

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-418
HOUSE BILL 189**

AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY RULES TO ESTABLISH ADDITIONAL EXCEPTIONS TO THE 30-FOOT BUFFER REQUIREMENT ALONG PUBLIC TRUST AND ESTUARINE WATERS IN CERTAIN CIRCUMSTANCES AND TO ALLOW STRUCTURAL MODIFICATIONS TO PIERS TO PREVENT OR MINIMIZE STORM DAMAGE, AND TO EXTEND THE TIME THAT TEMPORARY RULES TO PROTECT WATER QUALITY AND RIPARIAN BUFFERS IN CERTAIN RIVER BASINS WILL REMAIN IN EFFECT SO AS TO ALLOW THE ENVIRONMENTAL MANAGEMENT COMMISSION ADDITIONAL TIME TO CONSULT WITH PERSONS WHO ARE INTERESTED IN OR MAY BE AFFECTED BY THE ADOPTION OF PERMANENT RULES TO REPLACE THOSE TEMPORARY RULES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 150B-21.3(a) and 26 NCAC 2C.0102(11), the Coastal Resources Commission may adopt temporary rules to amend 15A NCAC 7H.0209(d) and 15A NCAC 7H.0209(e) to establish additional exceptions to the 30-foot buffer requirement set out in 15A NCAC 7H.0209(d) to allow the following uses that would otherwise be prohibited:

- (1) Construction of a residential structure on a lot, parcel, or tract of 7,500 square feet or less that was platted prior to 1 June 1999, that will be served by an on-site septic system, and that is located in an intensely developed area.
- (2) Construction of a residential structure, as provided in 15A NCAC 7H.0209(e)(1), with a footprint of up to 1,200 square feet on a lot, parcel, or tract of 5,000 square feet or more that was platted prior to 1 June 1999, where strict application of the buffer requirement would preclude construction of the residential structure.
- (3) Construction of nonwater dependent uses that have minimal impact on water quality, including, but not limited to, fences.

SECTION 2. Notwithstanding G.S. 150B-21.3(a) and 26 NCAC 2C.0102(11), the Coastal Resources Commission may adopt temporary rules to amend 15A NCAC 7H.1205 to allow structural modifications to piers in existence on 1 July 2001, to prevent or minimize damage due to storm events.

SECTION 3. Notwithstanding G.S. 150B-21.1(d), each temporary rule adopted pursuant to Sections 1 and 2 of this act shall become effective upon its adoption by the Coastal Resources Commission and shall remain in effect until a permanent rule to replace it becomes effective.

SECTION 4.(a) Notwithstanding G.S. 150B-21.1(d), temporary rules 15A NCAC 2B.0243 and 15A NCAC 2B.0244, which were adopted pursuant to Section 7.1 of S.L. 1999-329 and which became effective on or before 1 July 2001, shall continue in effect until 1 September 2003 in order to provide sufficient time for the Environmental Management Commission to further consult with businesses and industries, local governments, landowners, and other interested or potentially affected persons in the upper and lower Catawba River Basin as to the appropriate scope of permanent rules to

protect water quality and riparian buffers in that river basin. In developing permanent rules, the Commission shall consider whether riparian buffers on the main stem of the Catawba River and on lake shorelines are adequate to protect water quality in the river and whether riparian buffer protection requirements should or should not be extended to some or all of the tributary streams in the river basin, taking into account the sources of water quality degradation in the river, the topography of the land in the river basin, and other relevant factors.

SECTION 4.(b) Vested rights recognized or established under the common law or by G.S. 153A-344(b), 153A-344.1, 160A-385(b), or 160A-385.1 shall include the right, as provided in this subsection, to undertake and complete development in the Catawba River Basin without application of temporary rule 15A NCAC 2B.0243. The Commission and the Department shall not apply temporary rule 15A NCAC 2B.0243 to development with vested rights recognized or established under G.S. 153A-344(b), 153A-344.1, 160A-385(b), or 160A-385.1 prior to 1 July 2001. The Commission and the Department shall not apply temporary rule 15A NCAC 2B.0243 to development with vested rights recognized or established under the common law prior to the date this section becomes effective if the Commission has issued a certification pursuant to G.S. 143B-282(a)(1)u. prior to 1 July 2001. The Commission shall not adopt or enforce rules that confer or restrict a vested right to undertake or complete development. It is the intent of the General Assembly that this subsection apply only to the particular circumstances that are the subject of this section. This subsection does not establish a precedent as to the application of vesting under a zoning or land-use planning program administered by a local government or to any other environmental program.

SECTION 4.(c) Notwithstanding G.S. 150B-21.3(a), this section shall not be construed to authorize the adoption of additional temporary rules related to protection of water quality and riparian buffers.

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:12 a.m. this 22nd day of September, 2001