

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

H

D

HOUSE DRH70353-LD-102B (03/23)

Short Title: Brownfields Property Notifications.

(Public)

Sponsors: Representative Fisher.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE PUBLIC NOTICE REQUIREMENT REGARDING A PROSPECTIVE DEVELOPER'S INTENT TO REDEVELOP A BROWNFIELDS PROPERTY AND TO REMOVE THE CONDITION UNDER WHICH THE REGISTER OF DEEDS IS NOT REQUIRED TO RECORD THE CANCELLATION OF THE NOTICE OF BROWNFIELDS PROPERTY AFTER THE HAZARDS HAVE BEEN ELIMINATED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-310.34(a) reads as rewritten:

"(a) A prospective developer who desires to enter into a brownfields agreement shall notify the public and the community in which the brownfields property is located of planned remediation and redevelopment activities. The prospective developer shall submit a Notice of Intent to Redevelop a Brownfields Property and a summary of the Notice of Intent to the Department. The Notice of Intent shall provide, to the extent known, a legal description of the location of the brownfields property, a map showing the location of the brownfields property, a description of the contaminants involved and their concentrations in the media of the brownfields property, a description of the intended future use of the brownfields property, any proposed investigation and remediation, and a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed brownfields agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Department, the prospective developer shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the brownfields property. The prospective developer shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the brownfields property is located and shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register. The prospective developer shall ~~also~~ conspicuously post a copy of the summary of the Notice of Intent at the brownfields site. At the same time the prospective developer publishes the summary of the Notice of Intent in a newspaper, the developer shall notify every person who resides or owns property located within one-fourth mile of any property boundary of the brownfields property by mailing the summary of the Notice of Intent to residents and by mailing by certified mail the summary of the Notice of Intent to property owners."



* D R H 7 0 3 5 3 - L D - 1 0 2 B *

1 **SECTION 2.** G.S. 130A-310.34(c) reads as rewritten:

2 "(c) Any person who desires a public meeting on a proposed brownfields agreement
3 shall submit a written request for a public meeting to the Department within 21 days after the
4 public comment period begins. The Department shall consider all requests for a public meeting
5 and shall hold a public meeting if the Department determines that there is significant public
6 interest in the proposed brownfields agreement. If the Department decides to hold a public
7 meeting, the Department shall, at least 15 days prior to the public meeting, mail written notice
8 of the public meeting to all persons who reside or own property located within one-fourth mile
9 of any property boundary of the brownfields property, to persons who requested the public
10 ~~meeting and meeting, and to~~ any other person who had previously requested notice. The
11 Department shall also direct the prospective developer to publish, at least 15 days prior to the
12 date of the public meeting, a notice of the public meeting at least one time in a newspaper
13 having general circulation in such county where the brownfields property is located. In any
14 county in which there is more than one newspaper having general circulation, the Department
15 shall direct the prospective developer to publish a copy of the notice in as many newspapers
16 having general circulation in the county as the Department in its discretion determines to be
17 necessary to assure that the notice is generally available throughout the county. The
18 Department shall prescribe the form and content of the notice to be published. The Department
19 shall prescribe the procedures to be followed in the public meeting. The Department shall take
20 detailed minutes of the meeting. The minutes shall include any written comments, exhibits, or
21 documents presented at the meeting."

22 **SECTION 3.** G.S. 130A-310.35(e) reads as rewritten:

23 "(e) A Notice of Brownfields Property filed pursuant to this section may, at the request
24 of the owner of the land, be cancelled by the Secretary after the hazards have been eliminated.
25 If requested in writing by the owner of the land and if the Secretary concurs with the request,
26 the Secretary shall send to the register of deeds of each county where the notice is recorded a
27 statement that the hazards have been eliminated and request that the notice be cancelled of
28 record. The Secretary's statement shall contain the names of the owners of the land as shown in
29 the notice and reference the plat book and page where the notice is recorded. The register of
30 deeds shall record the Secretary's statement in the deed books and index it on the grantor index
31 in the names of the owners of the land as shown in the Notice of Brownfields Property and on
32 the grantee index in the name "Secretary of Environment and Natural Resources". The register
33 of deeds shall make a marginal entry on the Notice of Brownfields Property showing the date
34 of cancellation and the book and page where the Secretary's statement is recorded, and the
35 register of deeds shall sign the entry. If a marginal entry is impracticable because of the method
36 used to record maps and plats, the register of deeds shall ~~not be required to make a marginal~~
37 entry-record the cancellation in some other manner that adequately provides notice of the
38 cancellation and that shows the date of cancellation and the book and page where the
39 Secretary's statement is recorded."

40 **SECTION 4.** This act becomes effective October 1, 2009, and applies to property
41 that is subject to a brownfields agreement that is entered into on or after that date.