

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013**

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**SENATE BILL 612  
Commerce Committee Substitute Adopted 4/30/13  
Third Edition Engrossed 5/2/13**

Short Title: Regulatory Reform Act of 2013.

(Public)

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Sponsors:

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Referred to:

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April 4, 2013

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE REGULATORY RELIEF TO THE CITIZENS OF NORTH  
2 CAROLINA BY CREATING A FAST TRACK PERMITTING PROCESS FOR  
3 CERTAIN ENVIRONMENTAL PERMITS; BY CLARIFYING THE PREEMPTION OF  
4 CITY ORDINANCES AND CLARIFYING THAT SIMILAR RULES APPLY TO  
5 COUNTY ORDINANCES; BY CLARIFYING THE LAWS RELATING TO  
6 GROUNDWATER COMPLIANCE BOUNDARIES; BY EXTENDING THE TERMS OF  
7 CERTAIN ENVIRONMENTAL PERMITS; BY AMENDING THE ADMINISTRATIVE  
8 PROCEDURE ACT TO ELIMINATE THE REQUIREMENT THAT AN AGENCY  
9 PREPARE A FISCAL NOTE WHEN REPEALING A RULE; BY REQUIRING THE  
10 REPEAL OR REVISION OF EXISTING ENVIRONMENTAL RULES MORE  
11 RESTRICTIVE THAN FEDERAL RULES PERTAINING TO THE SAME SUBJECT  
12 MATTER; BY ALLOWING MUNICIPALITIES TO LEASE REAL PROPERTY FOR A  
13 TERM OF UP TO TWENTY-FIVE YEARS TO PRIVATE COMPANIES  
14 CONSTRUCTING RENEWABLE ENERGY FACILITIES; BY ALLOWING  
15 GOING-OUT-OF-BUSINESS SALE LICENSES TO BE ISSUED BY ANY MUNICIPAL  
16 OFFICIAL DESIGNATED BY THE GOVERNING BODY OF THE MUNICIPALITY;  
17 BY DIRECTING THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
18 RESOURCES AND THE DEPARTMENT OF TRANSPORTATION TO JOINTLY  
19 PETITION THE WILMINGTON DISTRICT OF THE UNITED STATES ARMY CORPS  
20 OF ENGINEERS TO ALLOW FOR GREATER FLEXIBILITY AND OPPORTUNITY  
21 TO PERFORM WETLANDS MITIGATION BEYOND THE IMMEDIATE  
22 WATERSHED WHERE DEVELOPMENT WILL OCCUR; BY CLARIFYING THAT  
23 THE DEFINITION OF "BUILT-UPON AREA" INCLUDES ONLY IMPERVIOUS  
24 SURFACES; AND BY REQUIRING MEMBERS OF ADVISORY BODIES TO STATE  
25 AGENCIES AND BOARDS TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST  
26 PRIOR TO MAKING ANY RECOMMENDATION.  
27

28 The General Assembly of North Carolina enacts:

29  
30 **PART I. FAST-TRACK PERMITTING FOR CERTAIN ENVIRONMENTAL**  
31 **PERMITS**

32 **SECTION 1.1.(a)** Stormwater. – The Department of Environment and Natural  
33 Resources shall develop Minimum Design Criteria for permits issued by the stormwater runoff  
34 permitting programs authorized by G.S. 143-214.7. The Minimum Design Criteria shall include



1 all requirements for siting, site preparation, design and construction, and post-construction  
2 monitoring and evaluation necessary for the Department to issue a stormwater permit.

3 **SECTION 1.1.(b)** Erosion and Sedimentation Control. – The Department of  
4 Environment and Natural Resources shall develop Minimum Design Criteria for erosion and  
5 sedimentation control plans issued by the Department and local governments under the  
6 authority of Article 4 of Chapter 113A of the General Statutes. The Minimum Design Criteria  
7 shall include all requirements for siting, site preparation, design and construction, and  
8 post-construction monitoring and evaluation necessary for the Department or a local  
9 government stormwater program to approve an erosion and sedimentation control plan.

10 **SECTION 1.1.(c)** Designation of Appropriate Professionals. – In the development  
11 of Minimum Design Criteria under this section, the Department shall specify types of licensed  
12 professionals qualified to certify the design, effectiveness, and appropriateness of each  
13 criterion. For purposes of this subsection, "licensed professionals" shall include, but not be  
14 limited to, engineers certified under Chapter 89C of the General Statutes, geologists certified  
15 under Chapter 89E of the General Statutes, and landscape architects certified under Chapter  
16 89A of the General Statutes, and "qualified to certify" means, at a minimum, that the licensing  
17 board for that professional has the statutory authority to discipline the professional for falsely  
18 certifying design, effectiveness, or appropriateness of the particular criterion.

19 **SECTION 1.2.** Technical Working Group. – In developing the Minimum Design  
20 Criteria, the Department may consult with a technical working group that consists of industry  
21 experts, environmental engineers or consultants, relevant faculty from The University of North  
22 Carolina, and other interested stakeholders. The Department shall submit the final Minimum  
23 Design Criteria to the Environmental Review Commission no later than March 1, 2014.

24 **SECTION 1.3.** Article 21 of Chapter 143 of the General Statutes is amended by  
25 adding a new section to read:

26 "**§ 143-214.7B. Fast-track permitting.**

27 The Commission shall adopt rules implementing a fast-track permitting process allowing  
28 for issuance of stormwater management system permits without a technical review when the  
29 permit applicant (i) complies with the Minimum Design Criteria for stormwater management  
30 developed by the Department and (ii) submits a permit application sealed by the appropriate  
31 professional specified in the criteria."

32 **SECTION 1.4.** Article 4 of Chapter 113A of the General Statutes is amended by  
33 adding a new section to read:

34 "**§ 113A-68. Fast-track plan approval.**

35 The Commission shall adopt rules implementing a fast-track plan approval process  
36 allowing for approval of erosion and sedimentation control plans by the Department or a local  
37 erosion and sedimentation control program without a technical review when the person files a  
38 plan that (i) complies with the Minimum Design Criteria for erosion and sedimentation control  
39 developed by the Department and (ii) is sealed by the appropriate professional specified in the  
40 criteria."

41 **SECTION 1.5.(a)** The Environmental Management Commission shall adopt  
42 temporary rules implementing Section 1.3 of this act no later than May 1, 2014. The temporary  
43 rules shall remain in effect until permanent rules that replace the temporary rules become  
44 effective.

45 **SECTION 1.5.(b)** The Sedimentation Control Commission shall adopt temporary  
46 rules implementing Section 1.4 of this act no later than May 1, 2014. The temporary rules shall  
47 remain in effect until permanent rules that replace the temporary rules become effective.

48 **SECTION 1.6.** G.S. 89C-19 reads as rewritten:

49 "**§ 89C-19. Public works; requirements where public safety involved.**

50 This State and its political subdivisions such as counties, cities, towns, or other political  
51 entities or legally constituted boards, commissions, public utility companies, or authorities, or

1 officials, or employees of these entities shall not engage in the practice of engineering or land  
2 surveying involving either public or private property where the safety of the public is directly  
3 involved without the project being under the supervision of a professional engineer for the  
4 preparations of plans and specifications for engineering projects, or a professional land  
5 surveyor for land surveying projects, as provided for the practice of the respective professions  
6 by this Chapter. These entities shall not, in the course of conducting technical review of an  
7 application for a permit or a plan submitted for approval by the entity, require revisions to that  
8 part of the application or plan that constitutes the practice of engineering and that has been  
9 supervised and sealed by a professional engineer unless the employee or official of the  
10 reviewing entity requiring the revision is also a professional engineer or is an engineering  
11 intern under the responsible charge of a professional engineer. Any revisions to the application  
12 or plan that are required by the reviewing entity and that constitute the practice of engineering  
13 shall be provided by written notice to the permit applicant or the person submitting a plan for  
14 approval. The written notice shall be on agency letterhead and shall be signed by the  
15 professional engineer reviewing or supervising the review of the submission and shall include  
16 the engineer's state license number.

17 An official or employee of the State or any political subdivision specified in this section,  
18 holding the positions set out in this section as of June 19, 1975, shall be exempt from the  
19 provisions of this section so long as such official or employee is engaged in substantially the  
20 same type of work as is involved in the present position.

21 Nothing in this section shall be construed to prohibit inspection, maintenance and service  
22 work done by employees of the State of North Carolina, any political subdivision of the State,  
23 or any municipality including construction, installation, servicing, and maintenance by regular  
24 full-time employees of, secondary roads and drawings incidental to work on secondary roads,  
25 streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam,  
26 electric and sewage treatment and disposal plants, the services of superintendents, inspectors or  
27 foremen regularly employed by the State of North Carolina or any political subdivision of the  
28 State, or municipal corporation.

29 The provisions in this section shall not be construed to alter or modify the requirements of  
30 Article 1 of Chapter 133 of the General Statutes."

31 **SECTION 1.7.** The Department of Environment and Natural Resources shall  
32 identify other permitting programs for which the fast-track permitting process described by this  
33 Part would be appropriate and make a report, including proposed legislation, to the  
34 Environmental Review Commission no later than May 1, 2014.

## 35 **PART II. CLARIFY LOCAL GOVERNMENT PREEMPTION**

36 **SECTION 2.1.** G.S. 160A-174(b) reads as rewritten:

37 "(b) A city ordinance shall be consistent with the Constitution and laws of North  
38 Carolina and of the United States. An ordinance is not consistent with State or federal law  
39 when:  
40

- 41 (1) The ordinance infringes a liberty guaranteed to the people by the State or  
42 federal Constitution;
- 43 (2) The ordinance makes unlawful an act, omission or condition which is  
44 expressly made lawful by State or federal law;
- 45 (3) The ordinance makes lawful an act, omission, or condition which is  
46 expressly made unlawful by State or federal law;
- 47 (4) The ordinance purports to regulate a subject that cities are expressly  
48 forbidden to regulate by State or federal law;
- 49 (5) The ordinance purports to regulate a field for which a State or federal statute  
50 clearly shows a legislative intent to provide a complete and integrated  
51 regulatory scheme to the exclusion of local regulation;

- 1           (5a) The ordinance (i) regulates a field that is also regulated by a State or federal  
2           statute enforced by, or a regulation promulgated by, an environmental  
3           agency; and (ii) is more stringent than the State or federal statute or  
4           regulation; or  
5           (6) The elements of an offense defined by a city ordinance are identical to the  
6           elements of an offense defined by State or federal law.

7 The fact that a State or federal law, standing alone, makes a given act, omission, or condition  
8 unlawful shall not preclude city ordinances requiring a higher standard of conduct or condition.

9       (c) The limitation set forth in subdivision (5a) of subsection (b) of this section does not  
10 apply to any ordinance if adoption of the ordinance was and continues to be required by one of  
11 the following:

- 12           (1) A serious and unforeseen threat to the public health, safety, or welfare.  
13           (2) An act of the General Assembly or United States Congress that expressly  
14           requires the city to adopt an ordinance.  
15           (3) A provision in federal or State budgetary policy.  
16           (4) A federal regulation required by an act of the United States Congress to be  
17           adopted or administered by the State.  
18           (5) A court order.  
19       (d) For purposes of this section, "an environmental agency" means any of the following:  
20           (1) The Department of Environment and Natural Resources created pursuant to  
21           G.S. 143B-279.1.  
22           (2) The Environmental Management Commission created pursuant to  
23           G.S. 143B-282.  
24           (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.  
25           (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.  
26           (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.  
27           (6) The Commission for Public Health created pursuant to G.S. 130A-29, when  
28           regulating pursuant to the authority granted by Articles 9, 10, 11, 19, 19A,  
29           and 19B of Chapter 130A of the General Statutes.  
30           (7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.  
31           (8) The Mining and Energy Commission created pursuant to G.S. 143B-293.1.  
32           (9) The Pesticide Board created pursuant to G.S. 143-436."

33 **SECTION 2.2.** G.S. 153A-121 is amended by adding a new subsection to read:

34       "(a1) A county ordinance shall be consistent with the Constitution and laws of North  
35 Carolina and of the United States. An ordinance is not consistent with State or federal law  
36 when:

- 37           (1) The ordinance infringes a liberty guaranteed to the people by the State or  
38           federal Constitution;  
39           (2) The ordinance makes unlawful an act, omission, or condition which is  
40           expressly made lawful by State or federal law;  
41           (3) The ordinance makes lawful an act, omission, or condition which is  
42           expressly made unlawful by State or federal law;  
43           (4) The ordinance purports to regulate a subject that counties are expressly  
44           forbidden to regulate by State or federal law;  
45           (5) The ordinance purports to regulate a field for which a State or federal statute  
46           clearly shows a legislative intent to provide a complete and integrated  
47           regulatory scheme to the exclusion of local regulation;  
48           (6) The ordinance (i) regulates a field that is also regulated by a State or federal  
49           statute enforced by, or a regulation promulgated by, an environmental  
50           agency; and (ii) is more stringent than the State or federal statute or  
51           regulation; or

1           (7)    The elements of an offense defined by a county ordinance are identical to the  
2                   elements of an offense defined by State or federal law.

3           The fact that a State or federal law, standing alone, makes a given act, omission, or  
4           condition unlawful shall not preclude county ordinances requiring a higher standard of conduct  
5           or condition.

6           (a2)   The limitation set forth in subdivision (6) of subsection (a1) of this section does not  
7           apply to any ordinance if adoption of the ordinance was and continues to be required by one of  
8           the following:

9                   (1)    A serious and unforeseen threat to the public health, safety, or welfare.

10                  (2)    An act of the General Assembly or United States Congress that expressly  
11                   requires the county to adopt an ordinance.

12                  (3)    A provision in federal or State budgetary policy.

13                  (4)    A federal regulation required by an act of the United States Congress to be  
14                   adopted or administered by the State.

15                  (5)    A court order.

16           (a3)   For purposes of this section, "an environmental agency" means any of the following:

17                   (1)    The Department of Environment and Natural Resources created pursuant to  
18                   G.S. 143B-279.1.

19                   (2)    The Environmental Management Commission created pursuant to  
20                   G.S. 143B-282.

21                   (3)    The Coastal Resources Commission established pursuant to G.S. 113A-104.

22                   (4)    The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.

23                   (5)    The Wildlife Resources Commission created pursuant to G.S. 143-240.

24                   (6)    The Commission for Public Health created pursuant to G.S. 130A-29, when  
25                   regulating pursuant to the authority granted by Articles 9, 10, 11, 19, 19A,  
26                   and 19B of Chapter 130A of the General Statutes.

27                   (7)    The Sedimentation Control Commission created pursuant to G.S. 143B-298.

28                   (8)    The Mining and Energy Commission created pursuant to G.S. 143B-293.1.

29                   (9)    The Pesticide Board created pursuant to G.S. 143-436."  
30

### 31 **PART III. ENVIRONMENTAL REGULATORY REFORM**

32           **SECTION 3.2.(a)** G.S. 143-215.1 is amended by adding three new subsections to

33 read:

34 **"§ 143-215.1. Control of sources of water pollution; permits required.**

35 ...

36           (i)    Any person subject to the requirements of this section who is required to obtain an  
37           individual permit from the Commission for a disposal system under the authority of  
38           G.S. 143-215.1 or Chapter 130A of the General Statutes shall have a compliance boundary as  
39           may be established by rule or permit for various categories of disposal systems and beyond  
40           which groundwater quality standards may not be exceeded. The location of the compliance  
41           boundary shall be established at the property boundary, except as otherwise established by the  
42           Commission. Multiple contiguous properties under common ownership and permitted for use  
43           as a disposal system shall be treated as a single property with regard to determination of a  
44           compliance boundary under this subsection. Nothing in this subsection shall be interpreted to  
45           require a revision to an existing compliance boundary previously approved by rule or permit.

46           (j)    When operation of a disposal system permitted under this section results in an  
47           exceedance of the groundwater quality standards adopted in accordance with G.S. 143-214.1,  
48           the Commission shall require that the exceedances within the compliance boundary be  
49           remedied through clean-up, recovery, containment, or other response only when any of the  
50           following conditions occur:

1           (1) A violation of any water quality standard in adjoining classified waters of  
2           the State occurs or can be reasonably predicted to occur considering  
3           hydrogeological conditions, modeling, or any other available evidence.

4           (2) An imminent hazard or threat to the environment, public health, or safety  
5           exists.

6           (3) A violation of any standard in groundwater occurring in the bedrock other  
7           than limestones found in the Coastal Plain sediments, unless it can be  
8           demonstrated that the violation will not adversely affect, or have the  
9           potential to adversely affect, a water supply well.

10          (k) Where operation of a disposal system permitted under this section results in  
11          exceedances of the groundwater quality standards at or beyond the compliance boundary  
12          established under subsection (i) of this section, exceedances shall be remedied through  
13          clean-up, recovery, containment, or other response as directed by the Commission."

14                **SECTION 3.2.(b)** With respect to exceedances of groundwater quality standards  
15 within a compliance boundary and related remedy requirements, G.S. 143-215.1(j) as set forth  
16 in Section 3.1(a) of this act shall apply in lieu of the restricted designation directives found in  
17 15A NCAC 2L .0104(d) and (e) until the Department of Environment and Natural Resources  
18 has adopted revisions to those rules to comply with this act.

19                **SECTION 3.3.(a)** G.S. 143-215.1 reads as rewritten:

20 **"§ 143-215.1. Control of sources of water pollution; permits required.**

21                ...

22           (d2) No permit issued pursuant to subsection (c) of this section shall be issued or  
23 renewed for a term exceeding five years. All other permits issued pursuant to this section for  
24 which an expiration date is specified shall be issued for a term not to exceed eight years.

25           (e) Administrative Review. – A permit ~~applicant or permittee~~ applicant, a permittee, or  
26 a third party who is dissatisfied with a decision of the Commission may commence a contested  
27 case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the  
28 applicant or permittee of its decision. If the permit applicant or permittee does not file a petition  
29 within the required time, the Commission's decision is final and is not subject to review.

30                ...."

31                **SECTION 3.3.(b)** G.S. 143-215.108 reads as rewritten:

32 **"§ 143-215.108. Control of sources of air pollution; permits required.**

33                ...

34           (d1) No Title V permit issued pursuant to this section shall be issued or renewed for a  
35 term exceeding five years. All other permits issued pursuant to this section shall be issued for a  
36 term not to exceed eight years.

37           (e) A permit ~~applicant or permittee~~ applicant, a permittee, or a third party who is  
38 dissatisfied with a decision of the Commission may commence a contested case by filing a  
39 petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or  
40 permittee of its decision. If the permit applicant or permittee does not file a petition within the  
41 required time, the Commission's decision on the application is final and is not subject to  
42 review.

43                ...."

44                **SECTION 3.4.(a)** Section 2 of S.L. 2006-246 reads as rewritten:

45           **"SECTION 2. Definitions.** – The following definitions apply to this act and its  
46 implementation:

47                ...

48           (7) "Built-upon area" means that portion of a project that is covered by  
49 ~~impervious or partially impervious surface~~ impervious surface including, but  
50 not limited to, buildings; ~~pavement and gravel~~ pavement areas such as roads,  
51 parking lots, and paths; and recreation facilities such as tennis courts.

1 "Built-upon area" does not include a wooden slatted deck, the water area of a  
2 swimming pool, gravel, or pervious or partially pervious paving material to  
3 the extent that the paving material absorbs water or allows water to infiltrate  
4 through the paving material.

5 ...."

6 **SECTION 3.4.(b)** The Department shall adopt rules to implement this Section.  
7 Until permanent rules to implement subsection (a) of this section take effect, the definition of  
8 "built-upon area" in subsection (a) shall apply instead of any other definition of "built-upon  
9 area" appearing in rules adopted pursuant to Session Law 2006-246.

#### 10 11 **PART IV. NO FISCAL NOTE FOR RULE REPEAL**

12 **SECTION 4.1.** G.S. 150B-21.4 is amended by adding a new subsection to read:

13 "(d) If an agency proposes the repeal of an existing rule, the agency is not required to  
14 prepare a fiscal note on the proposed rule change as provided by this section."

#### 15 16 **PART VI. REFORM OF EXISTING RULES**

17 **SECTION 6.1.(a)** Definitions. – For purposes of this section, "an agency  
18 authorized to implement and enforce State and federal environmental laws" means any of the  
19 following:

- 20 (1) The Department of Environment and Natural Resources created pursuant to  
21 G.S. 143B-279.1.
- 22 (2) The Environmental Management Commission created pursuant to  
23 G.S. 143B-282.
- 24 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
- 25 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
- 26 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
- 27 (6) The Commission for Public Health created pursuant to G.S. 130A-29.
- 28 (7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
- 29 (8) The Mining and Energy Commission created pursuant to G.S. 143B-293.1.
- 30 (9) The Pesticide Board created pursuant to G.S. 143-436.

31 **SECTION 6.1.(b)** An agency authorized to implement and enforce State and  
32 federal environmental laws shall identify all existing rules for the protection of the environment  
33 or natural resources that impose a more restrictive standard, limitation, or requirement than  
34 those imposed by federal law or rule, if a federal law or rule pertaining to the same subject  
35 matter has been adopted.

36 **SECTION 6.1.(c)** No later than September 1, 2013, agencies identifying rules  
37 under subsection (b) of this section shall initiate rule-making proceedings to (i) repeal the  
38 rules; or (ii) rewrite the rules to make them no more restrictive than the corresponding federal  
39 laws or rules. Rules adopted pursuant to this subsection are not subject to G.S. 150B-21.9  
40 through G.S. 150B-21.14.

41 **SECTION 6.1.(d)**. The rule-making proceedings required by subsection (c) of this  
42 section are not required for any rule identified under subsection (b) of this section if adoption of  
43 the rule was and continues to be required by one of the following:

- 44 (1) A serious and unforeseen threat to the public health, safety, or welfare.
  - 45 (2) An act of the General Assembly or United States Congress that expressly  
46 requires the agency to adopt rules.
  - 47 (3) A provision in federal or State budgetary policy.
  - 48 (4) A federal regulation required by an act of the United States Congress to be  
49 adopted or administered by the State.
  - 50 (5) A court order.
- 51

**PART VII. PERMIT LONGER ALTERNATE ENERGY LEASING PERIODS**

**SECTION 7.(a)** G.S. 160A-272 reads as rewritten:

**"§ 160A-272. Lease or rental of property.**

...

(c) The council may approve a lease for the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to ~~20~~25 years without treating the lease as a sale of property and without giving notice by publication of the intended lease. ~~This subsection applies to Catawba, Mecklenburg, and Wake Counties, the Cities of Asheville, Raleigh, and Winston-Salem, and the Towns of Apex, Carrboro, Cary, Chapel Hill, Fuquay Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon only.~~

**SECTION 7.(b)** Section 3 of S.L. 2010-57 reads as rewritten:

**"SECTION 3.** This act is effective when it becomes law ~~and~~but Section 1 expires June 30, 2015."

**PART VIII. GOING-OUT-OF-BUSINESS SALE LICENSING FLEXIBILITY**

**SECTION 8.** G.S. 66-77 reads as rewritten:

**"§ 66-77. License required; contents of applications; inventory required; fees; bond; extension of licenses; records; false statements.**

(a) No person shall advertise or offer for sale a stock of goods, wares or merchandise under the description of closing-out sale, or a sale of goods, wares or merchandise damaged by fire, smoke, water or otherwise, or a distress sale unless he shall have obtained a license to conduct such sale from the ~~clerk of the officer designated by the governing board of the city or town~~ in which he proposes to conduct such a sale or from the officer designated by the Board of County Commissioners if the sale is conducted in an unincorporated area. The applicant for such a license shall make to ~~such clerk~~the designated officer an application ~~therefor~~, in writing and under oath at least seven days prior to the opening date of sale, showing all the facts relating to the reasons and character of such sale, including the opening and terminating dates of the proposed sale, the opening and terminating dates of any previous distress sale or closing-out sale held by the applicant within that county during the preceding 12 months, a complete inventory of the goods, wares or merchandise actually on hand in the place ~~whereat~~suchwhere the sale is to be conducted, and all details necessary to locate exactly and identify fully the goods, wares or merchandise to be sold. Provided, the seller in a distress sale need not file an inventory.

(b) If ~~such clerk~~the designated officer shall be satisfied from said application that the proposed sale is of the character which the applicant desires to advertise and conduct, the ~~clerk designated officer~~ shall issue a license, upon the payment of a fee of fifty dollars (\$50.00) therefor, together with a bond, payable to the city or town or county in the penal sum of five hundred dollars (\$500.00), conditioned upon compliance with this Article, to the applicant authorizing him to advertise and conduct a sale of the particular kind mentioned in the application. The license fee provided for herein shall be good for a period of 30 days from its date, and if the applicant shall not complete said sale within said 30-day period then the applicant shall make application to ~~such clerk~~the designated officer for a license for a new permit, which shall be good for an additional period of 30 days, and shall pay therefor the sum of fifty dollars (\$50.00), and a second extension period of 30 days may be similarly applied for and granted by the ~~clerk designated officer~~ upon payment of an additional fee of fifty dollars (\$50.00) and upon the ~~clerk designated officer~~ being satisfied that the applicant is holding a bona fide sale of the kind contemplated by this Article and is acting in a bona fide manner; provided, however, that the ~~clerk designated officer~~ may not grant an extension period as provided in this subsection if (i) the applicant conducted a distress sale immediately preceding the current sale for which the extension is applied for and (ii) the period of the extension



1 applied for, when added to the period of the preceding sale and the period of the current sale,  
2 will exceed 120 days. No additional bond shall be required in the event of one or more  
3 extensions as herein provided for. Any merchant who shall have been conducting a business in  
4 the same location where the sale is to be held for a period of not less than one year, prior to the  
5 date of holding such sale, or any merchant who shall have been conducting a business in one  
6 location for such period but who shall, by reason of the building being untenable or by  
7 reason of the fact that said merchant shall have no existing lease or ownership of the building  
8 and shall be forced to hold such sale at another location, shall be exempted from the payment  
9 of the fees and the filing of the bond herein provided for.

10 ...."

## 11

### 12 **PART IX. WETLANDS AND STREAM MITIGATION HUC FLEXIBILITY**

13 **SECTION 9.1.** No later than October 1, 2013, the Department of Environment and  
14 Natural Resources and the Department of Transportation shall jointly petition the Wilmington  
15 District of the United States Army Corps of Engineers (Wilmington District) to allow for  
16 greater flexibility and opportunity to perform wetlands and stream mitigation outside of the  
17 eight-digit Hydrologic Unit Code (HUC) where development will occur. The Departments shall  
18 seek this greater flexibility and opportunity for mitigation for both public and private  
19 development. The Departments shall request that the Wilmington District review the flexibility  
20 and opportunities for mitigation allowed by other Districts of the United States Army Corps of  
21 Engineers.

22 **SECTION 9.2.** The Departments shall jointly report on their progress in petitioning  
23 the Wilmington District as required by Section 9.1 of this act to the Environmental Review  
24 Commission no later than January 1, 2014.

### 25

### 26 **PART X. ETHICS/ADVISORY BOARDS**

27 **SECTION 10.** G.S. 138A-15 is amended by adding a new subsection to read:

28 "**§ 138A-15. Duties of heads of State agencies.**

29 ...

30 (i) Before receiving or accepting any recommendation, the head of each State agency,  
31 including the chair of each board subject to this Chapter, shall require each member of an  
32 advisory body appointed or created by the State to serve that State agency or board, or  
33 appointed or created by the State agency or board subject to this Chapter, to disclose all  
34 reasonably foreseeable financial benefits from the matter under recommendation, which  
35 financial benefit would impair the member of the advisory body's independence of judgment or  
36 from which it could reasonably be inferred that the financial benefit would influence the  
37 member of the advisory body participation in the advisory body. Each member of an advisory  
38 body appointed or created by a State agency or board subject to this Chapter shall also provide  
39 to that State agency or board subject to this Chapter a list of all grants or employment  
40 pertaining to the matter under recommendation held or awarded within the previous 24 months  
41 before the recommendation and a copy of any deliverable associated with such grants."

### 42

### 43 **PART XI. SEVERABILITY AND EFFECTIVE DATE PROVISIONS**

44 **SECTION 11.1.** If any section or provision of this act is declared unconstitutional  
45 or invalid by the courts, it does not affect the validity of this act as a whole or any part other  
46 than the part so declared to be unconstitutional or invalid.

47 **SECTION 11.2.** Sections 3.1 and 10 of this act become effective July 1, 2013.  
48 Section 4.1 of this act is effective when it becomes law and applies to all proposed rules  
49 published in the North Carolina Register on or after that date. Except as otherwise provided, the  
50 remainder of this act is effective when it becomes law.