

March 25, 2009

**H 782. SAFE ARTIFICIAL SLOPE CONSTRUCTION ACT.** Filed 3/25/09. *TO (1) REQUIRE LOCAL GOVERNMENTS TO ADOPT ORDINANCES TO REGULATE SITE PLANNING, DESIGN, AND CONSTRUCTION OF ARTIFICIAL SLOPES IN MOUNTAINOUS AREAS TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY; (2) DIRECT THE SEDIMENTATION CONTROL COMMISSION TO ASSIST LOCAL GOVERNMENTS IN DEVELOPMENT AND IMPLEMENTATION OF SAFE SLOPE CONSTRUCTION PROGRAMS AND TO DEVELOP A MODEL ORDINANCE; AND (3) PROVIDE FOR DISCLOSURE OF INFORMATION TO PURCHASERS OF PROPERTIES LOCATED IN CERTAIN AREAS DESIGNATED ON STABILITY INDEX MAPS AND PREPARED BY THE NORTH CAROLINA GEOLOGICAL SURVEY.*

Enacts new Article 19 of GS Chapter 113A to provide a comprehensive management program for artificial slope construction on steep slopes (those with a slope of 40% or greater) and those with a moderate or high slide hazard ranking (as designated on maps prepared by the North Carolina Geological Survey). Directs that the Sedimentation Control Commission (Commission) identify jurisdictions required to adopt ordinances, to develop a model ordinance and provide other technical assistance to these jurisdictions, to review and approve ordinances for compliance with minimum standards, and to assume regulatory responsibility for artificial slope construction if an affected local government fails to adopt or adequately administer a required program. Allows the Commission to delegate authority to implement a safe artificial slope construction program to a state agency, with the delegated program governing any slope construction activities conducted by the state agency in an affected area. If a program has been delegated, the agency is not subject to an ordinance adopted by a local government having jurisdiction over the affected area. Requires the Commission to assume responsibility for a safe artificial slope construction program, after a specified notification and response period, if the state agency fails to adequately administer and enforce the provisions of the delegated program. Allows the Commission to collect a \$100 fee per acre or partial acre of disturbed land as shown on an artificial slope construction plan or of land actually disturbed during the life of the project, whichever is greater, for review of the artificial slope construction plan and related activities. Prohibits limitation on existing authority of local programs to assess fees for the approval of artificial slope construction plans. Makes conforming changes to GS 143B-298 (Commission's powers and duties). Mandates that local governments with affected areas adopt and administer regulations on construction of artificial slopes. Sets the process local governments must follow in adopting and administering the mandated ordinances, including requiring a public hearing on the question of adopting the ordinance. Allows cooperative and joint local programs. Provides for enforcement through civil penalties, criminal penalties, and injunctive relief.

Amends GS 47E-4(b) to direct the Real Estate Commission to require disclosure in residential property transfers if the property is located within an area ranked as high or moderate relative debris/earth flow/slide area.

Effective July 1, 2009, appropriates \$40,000 for 2009-10 and \$40,000 for 2010-11 from the General Fund to the Department of Environment and Natural Resources to implement the provisions of this act.

Provisions on duties of the Sedimentation Control Commission are effective when the act becomes law. Provisions on real estate transfer disclosures become effective December 1, 2009. Requirements for local ordinances and permitting become effective October 1, 2010, with affected local governments to submit ordinances for Commission approval on or before July 1, 2009.

**Intro. by Rapp, Fisher.**

GS 47E, 113A, 143B, APPROP

May 11, 2009

**H 782. SAFE ARTIFICIAL SLOPE CONSTRUCTION ACT.** Filed 3/25/09. House committee substitute makes the following changes to 1st edition. Deletes all provisions of the previous edition and replaces it with *AN ACT TO CREATE THE SAFE ARTIFICIAL SLOPE*

*CONSTRUCTION STUDY COMMISSION TO EXAMINE THE NEED FOR AND ADVISABILITY OF ESTABLISHING MINIMUM STATEWIDE MANAGEMENT REQUIREMENTS FOR SAFE ARTIFICIAL SLOPE CONSTRUCTION IN MOUNTAINOUS AREAS OF THE STATE IN ORDER TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY.* Establishes an eight member Safe Artificial Slope Construction Study Commission (Commission), that, with the assistance of the Department of Environment and Natural Resources and the North Carolina Geological Survey must (1) study issues related to safe artificial slope construction in mountainous areas; (2) collect research and information on: (a) landslide types, events, causes, and triggers, including elevations and slope angles at which landslides may be more likely to occur, (b) technical requirements that may be applied to artificial slope construction, and (c) any other issues deemed relevant; (3) prepare a draft report with a statement of the issues, a summary of the research, and recommendations; (4) hold at least two public meetings in the western region of the state to present the draft report and recommendations; and (5) consult with all interested parties regarding the issues of the study. Provides for (1) appointment of members, including requiring four members from the mountain region of the state and two members from the minority political party, (2) procedures for meetings, (3) assignment of staff, and (4) member expenses. Requires the Commission to report to the General Assembly and the Environmental Review Commission by May 1, 2010, at which time the Commission must terminate. Directs the Legislative Services Commission to allocate funds appropriated to the General Assembly for conducting the study.