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Short Title: Building Reutilization for Economic Dev. Act.

(Public)

Sponsors:

Referred to:

March 5, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE APPLICABILITY OF THE ENERGY CONSERVATION CODE TO CERTAIN EXISTING NONRESIDENTIAL BUILDINGS, TO CLARIFY STORMWATER PROGRAM IMPERVIOUS SURFACE CALCULATIONS FOR REDEVELOPMENT, TO CREATE AN EXEMPTION FROM THE NORTH CAROLINA ENVIRONMENTAL PROTECTION ACT FOR THE REOCCUPATION OF AN EXISTING BUILDING OR FACILITY, AND TO AMEND THE STATUTE GOVERNING THE DEPARTMENT OF COMMERCE RURAL ECONOMIC DEVELOPMENT DIVISION.

The General Assembly of North Carolina enacts:

PART I. APPLICABILITY OF THE ENERGY CONSERVATION CODE TO CERTAIN EXISTING NONRESIDENTIAL BUILDINGS

SECTION 1. G.S. 143-138 is amended by adding a new subsection to read:

"(b15) Exclusion from Energy Code Requirements for Existing Commercial Buildings. – The alteration of commercial buildings and structures that received a certificate of occupancy prior to January 1, 2012, may be subject to the rules pertaining to energy efficiency and energy conservation that were in effect on December 31, 2011. The addition to commercial buildings and structures that received a certificate of occupancy prior to January 1, 2012, may be subject to the rules pertaining to energy efficiency and energy conservation that were in effect on December 31, 2011, so long as the addition does not increase the building area of the existing commercial building or structure to more than one hundred fifty percent (150%) of the building area of the commercial building or structure as it was in existence on December 31, 2011. For the purpose of this subsection, the term "commercial buildings and structures" shall include all structures and buildings that are not classified as a Group R occupancy by the Building Code Council."

PART II. STORMWATER PROGRAM IMPERVIOUS SURFACE CALCULATIONS FOR REDEVELOPMENT

SECTION 2. G.S. 143-214.7 reads as rewritten:

"§ 143-214.7. Stormwater runoff rules and programs.



1 (a) Policy, Purpose and Intent. – The Commission shall undertake a continuing
2 planning process to develop and adopt a statewide plan with regard to establishing and
3 enforcing stormwater rules for the purpose of protecting the surface waters of the State. It is the
4 purpose and intent of this section that, in developing stormwater runoff rules and programs, the
5 Commission may utilize stormwater rules established by the Commission to protect classified
6 shellfish waters, water supply watersheds, and outstanding resource waters; and to control
7 stormwater runoff disposal in coastal counties and other nonpoint sources. Further, it is the
8 intent of this section that the Commission phase in the stormwater rules on a priority basis for
9 all sources of pollution to the water. The plan shall be applied evenhandedly throughout the
10 State to address the State's water quality needs. The Commission shall continually monitor
11 water quality in the State and shall revise stormwater runoff rules as necessary to protect water
12 quality. As necessary, the stormwater rules shall be modified to comply with federal
13 regulations.

14 (a1) Definitions. – The following definitions apply in this section:

15 (1) Development. – Any land-disturbing activity that increases the amount of
16 built-upon area or that otherwise decreases the infiltration of precipitation
17 into the subsoil. When additional development occurs at a site that has
18 existing development, the built-upon area of the existing development shall
19 not be included in the density calculations for additional stormwater control
20 requirements, and stormwater control requirements cannot be applied
21 retroactively to existing development, unless otherwise required by federal
22 law.

23 (2) Redevelopment. – Any land-disturbing activity that does not result in a net
24 increase in built-upon area and that provides greater or equal stormwater
25 control to that of the previous development.

26 (b) The Commission shall implement stormwater runoff rules and programs for point
27 and nonpoint sources on a phased-in statewide basis. The Commission shall consider standards
28 and best management practices for the protection of the State's water resources in the following
29 order of priority:

30 (1) Classified shellfish waters.

31 (2) Water supply watersheds.

32 (3) Outstanding resource waters.

33 (4) High quality waters.

34 (5) All other waters of the State to the extent that the Commission finds control
35 of stormwater is needed to meet the purposes of this Article.

36 (b1) The Commission shall develop model practices for incorporation of stormwater
37 capture and reuse into stormwater management programs and shall make information on those
38 model practices available to State agencies and local governments.

39 (b2) For purposes of implementing stormwater programs, "built-upon area" means
40 impervious surface and partially impervious surface to the extent that the partially impervious
41 surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon
42 area" does not include a wooden slatted deck, the water area of a swimming pool, or gravel.

43 (b3) Stormwater runoff rules and programs shall not require private property owners to
44 install new or increased stormwater controls for (i) preexisting development or (ii)
45 redevelopment activities that do not remove or decrease existing stormwater controls.

46"

47 **SECTION 3.** Section 2 of S.L. 2006-246, as amended by Section 51(b) of S.L.
48 2013-413, reads as rewritten:

49 "SECTION 2. Definitions. – The following definitions apply to this act and its
50 implementation:

- 1 (1) The definitions set out in 40 Code of Federal Regulations § 122.2
2 (Definitions) and § 122.26(b) (Storm Water Discharges) (1 July 2003
3 Edition).
- 4 (2) The definitions set out in ~~G.S. 143-212 and G.S. 143-213.~~G.S. 143-212,
5 G.S. 143-213, and G.S. 143-214.7(a1).
- 6 (3) The definitions set out in 15A NCAC 2H .0103 (Definitions of Terms).
- 7 (4) The definitions set out in 15A NCAC 2H .1002 (~~Definitions~~), ~~except for the~~
8 ~~definitions of "Built-upon area", "Development", and "Redevelopment",~~
9 ~~which are defined below.~~(Definitions).
- 10 (5) "One-year, 24-hour storm" means a rainfall of an intensity expected to be
11 equaled or exceeded, on average, once in 12 months and with a duration of
12 24 hours.
- 13 (6) "BMP" means Best Management Practice.
- 14 (7) Repealed by Session Laws 2013-413, s. 51.(b), effective August 23, 2013.
- 15 (8) ~~"Development" means any land disturbing activity that increases the amount~~
16 ~~of built-upon area or that otherwise decreases the infiltration of precipitation~~
17 ~~into the soil.~~
- 18 (9) "Division" means the Division of Water Quality in the Department.
- 19 (10) "Planning jurisdiction" means the territorial jurisdiction within which a
20 municipality exercises the powers authorized by Article 19 of Chapter 160A
21 of the General Statutes, or a county may exercise the powers authorized by
22 Article 18 of Chapter 153A of the General Statutes.
- 23 (11) "Public entity" means the United States; the State; a city, village, township,
24 county, school district, public college or university, or single-purpose
25 governmental agency; or any other governing body that is created by federal
26 or State law.
- 27 (12) ~~"Redevelopment" means any land disturbing activity that does not result in a~~
28 ~~net increase in built-upon area and that provides greater or equal stormwater~~
29 ~~control than the previous development.~~
- 30 (13) "Regulated entity" means any public entity that must obtain a Phase II
31 National Pollutant Discharge Elimination System (NPDES) permit for
32 stormwater management for its municipal separate storm sewer system
33 (MS4).
- 34 (14) "Sensitive receiving waters" means any of the following:
35 a. Waters that are classified as high quality, outstanding resource,
36 shellfish, trout, or nutrient-sensitive waters in accordance with
37 subsections (d) and (e) of 15A NCAC 2B .0101 (Procedures for
38 Assignment of Water Quality Standards – General Procedures).
- 39 b. Waters that are occupied by or designated as critical habitat for
40 aquatic animal species that are listed as threatened or endangered by
41 the United States Fish and Wildlife Service or the National Marine
42 Fisheries Service under the provisions of the Endangered Species Act
43 of 1973 (Pub. L. No. 93-205; 87 Stat. 884; 16 U.S.C. §§ 1531, et
44 seq.), as amended.
- 45 c. Waters for which the designated use, as described by the
46 classification system set out in subsections (c), (d), and (e) of 15A
47 NCAC 2B .0101 (Procedures for Assignment of Water Quality
48 Standards – General Procedures), have been determined to be
49 impaired in accordance with the requirements of subsection (d) of 33
50 U.S.C. § 1313.

- 1 (15) "Shellfish resource waters" means Class SA waters that contain an average
2 concentration of 500 parts per million of natural chloride ion. Average
3 concentration is determined by averaging the chloride concentrations of five
4 water samples taken one-half mile downstream from the project site that are
5 taken on separate days, within one hour of high tide, and not within 48 hours
6 following a rain event. The chloride ion concentrations are to be determined
7 by a State-certified laboratory.
- 8 (16) "Significant contributor of pollutants" means a municipal separate storm
9 sewer system (MS4) or a discharge that contributes to the pollutant loading
10 of a water body or that destabilizes the physical structure of a water body
11 such that the contribution to pollutant loading or the destabilization may
12 reasonably be expected to adversely affect the quality and uses of the water
13 body. Uses of a water body shall be determined pursuant to 15A NCAC 2B
14 .0211 through 15A NCAC 2B .0222 (Classifications and Water Quality
15 Standards Applicable to Surface Waters and Wetlands of North Carolina)
16 and 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications).
- 17 (17) "Total maximum daily load (TMDL) implementation plan" means a written,
18 quantitative plan and analysis for attaining and maintaining water quality
19 standards in all seasons for a specific water body and pollutant."
20

21 PART III. SEPA EXEMPTION FOR REOCCUPATION OF AN EXISTING BUILDING 22 OR FACILITY

23 SECTION 4. G.S. 113A-12 reads as rewritten:

24 "§ 113A-12. Environmental document not required in certain cases.

25 No environmental document shall be required in connection with:

- 26 ...
- 27 (7) The redevelopment or reoccupation of an existing building or facility, so
28 long as any additions to the existing building or facility do not increase the
29 total footprint to more than one hundred fifty percent (150%) of the footprint
30 of the existing building or facility and so long as any new construction does
31 not increase the total footprint to more than one hundred fifty percent
32 (150%) of the footprint of the existing building or facility."

33 SECTION 5. G.S. 113A-8 reads as rewritten:

34 "§ 113A-8. Major development projects.

35 (a) The governing bodies of all cities, counties, and towns acting individually, or
36 collectively, may by ordinance require any special-purpose unit of government or private
37 developer of a major development project to submit detailed statements, as defined in
38 G.S. 113A-4(2), of the impact of such projects for consideration by those governing bodies in
39 matters within their jurisdiction. Any such ordinance may not be designed to apply to only a
40 particular major development project, and shall be applied consistently.

41 (b) Any ordinance adopted pursuant to this section shall exempt those major
42 development projects for which a detailed statement of the environmental impact of the project
43 or a functionally equivalent permitting process is required by federal or State law, regulation, or
44 rule.

45 (c) Any ordinance adopted pursuant to this section shall establish minimum criteria to
46 be used in determining whether a statement of environmental impact is required. A detailed
47 statement of environmental impact may not be required for a project that does not exceed the
48 minimum criteria and any exceptions to the minimum criteria established by the ordinance."

49 (d) Any ordinance adopted pursuant to this section shall exempt from its requirements
50 the certain cases for which an environmental document is not required as set forth in
51 G.S. 113A-12."

1
2 **PART IV. ALLOW ECONOMICALLY DISADVANTAGED AND RURAL AREAS TO**
3 **ACCESS REDD BUILDING REUSE FUNDS**

4 **SECTION 6.** G.S. 143B-472.127(a)(2) reads as rewritten:

5 "(2) To provide matching grants or loans to local government units located in an
6 economically distressed county either (i) a development tier one or tier two
7 area or (ii) a rural census tract in a development tier three area that will
8 productively reuse or demolish vacant buildings and properties or construct
9 or expand rural health care ~~facilities~~facilities, with priority given to towns or
10 communities with populations of less than 5,000. The development tier
11 designation of a county shall be determined as provided in
12 G.S. 143B-437.08. For purposes of this section, the term "economically
13 distressed county" has the same meaning as in G.S. 143B-437.01. "rural
14 census tract" means a census tract having a population density of less than
15 500 people per square mile according to the most recent decennial federal
16 census."
17

18 **PART V. COMMISSIONS TO AMEND RULES TO CONFORM WITH THIS ACT**

19 **SECTION 7.** The Building Code Council, the Environmental Management
20 Commission, the Coastal Management Commission, and the Department of Environment and
21 Natural Resources shall amend their rules to conform with this act.
22

23 **PART VI. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

24 **SECTION 8.** If any provision of this act or its application is held invalid, the
25 invalidity does not affect other provisions or applications of this act that can be given effect
26 without the invalid provisions or application, and to this end the provisions of this act are
27 severable.

28 **SECTION 9.** This act is effective when it becomes law.