County inspectors to recognize the risk posed by the developer's failure to install an adequate retaining wall to comply with requirements of the erosion control plan.
8. The developer of Magnolia Place was permitted to leave several hundred feet of slope exposed without adequate erosion control measures for a longer time than was

allowed by State law. Applicable State law required exposed slopes to be provided with ground cover, devices, or structures sufficient to restrain erosion "within 21 calendar days of completion of any phase of grading." G.S. 113A-57.

9. Another factor that contributed to the damage suffered by residents of Magnolia Place was the issuance by Gaston County of certificates of occupancy for the townhomes before an adequate retaining wall had been constructed to protect the dwellings from damage resulting from soil erosion.
10. A further contributing factor to the problems experienced by residents at Magnolia Place was the absence of clear legal authorization for withholding issuance of a certificate of occupancy for a townhome because a retaining wall being constructed on an adjacent lot was not in compliance with State erosion control requirements.
11. Section 22.b.1 of the current Gaston County erosion control ordinance prohibits the issuance of a certificate of occupancy for a dwelling in a subdivision tract where the tract is in violation of the county erosion control ordinance.
12. This provision did not apply to Magnolia Place, because when Gaston County was approved to enforce its own erosion control ordinance in 2003, the Sedimentation Control Commission retained administration and enforcement responsibility for the erosion control plan previously issued by it for Magnolia Place.
13. Local governments can obtain approval from the Sedimentation Control Commission for a local erosion control ordinance like Gaston County's under which building inspectors are permitted to withhold a certificate of occupancy because of a failure to meet erosion control requirements applicable to the subdivision in which a dwelling has been constructed.
14. If the developer and the builder of a residential dwelling are separate entities, denying a certificate of occupancy because the subdivision's erosion control requirements have not been met would penalize the homebuilder for a condition over which it has no control, and would provide no inducement for the developer who no longer owns the lot to complete the erosion control requirements in the subdivision.
15. Authorizing local inspectors to withhold issuance of a building permit for a residential dwelling unless the subdivision's erosion control requirements affecting that dwelling are complete would be more effective in motivating developers to complete the erosion control measures at an earlier date, because builders would be reluctant to purchase a lot from the developer if the requirements for issuance of a building permit have not been met.
16. Effective communications between erosion control and building code authorities will be enhanced by having both functions carried out at the local level for those local governments that are approved to enforce the State soil erosion laws under a local program approved by the Commission.

Recommendations

Based on the foregoing findings, the Committee makes the following recommendations:

1. DENR should establish policies and procedures to ensure that local building inspectors are immediately notified by DENR when noncompliance with the requirements of a soil erosion and sedimentation control plan administered and enforced by DENR creates a risk of physical damage to any residential dwellings completed or under construction in the subdivision.
2. The General Assembly should enact [Legislative Proposal #1](#) in Appendix D to:
 - Authorize local governments to enact ordinances providing for performance guarantees to assure completion of the requirements of soil erosion and sedimentation control plans
 - Authorize local governments to withhold issuance of a residential building permit if required soil erosion and sedimentation control measures necessary to protect the dwelling from the risk of physical damage have not been completed, unless an adequate performance guarantee is provided
 - Provide that if a local government issues a building permit without requiring either that all plan requirements needed to protect the dwelling from physical damage are completed or an adequate performance guarantee is provided, then the local government will be responsible for completing any plan requirements needed to protect the dwelling from physical damage that are not completed by the person conducting land-disturbing activity
3. The General Assembly should enact [Legislative Proposal #2](#) in Appendix D to require that when the Sedimentation Control Commission approves a local soil erosion and sedimentation control program, the Commission shall transfer to the local government responsibility for administering and enforcing any erosion control plan then being administered and enforced by the Commission within the local government's territorial jurisdiction.

COMMITTEE MEMBERSHIP

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2013-2014

House of Representatives Members:

Representative John Torbett, Co-Chair
Representative Mark Brody, Co-Chair

Representative Larry Bell
Representative Mike Hager
Representative Edward Hanes
Representative Frank Iler
Representative Patricia McElraft
Representative Chuck McGrady
Representative Chris Millis
Representative Andy Wells
Representative Michael Wray
Representative Timothy Moore, Ex Officio

COMMITTEE CHARGE

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The LRC Committee on Land Development Study shall study the issue of responsibility for maintenance of infrastructure on foreclosed or abandoned properties. The Committee may study issues related to responsibility for carrying out the obligations imposed on owners of subdivided real property, including the need to provide for contingencies resulting from abandonment or foreclosure of the property. As a part of its study, the Committee may consider the following issues:

- The impact on neighboring property owners.
- The impact on local governments.
- The effect on the local and State economy.
- The effect on water and sewer capacity.
- The impact on the tax base of local and State governments.
- The impact on the environment.
- Responsibility for unfulfilled contractual or regulatory obligations of the owner of abandoned or foreclosed property.
- Alternative methods to ensure the availability of funds to meet the cost of fulfilling obligations relating to maintenance of infrastructure or compliance with environmental regulations.
- Any other issues pertinent to this study.

STATUTORY AUTHORITY

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NORTH CAROLINA GENERAL STATUTES ARTICLE 6B.

Legislative Research Commission.

§ 120-30.17. Powers and duties.

The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5), (6) Repealed by Session Laws 1981, c. 688, s. 2.
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.
- (8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.
- (9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.

LEGISLATIVE PROPOSALS

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

BILL DRAFT 2013-TGz-15B [v.12] (04/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

4/22/2014 9:22:19 AM

Short Title: Withhold Bldg Permit/Incompl. Erosion Control.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE LOCAL GOVERNMENTS TO ENACT ORDINANCES PROVIDING FOR PERFORMANCE GUARANTEES ASSURING COMPLETION OF EROSION AND SEDIMENTATION CONTROL PLAN REQUIREMENTS, TO AUTHORIZE LOCAL GOVERNMENTS TO WITHHOLD ISSUING A BUILDING PERMIT FOR A RESIDENTIAL DWELLING UNLESS ALL PLAN REQUIREMENTS NECESSARY TO PROTECT THE DWELLING ARE COMPLETED OR A PERFORMANCE GUARANTEE HAS BEEN PROVIDED, AND TO REQUIRE A LOCAL GOVERNMENT THAT ISSUES A RESIDENTIAL BUILDING PERMIT UNDER SUCH CIRCUMSTANCES WITHOUT REQUIRING A PERFORMANCE GUARANTEE TO COMPLETE ALL PLAN REQUIREMENTS NECESSARY TO PROTECT THE DWELLING FROM PHYSICAL DAMAGE THAT ARE NOT COMPLETED BY THE PERSON ENGAGED IN LAND-DISTURBING ACTIVITY, AS RECOMMENDED BY THE LAND DEVELOPMENT COMMITTEE (LRC)(2013).

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-357 reads as rewritten:

"§ 153A-357. **Permits.**

(a) Except as provided in subsection (a2) of this section, no person may commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building.

...

(b) No permit shall be issued pursuant to subsection (a) for any land-disturbing activity, as defined in G.S. 113A-52(6), for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan has been approved by the

1 Sedimentation Pollution Control Commission pursuant to G.S. 113A-54(d)(4) or by a
2 local government pursuant to G.S. 113A-61 for the site of the activity or a tract of land
3 including the site of the activity.

4 (b1) A county may by ordinance provide for performance guarantees to assure
5 successful completion of the requirements of an erosion and sedimentation control plan
6 approved pursuant to G.S. 113A-54(d)(4) or G.S. 113A-61. The ordinance shall provide
7 a range of options of types of performance guarantees, including, but not limited to,
8 surety bonds or letters of credit, from which the person engaged in land-disturbing
9 activity may choose. For any specific development, the type of performance guarantee
10 from the range specified by the county shall be at the election of the person providing
11 the guarantee.

12 (b2) A county may withhold issuance of a permit for any of the activities set forth
13 in subdivision (a)(1) involving a residential dwelling in a subdivision as defined in
14 G.S. 153A-335 if all of the following circumstances exist:

- 15 (1) A person is engaged in land-disturbing activity in the subdivision
16 subject to a soil erosion and sedimentation control plan approved
17 under G.S. 113A-54(d)(4) or G.S. 113A-61.
18 (2) The requirements of the plan have not been completed.
19 (3) A failure to complete the remaining requirements of the plan will
20 expose the dwelling to a risk of physical damage.
21 (4) The person conducting the land-disturbing activity has not provided
22 the county with a performance guarantee adequate to assure
23 completion of the remaining requirements of the plan.

24 (b3) If a county issues a permit for any of the activities set forth in subdivision
25 (a)(1) involving a residential dwelling in a subdivision as defined in G.S. 153A-335 at a
26 time when all of the circumstances set forth in subdivisions (1) through (4) of
27 subsection (b2) exist, the county shall be responsible for completing all requirements of
28 the applicable soil erosion and sedimentation control plan necessary to protect the
29 dwelling from the risk of property damage that are not completed by the person engaged
30 in the land-disturbing activity.

31"

32 **SECTION 2.** G.S. 160A-417 is rewritten to read:

33 **"§ 160A-417. Permits.**

34 (a) Except as provided in subsection (a2) of this section, no person shall
35 commence or proceed with any of the following without first securing from the
36 inspection department with jurisdiction over the site of the work any and all permits
37 required by the State Building Code and any other State or local laws applicable to the
38 work:

- 39 (1) The construction, reconstruction, alteration, repair, movement to
40 another site, removal, or demolition of any building or structure.

41 ...

42 (b) No permit shall be issued pursuant to subsection (a) for any land-disturbing
43 activity, as defined in G.S. 113A-52(6), for any activity covered by G.S. 113A-57,
44 unless an erosion and sedimentation control plan has been approved by the

1 Sedimentation Pollution Control Commission pursuant to G.S. 113A-54(d)(4) or by a
2 local government pursuant to G.S. 113A-61 for the site of the activity or a tract of land
3 including the site of the activity.

4 (b1) A city may by ordinance provide for performance guarantees to assure
5 successful completion of the requirements of an erosion and sedimentation control plan
6 approved pursuant to G.S. 113A-54(d)(4) or G.S. 113A-61. The ordinance shall provide
7 a range of options of types of performance guarantees, including, but not limited to,
8 surety bonds or letters of credit, from which the person engaged in land-disturbing
9 activity may choose. For any specific development, the type of performance guarantee
10 from the range specified by the city shall be at the election of the person providing the
11 guarantee.

12 (b2) A city may withhold issuance of a permit for any of the activities set forth in
13 subdivision (a)(1) involving a residential dwelling in a subdivision as defined in
14 G.S. 160A-376 if all of the following circumstances exist:

- 15 (1) A person is engaged in land-disturbing activity in the subdivision
16 subject to a soil erosion and sedimentation control plan approved
17 under G.S. 113A-54(d)(4) or G.S. 113A-61.
18 (2) The requirements of the plan have not been completed.
19 (3) A failure to complete the remaining requirements of the plan will
20 expose the dwelling to a risk of physical damage.
21 (4) The person conducting the land-disturbing activity has not provided
22 the city with a performance guarantee adequate to assure completion
23 of the remaining requirements of the plan.

24 (b3) If a city issues a permit for any of the activities set forth in subdivision (a)(1)
25 involving a residential dwelling in a subdivision as defined in G.S. 160A-376 at a time
26 when all of the circumstances set forth in subdivisions (1) through (4) of subsection (b2)
27 exist, the city shall be responsible for completing all requirements of the applicable soil
28 erosion and sedimentation control plan necessary to protect the dwelling from the risk
29 of property damage that are not completed by the person engaged in the land-disturbing
30 activity.

31"

32 **SECTION 3.** This act becomes effective October 1, 2014. The provisions in
33 new subdivisions (b2) and (b3) of G.S. 153A-357 and G.S. 160A-417 apply to permits
34 issued on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

BILL DRAFT 2013-TGz-16 [v.7] (04/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/17/2014 2:07:35 PM

Short Title: Local Erosion Prgrms/Takeover Existing Plans. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE SEDIMENTATION CONTROL COMMISSION TO
3 TRANSFER ITS RESPONSIBILITY FOR ADMINISTERING AND ENFORCING
4 EXISTING SOIL EROSION AND SEDIMENTATION CONTROL PLANS TO
5 LOCAL GOVERNMENTS WHEN APPROVING LOCAL EROSION AND
6 SEDIMENTATION CONTROL PROGRAMS, AS RECOMMENDED BY THE
7 LAND DEVELOPMENT COMMITTEE (LRC)(2013).

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 113A-60(b) reads as rewritten:

10 "§ 113A-60. Local erosion and sedimentation control programs.

11 ...

12 (b) The Commission shall review each program submitted and within 90 days of
13 receipt thereof shall notify the local government submitting the program that it has been
14 approved, approved with modifications, or disapproved. The Commission shall only
15 approve a program upon determining that its standards equal or exceed those of this
16 Article and rules adopted pursuant to this Article. Upon the approval of a program
17 under this subsection, the Commission shall transfer responsibility for the
18 administration and enforcement of any soil erosion and sedimentation plan previously
19 approved under G.S. 113A-54(d)(4) and applicable to land-disturbing activity occurring
20 within the territorial jurisdiction of the local government."

21 SECTION 2. This act becomes effective October 1, 2014.