

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 116
PROPOSED COMMITTEE SUBSTITUTE H116-PCS50307-SB-22

Short Title: Coastal Wetland Riparian Buffer Grandfather.

(Public)

Sponsors:

Referred to:

February 17, 2011

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE IMPACT OF COASTAL WETLAND RIPARIAN BUFFER
REQUIREMENTS ON THE CONSTRUCTION OF SINGLE-FAMILY RESIDENCES
ON CERTAIN LOTS PLATTED AND RECORDED PRIOR TO AUGUST 1, 2000.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act and its
implementation:

- (1) The definitions set out in G.S. 113A-103 and G.S. 143-212.
- (2) The definitions set out in the Neuse River Basin Riparian Buffer Rule and the Tar-Pamlico River Basin Riparian Buffer Rule.
- (3) "Coastal wetlands" means marshland as defined in G.S. 113-229.
- (4) "Commission" means the Environmental Management Commission.
- (5) "Existing lot" means a lot of two acres in size or less that was platted and recorded in the office of the appropriate county Register of Deeds prior to August 1, 2000.
- (6) "Neuse River Basin Riparian Buffer Rule" means 15A NCAC 02B .0233 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers), effective August 1, 2000.
- (7) "Tar-Pamlico River Basin Riparian Buffer Rule" means 15A NCAC 02B .0259 (Tar-Pamlico River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers), effective August 1, 2000.

SECTION 2.(a) Neuse River Basin Riparian Buffer Rule and Tar-Pamlico River Basin Riparian Buffer Rule. – Until the effective date of the revised permanent rules that the Commission is required to adopt pursuant to Section 2(c) of this act, the Commission and the Department shall implement the Neuse River Basin Riparian Buffer Rule and the Tar-Pamlico River Basin Riparian Buffer Rule, as provided in Section 2(b) of this act.

SECTION 2.(b) Implementation. – The riparian buffer requirements of the Neuse River Basin Riparian Buffer Rule and the Tar-Pamlico River Basin Riparian Buffer Rule shall apply to development of an existing lot located adjacent to surface waters in the coastal area as provided in this section. Where application of the riparian buffer requirements would preclude construction of a single-family residence and necessary infrastructure, such as an on-site



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1 wastewater system, the single-family residence may encroach on the buffer if all of the
2 following conditions are met:

- 3 (1) The residence is set back the maximum feasible distance from the normal
4 high-water level or normal water level, whichever is applicable, on the
5 existing lot and designed to minimize encroachment into the riparian buffer.
- 6 (2) The residence is set back a minimum of 30 feet landward of the normal
7 high-water level or normal water level, whichever is applicable.
- 8 (3) Stormwater generated by new impervious surface within the riparian buffer
9 is treated and diffuse flow of stormwater is maintained through the buffer.
- 10 (4) If the residence will be served by an on-site wastewater system, no part of
11 the septic tank or drainfield may encroach into the riparian buffer.

12 **SECTION 2.(c)** Additional Rule-Making Authority. – The Commission shall adopt
13 a rule to replace the Neuse River Basin Riparian Buffer Rule and the Tar-Pamlico River Basin
14 Riparian Buffer Rule. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission
15 pursuant to this section shall be substantively identical to the provisions of Section 2(b) of this
16 act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through
17 G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in
18 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
19 G.S. 150B-21.3(b2).

20 **SECTION 3.** This act is effective when it becomes law.