

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 760
Apr 14, 2015
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH30274-RO-7 (03/19)

Short Title: Regulatory Reform Act of 2015. (Public)

Sponsors: Representatives Millis, J. Bell, and Riddell (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF
3 NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE
4 REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED
5 STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING
6 CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS
7 OTHER STATUTORY CHANGES.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. BUSINESS REGULATION**
11 **MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK**

12 **SECTION 1.1.** G.S. 143-143.10A(b) reads as rewritten:

13 **"§ 143-143.10A. Criminal history checks of applicants for licensure.**

14 (a) Definitions. – The following definitions shall apply in this section:

15 (1) Applicant. – A person applying for initial licensure as a manufactured home
16 ~~manufacturer, dealer, salesperson, salesperson~~ or set-up contractor.

17 ...

18 (b) All applicants for initial licensure shall consent to a criminal history record check.
19 Refusal to consent to a criminal history record check may constitute grounds for the Board to
20 deny licensure to an applicant. The Board shall ensure that the State and national criminal
21 history of an applicant is checked. Applicants shall obtain criminal record reports from one or
22 more reporting services designated by the Board to provide criminal record reports. Each
23 applicant is required to pay the designated service for the cost of the criminal record report. In
24 the alternative, the Board may provide to the North Carolina Department of Public Safety the
25 fingerprints of the applicant to be checked, a form signed by the applicant consenting to the
26 criminal record check and the use of fingerprints and other identifying information required by
27 the State or National Repositories of Criminal Histories, and any additional information
28 required by the Department of Public Safety. The Board shall keep all information obtained
29 pursuant to this section confidential.

30"

31
32 **AMEND FOOD PUSHCART REQUIREMENT**

33 **SECTION 1.2.** G.S. 130A-248(c1) reads as rewritten:

34 "(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile
35 food units. ~~A permitted restaurant or commissary shall serve as a base of operations for a~~
36 ~~pushcart.~~ A pushcart or mobile food unit shall meet all of the sanitation requirements of a



1 permitted commissary or shall have a permitted restaurant or commissary that serves as its base
2 of operation."
3

4 **PART II. STATE AND LOCAL GOVERNMENT REGULATION** 5 **ZONING DENSITY CREDITS**

6 **SECTION 2.1.** G.S. 160A-381(a) reads as rewritten:

7 "(a) For the purpose of promoting health, safety, morals, or the general welfare of the
8 community, any city may adopt zoning and development regulation ordinances. These
9 ordinances may be adopted as part of a unified development ordinance or as a separate
10 ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size
11 of buildings and other structures, the percentage of lots that may be occupied, the size of yards,
12 courts and other open spaces, the density of population, the location and use of buildings,
13 structures and land. The ordinance ~~may~~shall provide density credits or severable development
14 rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."
15

16 **NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES**

17 **SECTION 2.2.(a)** G.S. 150B-21.3A(d) reads as rewritten:

18 "(d) Timetable. – The Commission shall establish a schedule for the review and
19 readoption of existing rules in accordance with this section on a decennial basis as follows:
20

21 ...

- 22 (2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g.
23 of this section, once the final determination report becomes effective, the
24 Commission shall establish a date by which the agency must readopt the
25 rules. The Commission shall consult with the agency and shall consider the
26 agency's rule-making priorities in establishing the readoption date. The
27 agency may amend a rule as part of the readoption process. If a rule is
28 readopted without substantive ~~change, change or if the rule is amended to~~
impose a less stringent burden on regulated persons, the agency is not
29 required to prepare a fiscal note as provided by G.S. 150B-21.4."
30

31 **SECTION 2.2.(b)** This section is effective when it becomes law and applies to
32 periodic review of existing rules occurring pursuant to G.S. 150B-21.3A on or after that date.

33 **APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD** 34 **CHANGES**

35 **SECTION 2.3.** Pursuant to G.S. 120-70.101(3a), the Joint Legislative
36 Administrative Procedure Oversight Committee (APO) shall review the recommendations
37 contained in the Joint Legislative Program Evaluation Oversight Committee's report, entitled
38 "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is
39 Needed" to determine the best way to accomplish the recommendations contained in the report
40 and to improve oversight of occupational licensing boards. In conducting the review, APO shall
41 consult with occupational licensing boards, licensees, associations representing licensees, the
42 Department of Commerce, and other interested parties. The APO cochairs may establish
43 subcommittees to assist with various parts of the review, including determining whether
44 licensing authority should be continued for the 12 boards identified in the report. The APO
45 shall propose legislation to the 2016 Session of the 2015 General Assembly.
46

47 **PART III. ENVIRONMENTAL AND NATURAL RESOURCE REGULATION** 48 **AMEND ISOLATED WETLANDS LAW**

49 **SECTION 3.1.(a)** For the purposes of implementing Section .1300 of Subchapter
50 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code (Discharges to
51 Isolated Wetlands and Isolated Waters), the isolated wetlands provisions of Section .1300 shall

1 apply only to a Basin Wetland or Bog and no other wetland types as described in the North
2 Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland
3 Functional Assessment Team, version 4.1 October, 2010, that are not jurisdictional wetlands
4 under the federal Clean Water Act. The isolated wetlands provisions of Section .1300 shall not
5 apply to an isolated man-made ditch or pond constructed for stormwater management purposes,
6 any other man-made isolated pond, or any other type of isolated wetland, and the Department
7 of Environment and Natural Resources shall not regulate such water bodies under Section
8 .1300.

9 **SECTION 3.1.(b)** The Environmental Management Commission may adopt rules
10 to amend Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina
11 Administrative Code consistent with Section 3.1(a).

12 **SECTION 3.1.(c)** Section 54 of S.L. 2014-120 reads as rewritten:

13 **"SECTION 54.(a)** Until the effective date of the revised permanent rule that the
14 Environmental Management Commission is required to adopt pursuant to Section 54(c) of this
15 act, the Commission and the Department of Environment and Natural Resources shall
16 implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 54(b) of
17 this act.

18 **"SECTION 54.(b)** Notwithstanding 15A NCAC 02H .1305 (Review of Applications), all
19 of the following shall apply to the implementation of 15A NCAC 02H .1305:

- 20 (1) The amount of impacts of isolated wetlands under 15A NCAC 02H
21 .1305(d)(2) shall be less than or equal to one acre of isolated wetlands east
22 of I-95 for the entire project and less than or equal to 1/3 acre of isolated
23 wetlands west of I-95 for the entire project.
- 24 (2) Mitigation requirements for impacts to isolated wetlands shall only apply to
25 the amount of impact that exceeds the thresholds set out in subdivision (1) of
26 this section. The mitigation ratio for impacts ~~of greater than one~~
27 ~~acre exceeding the thresholds~~ for the entire project under 15A NCAC 02H
28 .1305(g)(6) shall be 1:1 and may be located on the same parcel.
- 29 (3) ~~For purposes of Section 54(b) of this section, "isolated wetlands" means a~~
30 ~~Basin Wetland or Bog as described in the North Carolina Wetland~~
31 ~~Assessment User Manual prepared by the North Carolina Wetland~~
32 ~~Functional Assessment Team, version 4.1 October, 2010, that are not~~
33 ~~jurisdictional wetlands under the federal Clean Water Act. An "isolated~~
34 ~~wetland" does not include an isolated man-made ditch or pond constructed~~
35 ~~for stormwater management purposes or any other man-made isolated pond.~~
- 36 (4) Impacts to isolated wetlands shall not be combined with the project impacts
37 to 404 jurisdictional wetlands or streams for the purpose of determining
38 when impact thresholds that trigger a mitigation requirement are met.

39 **"SECTION 54.(c)** The Environmental Management Commission shall adopt rules to
40 amend 15A NCAC 02H .1300 through 15A NCAC 02H .1305 consistent with Section 54(b) of
41 this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this
42 subsection shall be substantively identical to the provisions of Section 54(b) of this act. Rules
43 adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of
44 the General Statutes. Rules adopted pursuant to this subsection shall become effective as
45 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as
46 provided by G.S. 150B-21.3(b2).

47 **"SECTION 54.(d)** The Department of Environment and Natural Resources shall study (i)
48 how the term "isolated wetland" has been previously defined in State law and whether the term
49 should be clarified in order to provide greater certainty in identifying isolated wetlands; (ii) the
50 surface area thresholds for the regulation of mountain bog isolated wetlands, including whether
51 mountain bog isolated wetlands should have surface area regulatory thresholds different from

1 other types of isolated wetlands; and (iii) whether impacts to isolated wetlands should be
2 combined with the project impacts to jurisdictional wetlands or streams for the purpose of
3 determining when impact thresholds that trigger a mitigation requirement are met. The
4 Department shall report its findings and recommendations to the Environmental Review
5 Commission on or before November 1, 2014.

6 "SECTION 54.(e) This section is effective when it becomes law. Section 54(b) of this act
7 expires on the date that rules adopted pursuant to Section 54(c) of this act become effective."
8

9 AMEND STORMWATER MANAGEMENT LAW

10 SECTION 3.2.(a) Section 3 of S.L. 2013-82 reads as rewritten:

11 "SECTION 3. The Environmental Management Commission shall adopt rules
12 implementing Section 2 of this act no later than ~~July 1, 2016~~ November 1, 2016."

13 SECTION 3.2.(b) G.S. 143-214.7 reads as rewritten:

14 "§ 143-214.7. Stormwater runoff rules and programs.

15 ...

16 (b2) For purposes of implementing ~~stormwater programs~~, State stormwater programs and
17 local stormwater programs approved pursuant to subsection (d) of this section, all of the
18 following shall apply:

19 (1) ~~"built-upon area"~~ "Built-upon area" means impervious surface and partially
20 impervious surface to the extent that the partially impervious surface does
21 not allow water to infiltrate through the surface and into the subsoil.
22 "Built-upon area" does not include a slatted deck or the water area of a
23 swimming pool.

24 (2) Vegetative buffers adjacent to intermittent streams shall be measured from
25 the center of the stream bed.

26 (3) The volume, velocity, and discharge rates of water associated with the
27 one-year, 24-hour storm and the difference in stormwater runoff from the
28 predevelopment and postdevelopment conditions for the one-year, 24-hour
29 storm shall be calculated using any acceptable engineering hydrologic and
30 hydraulic methods.

31 (4) Development may occur within a vegetative buffer if the stormwater runoff
32 from the development is discharged outside of the vegetative buffer and is
33 managed so that it otherwise complies with all applicable State and federal
34 stormwater management requirements.

35 (5) The requirements that apply to development activities within one-half mile
36 of and draining to Class SA waters or within one-half mile of Class SA
37 waters and draining to unnamed freshwater tributaries shall not apply to
38 development activities and associated stormwater discharges that do not
39 occur within one-half mile of and draining to Class SA waters or are not
40 within one-half mile of Class SA waters and draining to unnamed freshwater
41 tributaries."

42 ...

43 (d) The Commission shall review each stormwater management program submitted by
44 a State agency or unit of local government and shall notify the State agency or unit of local
45 government that submitted the program that the program has been approved, approved with
46 modifications, or disapproved. The Commission shall approve a program only if it finds that
47 the standards of the program equal ~~or exceed~~ those of the model program adopted by the
48 Commission pursuant to this section.

49"

50 SECTION 3.2.(c) No later than January 1, 2016, a State agency or local
51 government that implements a stormwater management program approved pursuant to

1 subsection (d) of G.S. 143-214.7 shall submit its current stormwater management program or a
2 revised stormwater management program to the Environmental Management Commission. No
3 later than July 1, 2016, the Environmental Management Commission shall review and act on
4 each of the submitted stormwater management programs in accordance with subsection (d) of
5 G.S. 143-214.7, as amended by this section.

6 **SECTION 3.2.(d)** The Environmental Review Commission, with the assistance of
7 the Department of Environment and Natural Resources, shall review the current status of State
8 statutes, session laws, rules, and guidance documents related to the management of stormwater
9 in the State. The Commission shall specifically examine whether State statutes, session laws,
10 rules, and guidance documents related to the management of stormwater in the State should be
11 recodified or reorganized in order to clarify State law for the management of stormwater. The
12 Commission shall submit legislative recommendations, if any, to the 2016 Regular Session of
13 the 2015 General Assembly.

14 15 **RIPARIAN BUFFER REFORM**

16 **SECTION 3.3.(a)** G.S. 143-214.23 reads as rewritten:

17 "**§ 143-214.23. Riparian Buffer Protection Program: Delegation of riparian buffer**
18 **protection requirements to local governments.**

19 (a) Delegation Permitted. – The Commission may delegate responsibility for the
20 implementation and enforcement of the State's riparian buffer protection requirements to units
21 of local government that have the power to regulate land use. A delegation under this section
22 shall not affect the jurisdiction of the Commission over State agencies and units of local
23 government. Any unit of local government that has the power to regulate land use may request
24 that responsibility for the implementation and enforcement of the State's riparian buffer
25 protection requirements be delegated to the unit of local government. To this end, units of local
26 government may adopt ordinances and regulations necessary to establish and enforce the State's
27 riparian buffer protection requirements.

28 (b) Procedures. – Within 90 days after the Commission receives a complete application
29 requesting delegation of responsibility for the implementation and enforcement of the State's
30 riparian buffer protection requirement, the Commission shall review the application and notify
31 the unit of local government that submitted the application whether the application has been
32 approved, approved with modifications, or disapproved. The Commission shall not approve a
33 delegation unless the Commission finds that local implementation and enforcement of the
34 State's riparian buffer protection requirements will equal implementation and enforcement by
35 the State.

36 (b1) Deviations from Minimum State Requirements. – The Commission may approve a
37 delegation application proposing a riparian buffer width that deviates from that required by the
38 State for the type of surface body of water and the river basin or basins in which the unit of
39 local government is located only in accordance with the procedures of this section:

40 (1) Units of local government may request deviations in riparian buffer widths
41 from the Commission when submitting an application under subsection (b)
42 of this section. Deviations in buffer width enforced by units of local
43 government under an existing local ordinance may not be enforced after
44 February 1, 2016, unless the unit of local government has either received
45 approval for a deviation under the procedures set forth in this subsection or
46 has an application for deviation pending with the Commission. Under no
47 circumstances shall any existing local ordinance be enforced after June 1,
48 2016, unless the Commission has approved the deviation. For purposes of
49 this subdivision, an "existing local ordinance" is a local ordinance approved
50 prior to August 1, 2015, that includes a deviation in riparian buffer width
51 from that required by the State.

1 (2) The Commission may consider a request for a deviation in riparian buffer
2 width only if the request is accompanied by a scientific study prepared by or
3 on behalf of the unit of local government that provides a justification for the
4 deviation based on the topography, soils, hydrology, and environmental
5 impacts within the jurisdiction of the unit of local government. The
6 Commission may also require that the study include any other information it
7 finds necessary to evaluate the request for deviation.

8 (3) The Commission shall grant the request for deviation only if it finds that the
9 need for a deviation in riparian buffer width is established by the scientific
10 evidence presented by the unit of local government requesting the deviation
11 in order to meet the nutrient reduction goal set by the Commission for the
12 basin subject to the riparian buffer rule.

13 (c) Local Program Deficiencies. – If the Commission determines that a unit of local
14 government is failing to implement or enforce the State's riparian buffer protection
15 requirements, the Commission shall notify the unit of local government in writing and shall
16 specify the deficiencies in implementation and enforcement. If the local government has not
17 corrected the deficiencies within 90 days after the unit of local government receives the
18 notification, the Commission shall rescind delegation and shall implement and enforce the
19 State's riparian buffer protection program. If the unit of local government indicates that it is
20 willing and able to resume implementation and enforcement of the State's riparian buffer
21 protection requirements, the unit of local government may reapply for delegation under this
22 section.

23 (d) Technical Assistance. – The Department shall provide technical assistance to units
24 of local government in the development, implementation, and enforcement of the State's
25 riparian buffer protection requirements.

26 (e) Training. – The Department shall provide a stream identification training program to
27 train individuals to determine the existence of surface water for purposes of rules adopted by
28 the Commission for the protection and maintenance of riparian buffers. The Department may
29 charge a fee to cover the full cost of the training program. No fee shall be charged to an
30 employee of the State who attends the training program in connection with the employee's
31 official duties.

32 (e1) Restriction on Treatment of Buffer by State and Local Governments. – Units of
33 local government shall not treat the land within a riparian buffer as if the land is the property of
34 the State or any of its subdivisions unless the land or an interest therein has been acquired by
35 the State or its subdivisions by a conveyance or by eminent domain. Land within a riparian
36 buffer in which neither the State nor its subdivisions holds any property interest may be used to
37 satisfy any other development-related regulatory requirements based on property size.

38 (e2) Recordation of Common Area Buffers. – When riparian buffers are included within
39 a lot, units of local governments shall require that the buffer area be denominated on the
40 recorded plat. When riparian buffers are (i) placed outside of lots in portions of a subdivision
41 that are designated as common areas or open space, and (ii) neither the State nor its
42 subdivisions holds any property interest in that riparian buffer area, the unit of local
43 government shall attribute to each lot abutting the riparian buffer area a proportionate share
44 based on the area of all lots abutting the riparian buffer area for purposes of
45 development-related regulatory requirements based on property size.

46 (e3) Limitation on Local Government Riparian Area Restrictions. – Units of local
47 government may impose restrictions upon the use of riparian areas as defined in 15A NCAC
48 02B .0202 only within river basins where riparian buffers are required by the State. Units of
49 local government may impose restrictions upon riparian areas to satisfy State riparian buffer
50 requirements by means of: a zoning district, subdivision or development regulation;
51 comprehensive plan; policy; resolution; or any other act carrying the effect of law. The width of

1 the restricted area and the body of water to which the restrictions apply shall not deviate from
2 State requirements unless the deviation has been approved under subsection (b1) of this section.
3 For purposes of this subsection, the terms "riparian areas" and "riparian buffer areas" shall have
4 the same meaning.

5 (e4) Exception. – Neither the restrictions in subsection (e3) of this section nor the
6 riparian buffer deviation approval procedures of subsection (b1) of this section shall apply to
7 any local ordinance initially adopted prior to July 22, 1997, and any subsequent modifications
8 that have the following characteristics:

9 (1) The ordinance includes findings that the setbacks from surface water bodies
10 are imposed for purposes that include the protection of aesthetics, fish and
11 wildlife habitat and recreational use by maintaining water temperature,
12 healthy tree canopy and understory, and the protection of the natural
13 shoreline through minimization of erosion and potential chemical pollution
14 in addition to the protection of water quality and the prevention of excess
15 nutrient runoff.

16 (2) The ordinance includes provisions to permit under certain circumstances (i)
17 small or temporary structures within 50 feet of the water body and (ii) docks
18 and piers within and along the edge of the water body.

19 (e5) Definition. – For purposes of this section, "development-related regulatory
20 requirements based on property size" means requirements that forbid or require particular uses,
21 activities, or practices for some percentage of the area of a lot or for lots above or below a
22 particular size, including, but not limited to, perimeter buffers, maximum residential density,
23 tree conservation ordinances, minimum lot size requirements, or nonresidential floor area ratio
24 requirements.

25 (f) Rules. – The Commission may adopt rules to implement this section."

26 **SECTION 3.3.(b)** Part 1 of Article 21 of Chapter 143 of the General Statutes is
27 amended by adding two new sections to read:

28 **"§ 143-214.18. Exemption to riparian buffer requirements for certain private properties.**

29 (a) Definition. – For purposes of this section, "applicable buffer rule" refers to any of
30 the following rules that are applicable to a tract of land:

31 (1) Neuse River Basin. – 15A NCAC 02B .0233, effective August 1, 2000.

32 (2) Tar-Pamlico River Basin. – 15A NCAC 02B .0259, effective August 1,
33 2000.

34 (3) Randleman Lake Water Supply Watershed. – 15A NCAC 02B .0250,
35 effective June 1, 2010.

36 (4) Catawba River Basin. – 15A NCAC 02B .0243, effective August 1, 2004.

37 (5) Jordan Water Supply Nutrient Strategy. – 15A NCAC 02B .0268, effective
38 September 1, 2011.

39 (6) Goose Creek Watershed of the Yadkin Pee-Dee River Basin. – 15A NCAC
40 02B .0605 and 02B .0607, effective February 1, 2009.

41 (b) Exemption. – Absent a requirement of federal law or an imminent threat to public
42 health or safety, an applicable buffer rule shall not apply to any tract of land that meets all of
43 the following criteria:

44 (1) With the exception set forth in subsection (c) of this section, the tract was
45 platted and recorded in the register of deeds in the county where the tract is
46 located prior to the effective date of the applicable buffer rule.

47 (2) Other than the applicable buffer rule, the use of the tract complies with either
48 of the following:

49 a. The rules and other laws regulating and applicable to that tract on the
50 effective date for the applicable buffer rule set out in subsection (a)
51 of this section.

1 b. The current rules, if the application of those rules to the tract was
2 initiated after the effective date for the applicable buffer rule by the
3 unit of local government with jurisdiction over the tract and not at the
4 request of the property owner.

5 (c) If a tract of land described in subsection (b) of this section is converted to a use that
6 does not comply with subdivision (b)(2) of this section, then the applicable buffer rule shall
7 apply.

8 (d) The tract of land shall retain an exemption under subsection (b) of this section if
9 either of the following applies:

10 (1) The tract has been replatted and rerecorded after the effective date for the
11 applicable buffer rule as a result of an eminent domain action and the tract
12 continues to comply with subdivision (b)(2) of this section.

13 (2) The tract is a recombination exempt from the definition of subdivision under
14 G.S. 160A-376 or G.S. 153A-33 and recorded after the effective date of the
15 applicable buffer rule, and the recombination consists of all, or portions of,
16 parcels meeting the requirements for exemption from the applicable buffer
17 rule set forth in subsection (b) of this section.

18 (e) For purposes of meeting the requirements of subdivision (b)(2) of this section, the
19 following shall be interpreted to be "complying with the rules and other laws regulating and
20 applicable to that property on the effective date for the applicable buffer rule":

21 (1) The conversion of a tract of land that was undeveloped prior to the effective
22 date of the applicable buffer rule to a use that was permitted under
23 applicable local ordinances in effect prior to the effective date of the
24 applicable buffer rule, even if the conversion is approved after the effective
25 date of the applicable buffer rule.

26 (2) The conversion of the tract of land to a use permitted under applicable local
27 rules or ordinances that have been applied to the property since the effective
28 date of the applicable buffer rule as a result of either (i) a change in
29 regulations applied by the unit of local government with jurisdiction over the
30 tract; or (ii) a change in the unit of local government having jurisdiction over
31 the tract which results in the application of regulations to the tract after the
32 effective date of the applicable buffer rule.

33 (f) An exemption to an applicable buffer rule under this section runs with the land, if
34 notice of the exemption is recorded with the register of deeds at or prior to the next conveyance
35 of the tract or portion of the tract."

36 **"§ 143-214.19. Delineation of protective riparian buffers for coastal wetlands in the Neuse**
37 **River and Tar-Pamlico River Basins.**

38 (a) The following definitions apply in this section:

39 (1) Coastal wetlands. – Any salt marsh or other marsh subject to regular or
40 occasional flooding by tides, including wind tides (whether or not the
41 tidewaters reach the marshland areas through natural or artificial
42 watercourses), provided this shall not include hurricane or tropical storm
43 tides.

44 (2) Marshlands. – The term has the same meaning as G.S. 113-229(n).

45 (b) If State law requires a protective riparian buffer for coastal wetlands in either the
46 Neuse River Basin or the Tar-Pamlico River Basin, the coastal wetlands and marshlands shall
47 not be treated as part of the surface waters but instead shall be included in the measurement of
48 the protective riparian buffer. The protective riparian buffer for any of the coastal wetlands or
49 marshlands in the Neuse River Basin or the Tar-Pamlico River Basin shall be delineated as
50 follows:

1 (1) If the coastal wetlands or marshlands extend less than 50 feet from the high
2 normal water level or normal water level, as appropriate, and therefore
3 would not encompass a 50-foot area beyond the appropriate water level, then
4 the protective riparian buffer shall include all of the coastal wetlands and
5 marshlands and enough of the upland footage to equal a total of 50 feet from
6 the appropriate normal high water level or the normal water level measured
7 horizontally on a line perpendicular to the surface water.

8 (2) If the coastal wetlands or marshlands extend 50 feet or more from the
9 normal high water level or normal water level, as appropriate, then the
10 protective riparian buffer shall be the full width of the marshlands or coastal
11 wetlands up to the landward limit of the marshlands or coastal wetlands but
12 shall not extend beyond the landward limit of the marshlands or coastal
13 wetlands."

14 **SECTION 3.3.(c)** Article 21 of Chapter 143 of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 143-214.27 Riparian Buffer Conditions in Environmental Permits.**

17 (a) Except as set forth in subsection (b) of this section, the Department may not impose
18 as a condition of any permit issued under this Article riparian buffer requirements that exceed
19 established standards for the river basin within which the activity or facility receiving the
20 permit is located. If no riparian buffer standards have been established for the river basin within
21 which the activity or facility receiving the permit is located, then the Department shall not
22 impose a buffer standard as a condition for a permit that exceeds the standard for the Neuse
23 River Basin set forth in 15A NCAC 02B .0233.

24 (b) The Department may impose as a condition of any permit issued under this Article a
25 more restrictive riparian buffer requirement than that established for the river basin within
26 which the activity or facility receiving the permit is located, or a riparian buffer requirement in
27 a river basin where no riparian buffer standards have been established as set forth in this
28 subsection. Prior to imposing the riparian buffer permit condition, the Commission must make
29 a finding that the condition is necessary in order to meet the nutrient reduction goals for the
30 river basin within which the activity or facility receiving the permit is located, based on
31 basin-specific evidence compiled through a scientific study prepared by or on behalf of the
32 Department that provides a justification for the permit condition based on the topography, soils,
33 or hydrology of the river basin, the environmental impacts of the activity or facility, and any
34 other information the Commission finds necessary to evaluate the need for the riparian buffer
35 permit condition."

36 **SECTION 3.3.(d)** This section becomes effective August 1, 2015.
37

38 **WILDLIFE SEARCH AND SEIZURE**

39 **SECTION 3.4.(a)** G.S. 113-136(k) reads as rewritten:

40 (k) It is unlawful to refuse to exhibit upon request by any inspector, protector, or other
41 law enforcement officer any item required to be carried by any law or rule as to which
42 inspectors or protectors have enforcement jurisdiction. The items that must be exhibited include
43 boating safety or other equipment or any license, permit, tax receipt, certificate, or
44 identification. It is unlawful to refuse to allow inspectors, protectors, or other law enforcement
45 officers to inspect weapons, equipment, fish, or wildlife ~~that~~ if the officer reasonably believes
46 them to be possessed incident to an activity regulated by any law or rule as to which inspectors
47 and protectors have enforcement ~~jurisdiction.~~ jurisdiction and the officer has a reasonable
48 suspicion that a violation has been committed. Except as authorized by G.S. 113-137, nothing
49 in this section gives an inspector, protector, or other law enforcement officer the authority to
50 inspect weapons, equipment, fish, or wildlife in the absence of a person in apparent control of
51 the item to be inspected."

1 **SECTION 3.4.(b)** The Wildlife Resources Commission shall report to the Joint
2 Legislative Oversight Committee on Justice and Public Safety by March 1, 2017, and annually
3 thereafter, on the number of complaints received against Commission law enforcement officers,
4 the subject matter of the complaints, and the geographic areas in which the complaints were
5 filed.

6 **SECTION 3.4.(c)** Section 3.4(a) of this section becomes effective December 1,
7 2015, and applies to offenses committed on or after that date. The remainder of this section is
8 effective when it becomes law.
9

10 **STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS**

11 **SECTION 3.5.** The Department of Insurance, the Building Code Council, and the
12 Coastal Resources Commission shall jointly study how flood elevations and building heights
13 for structures are established and measured in the coastal region of the State. The Department,
14 Council, and Commission shall specifically consider how flood elevations and coastal building
15 height requirements affect flood insurance rates and how height calculation methods might be
16 made more consistent and uniform in order to provide flood insurance rate relief. In conducting
17 this study, the Department, Council, and Commission shall engage a broad group of
18 stakeholders, including property owners, local governments, and representatives of the
19 development industry. No later than January 1, 2016, the Department, Council, and
20 Commission shall jointly submit the results of their study, including any legislative
21 recommendations, to the 2015 General Assembly.
22

23 **PART IV. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

24 **SECTION 4.1.** If any section or provision of this act is declared unconstitutional or
25 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
26 the part declared to be unconstitutional or invalid.

27 **SECTION 4.2.** Except as otherwise provided, this act is effective when it becomes
28 law.