

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-494
HOUSE BILL 1268**

AN ACT TO MODIFY CERTAIN EXEMPTIONS TO THE THIRTY-FOOT BUFFER REQUIREMENT ALONG PUBLIC TRUST AND ESTUARINE WATERS AND TO PROVIDE THAT FUNDS NECESSARY TO PAY PLANNING GRANTS MADE UNDER THE COASTAL AREA MANAGEMENT ACT OF 1974 MAY BE CARRIED FORWARD TO THE NEXT FISCAL YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. Where application of the buffer requirement set out in 15A NCAC 7H .0209(d)(10) (North Carolina Register; Volume 16, Issue 1, Pages 8 through 14; 2 July 2001) would preclude placement of a residential structure on an undeveloped lot platted prior to 1 June 1999 that is 5,000 square feet or less that does not require an on-site septic system, or on an undeveloped lot that is 7,500 feet or less that requires an on-site septic system, development may be permitted within the buffer if all the following criteria are met:

- (1) The lot on which the proposed residential structure is to be located is located between:
 - a. Two existing waterfront residential structures, both of which are within 100 feet of the center of the lot and at least one of which encroaches into the buffer, or
 - b. An existing waterfront residential structure that encroaches into the buffer and a road, canal, or other open body of water, both of which are within 100 feet of the center of the lot.
- (2) Development of the lot shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities.
- (3) Placement of the residential structure and pervious decking may be aligned no further into the buffer than the existing residential structures and existing pervious decking on adjoining lots.
- (4) The first one and one-half inches of rainfall from all impervious surfaces on the lot shall be collected and contained on-site in accordance with the design standards for stormwater management for coastal counties as specified in 15A NCAC 2H .1005. The stormwater management system shall be designed by an individual who meets applicable State occupational licensing requirements for the type of system proposed and approved during the permit application process. If the residential structure encroaches into the buffer, then no other impervious surfaces will be allowed within the buffer.
- (5) The lot must not be adjacent to waters designated as approved or conditionally approved shellfish waters by the Shellfish Sanitation Section of the Division of Environmental Health of the Department of Environment and Natural Resources.

SECTION 2. The Coastal Resources Commission may grant a variance from the provisions of Section 1 of this act as provided in G.S. 113A-120.1.

SECTION 3. The Coastal Resources Commission may adopt a temporary rule to amend 15A NCAC 7H .0209 that incorporates the provision of Section 1 of this act. Notwithstanding G.S. 150B-21.1(d), a temporary rule adopted in accordance with this section shall remain in effect until the permanent rule that incorporates the temporary rule becomes effective. Notwithstanding G.S. 150B-21.1(a)(2), this act shall not be construed to authorize the adoption of temporary rules except as specifically provided in this section.

SECTION 4. Except as provided by Section 1 of this act, this act does not limit the authority of the Coastal Resources Commission to adopt rules regulating coastal shoreline development or development within areas of environmental concern pursuant to Chapter 113A of the General Statutes.

SECTION 5. The Environmental Review Commission may study the standards for the granting of variances under G.S. 113A-120.1 by the Coastal Resources Commission under the Coastal Area Management Act of 1974. In conducting this study, the Environmental Review Commission may consider the decision of the Court of Appeals in Williams v. North Carolina Department of Environment and Natural Resources et al. (548 S.E.2d 793, 3 July 2001) and any subsequent proceedings. The Environmental Review Commission may report its findings and recommendations, if any, to the 2002 Regular Session of the 2001 General Assembly.

SECTION 6. G.S. 113A-112 reads as rewritten:

"§ 113A-112. Planning grants.

~~The Secretary of Environment and Natural Resources~~ is authorized to make annual grants to local governmental units for the purpose of assisting in the development of local plans and management programs under this Article. The Secretary shall develop and administer generally applicable criteria under which local governments may qualify for such assistance. The Secretary may condition payment of a grant on the completion of the local plan or management program and may pay the grant in installments based on satisfactory completion of specific elements of the plan or program and on approval of the plan or program by the Commission. Of the funds appropriated to the Department to make grants under this section, the Department may carry forward to the next fiscal year funds in the amount necessary to pay grants awarded or extended in any fiscal year."

SECTION 7. This act is effective when it becomes law. If the Coastal Resources Commission adopts a temporary rule as provided in Section 3 of this act, Section 1 of this act expires when the temporary rule becomes effective.

In the General Assembly read three times and ratified this the 3rd day of December, 2001.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:21 p.m. this 19th day of December, 2001