

March 12, 2009

**H 605. COASTAL HAZARDS DISCLOSURE.** Filed 3/12/09. *TO PROVIDE FOR DISCLOSURE OF COASTAL HAZARDS TO PROSPECTIVE PURCHASERS OF COASTAL PROPERTIES.*

Enacts new GS 39-51, applicable to all properties adjacent to an ocean shoreline and all properties located along shorelines in areas designated as inlet hazard areas of environmental concern by the Coastal Resources Commission (CRC). Directs the CRC to file with the clerk of each county that includes these areas a notice that includes listed information, including a map of each area of environmental concern in the county that delineates the properties meeting the description above, along with the long-term average annual erosion rates, and a notice that a person selling real property within the described areas must provide prospective purchasers with a Coastal Hazards Disclosure Statement. Directs the CRC to prepare a disclosure form to be used by sellers free of charge. The form must include: (1) information about the conditions and rules affecting potential development or redevelopment of land, (2) any site-specific information of which the seller has actual knowledge, (3) a notice that further information may be available from the CRC, and (4) a notice of the remedies available. Requires individuals selling affected land to provide prospective purchasers with a copy of the disclosure statement no later than the end of third calendar day after the purchaser makes an offer to purchase, exchange, or option the property, or exercises the option to purchase the property. If the seller discovers an error, or if circumstances arise to change statements made in the disclosure form after it has been provided to the prospective purchaser, the seller must provide an updated statement and the prospective purchaser has the right to cancel or rescind until the end of the third day after receiving the corrected statement. If a seller fails to provide a corrected statement, the prospective purchaser is entitled to remedies. If a seller fails to provide a disclosure statement, the prospective purchaser may cancel an offer to purchase, exchange, or option the property, or rescind the exercise of the option to purchase the property, by providing written notice to the seller or the seller's agent. This right expires if it is not exercised before whichever of the following occurs first: (1) the end of the third calendar day following receipt of the disclosure statement, (2) the end of the third calendar day following the date the offer is made, (3) settlement or occupancy by the prospective purchaser, or (4) settlement when the property is purchased under a lease with a purchase option. The purchaser is not penalized for cancellation and is entitled to a refund of any deposits paid. Requires real estate agents involved in the transaction to inform clients of their rights and obligations; after doing so, the agent is not liable for any refusal by the seller to provide the disclosure statement. Lists several exemptions from the statute, including transfers pursuant to a court order, transfers from one co-owner to another co-owner, and transfers between spouses pursuant to a divorce. Provides that disclosure does not constitute a warranty that the property may be developed. Makes conforming changes to GS 47E-4 (residential property required disclosures). Directs the CRC to complete filings and develop the disclosure form no later than January 1, 2010, and directs the North Carolina Real Estate Commission to revise the residential property disclosure statement no later than January 1, 2010.

Effective for any offer to sell, exchange, or option real property made on or after July 1, 2010.

Effective July 1, 2009, requires the Department of Environment and Natural Resources (DENR), Division of Coastal Management (Division), to make available on the Division's web site the information regarding an area of environmental concern required to be filed with the clerk of court under proposed GS 39-51(d). Appropriates \$5,000 for 2009-10 from the General Fund to DENR to be used by the Division to implement this provision.

**Intro. by Harrison.**

GS 39, 47E, APPROP