

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE BILL 646\*  
Agriculture/Environment and Natural Resources Committee Substitute Adopted  
7/23/07  
Finance Committee Substitute Adopted 7/26/07  
House Committee Substitute Favorable 7/31/07

Short Title: Enact WASC Recommendations. (Public)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

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):

- 1           a.     A pier that extends into coastal fishing waters and limits access  
2           to those who pay a fee.
- 3           b.     Real property that is adjacent to coastal fishing waters and is  
4           primarily used for a commercial fishing operation or fish  
5           processing, including adjacent land that is under improvements  
6           used for one of these purposes.

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

12           (c)    Deferred Taxes. – The difference between the taxes that are due on working  
13           waterfront property taxed on the basis of its present use and that would be due if the  
14           property were taxed on the basis of its true value is a lien on the property. The  
15           difference in taxes must be carried forward in the records of each taxing unit as deferred  
16           taxes. The deferred taxes become due when the property no longer qualifies as working  
17           waterfront property. The tax for the fiscal year that opens in the calendar year in which  
18           deferred taxes become due is computed as if the property had not been classified for that  
19           year, and taxes for the preceding three fiscal years that have been deferred are  
20           immediately payable, together with interest, as provided in G.S. 105-360 for unpaid  
21           taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates  
22           on which they originally became due. If only a part of the property no longer qualifies  
23           as working waterfront property, the assessor must determine the amount of deferred  
24           taxes applicable to that part and that amount becomes payable with interest. Upon the  
25           payment of any taxes deferred under this section for the three years immediately  
26           preceding a disqualification, all liens arising under this subsection are extinguished.

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

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37   **PART II. ADVISORY COMMITTEE FOR THE COORDINATION OF**  
38   **WATERFRONT ACCESS.**

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

- 43           (1)   The Secretary of Environment and Natural Resources or the  
44           Secretary's designee, Chair.

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

20          **SECTION 2.2.** The Advisory Committee for the Coordination of Waterfront

21 Access shall:

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

29          **SECTION 2.3.** The Advisory Committee shall report its progress in  
30          implementing this Part, including any recommendations developed pursuant to this Part,  
31          to the Joint Legislative Commission on Seafood and Aquaculture no later than October  
32          1 of each year. The first report required by this section shall be submitted no later than  
33          October 1, 2008.

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35          **PART III. DIRECT THE DEPARTMENT OF TRANSPORTATION TO**  
36          **EXPAND PUBLIC ACCESS TO COASTAL WATERS.**  
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38          **SECTION 3.1.** G.S. 136-18 is amended by adding a new subdivision to

39 read:

40          "(40) To expand public access to coastal waters in its road project planning  
41          and construction programs. The Department shall work with the  
42          Wildlife Resources Commission, other State agencies, and other  
43          entities to ensure that public access to coastal waters is expanded along  
44          the roadways, bridges, and other transportation infrastructure owned or

1 maintained by the Department. The Department shall report on its  
2 progress in expanding public access to coastal waters to the Joint  
3 Legislative Commission on Seafood and Aquaculture no later than  
4 March 1 of each year."

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

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8 **PART IV. INCREASE BOATING FUNDING.**

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

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

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

25 "(a) Application for Certificate of Number and Fees. – The owner of each vessel  
26 requiring numbering by this State shall file an application for a certificate of number  
27 with the Commission. The Commission shall furnish application forms and shall  
28 prescribe the information contained in the application form. The application shall be  
29 signed by the owner of the vessel or the owner's agent and shall be accompanied by a  
30 ~~fee of ten dollars (\$10.00) fee.~~ The fee is fifteen dollars (\$15.00) for a one-year period  
31 ~~or by a fee of twenty five dollars (\$25.00) forty dollars (\$40.00) for a three-year period;~~  
32 ~~provided, however, there shall be no fee charged for period.~~ The fee does not apply to  
33 vessels owned and operated by nonprofit rescue squads if they are operated exclusively  
34 for rescue purposes, including rescue training. The owner shall have the option of  
35 selecting a one-year numbering period or a three-year numbering period. Upon receipt  
36 of the application in approved form, the Commission shall enter the application in its  
37 records and issue the owner a certificate of number stating the identification number  
38 awarded to the vessel and the name and address of the owner, and a validation decal  
39 indicating the expiration date of the certificate of number. The owner shall paint on or  
40 attach to each side of the bow of the vessel the identification number in such manner as  
41 may be prescribed by rules of the Commission in order that it may be clearly visible.  
42 The identification number shall be maintained in legible condition. The validation decal  
43 shall be displayed on the starboard bow of the vessel immediately following the  
44 number. The certificate of number shall be pocket size and shall be available for

1 inspection on the vessel for which the certificate is issued at all times the vessel is in  
2 operation. Any person charged with failing to so carry a certificate of number shall not  
3 be convicted if the person produces in court a certificate of number previously issued to  
4 the owner that was valid at the time of the alleged violation."

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

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

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

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

## 26 27 **PART V. WAIVER OF FEES FROM CAMA EMERGENCY PERMITS.**

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

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

1 permit issued pursuant to this subsection or rules adopted pursuant to this subsection  
2 shall be waived."

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4 **PART VI. STUDY CONSTRUCTION AND REPAIR IN REGULATED FLOOD**  
5 **ZONES.**

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

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14 **PART VII. EFFECTIVE DATE.**

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