

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2014-79
SENATE BILL 614**

AN ACT TO FURTHER PROTECT MILITARY LANDS, TO MAKE AMENDMENTS TO THE MILITARY AFFAIRS COMMISSION, AND TO PROTECT SENSITIVE MILITARY DOCUMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-135.29. Review of Military Lands Protection Act proposals.

The State Construction Office shall maintain, and make available to the public, accurate maps of areas surrounding major military installations, including Military Training Routes and Military Operating Areas, as defined in G.S. 143-151.71, that are subject to the provisions of Article 9G of Chapter 143 of the General Statutes."

SECTION 2. G.S. 143-151.71 reads as rewritten:

"§ 143-151.71. Definitions.

Within the meaning of this Article:

- (1) "Area surrounding major military installations" is the area that extends five miles beyond the boundary of a major military installation and may include incorporated and unincorporated areas of counties and municipalities.
- (2) ~~"Building Code Council" means the Council created pursuant to Article 9 of Chapter 143 of the General Statutes.~~
- (3) "Commissioner" means the Commissioner of Insurance.
- (4) "Construction" includes reconstruction, alteration, or expansion.
- (5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp Lejeune Marine Corps Air Base, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.
- (6) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.
- (6a) "State Construction Office" means the State Construction Office of the Department of Administration.
- (7) "Tall buildings or structures" means any building, structure, or unit within a multiunit building with a vertical height of more than 200 feet measured from the top of the foundation of the building, structure, or unit and the uppermost point of the building, structure, or unit. "Tall buildings or structures" do not include buildings and structures listed individually or as contributing resources within a district listed in the National Register of Historic Places."

SECTION 3. G.S. 143-151.73 reads as rewritten:

"§ 143-151.73. Certain buildings and structures prohibited without endorsement.



(a) No county or city may authorize the construction of and no person may construct a tall building or structure in any area surrounding a major military installation in this State, unless the county or city is in receipt of either a letter of endorsement issued to the person by the ~~Building Code Council~~State Construction Office pursuant to G.S. 143-151.75 or proof of the ~~Council's~~State Construction Office's failure to act within the time allowed pursuant to G.S. 143-151.75.

(b) No county or city may authorize the provision of the following utility services to any building or structure constructed in violation of subsection (a) of this section: electricity, telephone, gas, water, sewer, or septic system."

SECTION 4. G.S. 143-151.75 reads as rewritten:

"§ 143-151.75. Endorsement for proposed tall buildings or structures required.

(a) No person shall undertake construction of a tall building or structure in any area surrounding a major military installation in this State without either first obtaining the endorsement from the ~~Building Code Council~~State Construction Office or proof of the ~~Council's~~State Construction Office's failure to act within the time allowed.

(b) A person seeking endorsement for a proposed tall building or structure in any area surrounding a major military installation in this State shall provide written notice of the intent to seek endorsement to the base commander of the major military installation that is located within five miles of the proposed tall building or structure and shall provide all of the following to the ~~Building Code Council~~State Construction Office:

- (1) Identification of the major military installation and the base commander of the installation that is located within five miles of the proposed tall building or structure.
- (2) A copy of the written notice sent to the base commander of the installation identified in subdivision (1) of this subsection that is located within five miles of the proposed tall building or structure.
- (3) A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012, Edition) for the proposed tall building or structure.

(c) After receipt of the information provided by the applicant pursuant to subsection (b) of this section, the ~~Building Code Council~~State Construction Office shall, in writing, request a written statement concerning the proposed tall building or structure from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. The ~~Building Code Council~~State Construction Office shall request that the following information be included in the written statement from the base commander:

- (1) A determination whether the location of the proposed tall building or structure is within a protected area that surrounds the installation.
- (2) A determination whether any activities of the installation may be adversely affected by the proposed tall building or structure. A detailed description of the potential adverse effects, including frequency disturbances and physical obstructions, shall accompany the determination required by this subdivision.

(d) The ~~Building Code Council~~State Construction Office shall not endorse a tall building or structure if the ~~Council~~State Construction Office finds any one or more of the following:

- (1) The proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of any major military installation in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the ~~Building Code Council~~State Construction Office may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received from a base commander as provided in subsection (c) of this section and written comments received by members of affected communities. Provided, however, if the ~~Building Code Council~~State Construction Office does not receive a written statement requested pursuant to subsection (c) of this section within 45 days of issuance of the request to

the base commander, the ~~Building Code Council~~ State Construction Office shall deem the tall building or structure as endorsed by the base commander.

- (2) The ~~Council~~ State Construction Office is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(e) The ~~Building Code Council~~ State Construction Office shall make a final decision on the request for endorsement of a tall building or structure within 90 days from the date on which the ~~Council~~ State Construction Office requested the written statement from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. If the ~~Council~~ State Construction Office determines that a request for a tall building or structure fails to meet the requirements for endorsement under this section, the ~~Council~~ State Construction Office shall deny the request. The ~~Council~~ State Construction Office shall notify the person of the denial, and the notice shall include a written statement of the reasons for the denial. If the ~~Council~~ State Construction Office fails to act within any time period set forth in this section, the person may treat the failure to act as a decision to endorse the tall building or structure.

(f) The ~~Building Code Council~~ State Construction Office may meet by telephone, video, or Internet conference, so long as consistent with applicable law regarding public meetings, to make a decision on a request for endorsement for a tall building or structure pursuant to subsection (e) of this section."

SECTION 5. G.S. 143-138(j2) is repealed.

SECTION 6. G.S. 127C-1 is amended by adding a new subsection to read:

"(d) Meetings and Records. – In accordance with Article 33C of Chapter 143 of the General Statutes and Chapter 132 of the General Statutes, the Commission may withhold documents and discussions related to the federal government's process to determine closure or realignment of military installations withheld from public inspection so long as public inspection would frustrate the purpose of confidentiality."

SECTION 7. Chapter 127C of the General Statutes is amended by adding a new section to read:

"§ 127C-5. Protection of sensitive documents.

(a) In carrying out any purpose set out in G.S. 127C-1(b), the Commission and the Department of Commerce may share documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11 with other public bodies. Any information shared under this subsection shall be confidential and exempt from Chapter 132 of the General Statutes to the same extent that it is confidential in the possession of the Commission or the Department.

(b) In carrying out any purpose set out in G.S. 127C-1(b), the Commission and the Department of Commerce may share documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11 with any third party in its discretion. Any information shared under this subsection shall be shared under an agreement to keep the information confidential to the same extent that it is confidential in the possession of the Commission or the Department.

SECTION 8. G.S. 132-1.2 is amended by adding a new subdivision to read:

"(6) Reveals documents related to the federal government's process to determine closure or realignment of military installations until a final decision has been made by the federal government in that process."

SECTION 9.(a) G.S. 143-318.11(a)(4) reads as rewritten:

"(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in ~~negotiations.~~ negotiations, or to discuss matters relating to military installation closure or realignment. ~~The~~ Any action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session."

SECTION 9.(b) This section becomes effective when it becomes law and applies to meetings held or on after that date.

law. **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
In the General Assembly read three times and ratified this the 16th day of July, 2014.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 12:09 p.m. this 22nd day of July, 2014