

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL DRS35152-LM-80

Short Title: Clarify Property Owners' Rights.

(Public)

Sponsors: Senators McInnis, Krawiec, and B. Jackson (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT COUNTIES AND CITIES SHALL NOT ADOPT ORDINANCES REGULATING THE REMOVAL OF TREES FROM PRIVATE PROPERTY WITHOUT THE EXPRESS AUTHORIZATION OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"§ 153A-145.8. Limitations on regulating trees.

No county may adopt ordinances regulating the removal of trees from private property within the county's jurisdiction without the express authorization of the General Assembly. Neither the general police powers authorized in this Article nor any other powers authorized in this Chapter or in any other general or local law, except a general or local law expressly authorizing a county to adopt ordinances regulating the removal of trees from private property, shall be used by a county's governing body as the basis for adopting ordinances regulating the removal of trees from private property. Any ordinance regulating the removal of trees from private property shall provide that the owner of the private property may remove any tree on the property that interferes with a construction or renovation project so long as the owner replaces the tree with a sapling of the same or similar type. For purposes of this section, the term "sapling" means any tree between 1 and 4 inches in diameter at breast height."

SECTION 2. Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"§ 160A-201.2. Limitations on regulating trees.

No city may adopt ordinances regulating the removal of trees from private property within the city's corporate limits or extraterritorial jurisdiction without the express authorization of the General Assembly. Neither the general police powers authorized in this Article nor any other powers authorized in this Chapter or in any other general or local law, except a general or local law expressly authorizing a city to adopt ordinances regulating the removal of trees from private property, shall be used by a city's governing body as the basis for adopting ordinances regulating the removal of trees from private property. Any ordinance regulating the removal of trees from private property shall include a provision which provides that the owner of the private property may remove any tree on the property that interferes with a construction or renovation project so long as the owner replaces the tree with a sapling of the same or similar type. For purposes of this section, the term "sapling" means any tree between 1 and 4 inches in diameter at breast height."



1 **SECTION 3.** The following local acts authorizing ordinances regulating the removal
2 of trees from private property shall remain in effect after this act becomes law, but the governing
3 body of the county or city shall amend any ordinances adopted prior to the effective date of this
4 act to include a provision which provides that the owner of the private property may remove any
5 tree on the property that interferes with a construction or renovation project so long as the owner
6 replaces the tree with a sapling of the same or similar type as required by G.S. 153A-145.8 and
7 G.S. 160A-201.2, as enacted in Sections 1 and 2 of this act:

- 8 (1) Chapter 328 of the Session Laws of 1977 (Wilson, Greenville).
- 9 (2) Section 5.66 of the Charter of the City of Greensboro, being Chapter 1137 of
10 the Session Laws of 1959, as amended by Chapter 288 of the Session Laws of
11 1979.
- 12 (3) Chapter 556 of the Session Laws of 1985, as amended by Chapter 921 of the
13 Session Laws of 1987 (Asheville, Raleigh, and Pine Knoll Shores).
- 14 (4) Chapter 242 of the Session Laws of 1987 (Southport).
- 15 (5) Chapter 786 of the Session Laws of 1987 (New Hanover County and all
16 municipalities in the County).
- 17 (6) Section 5.33 of the Charter of the Town of Chapel Hill, being Chapter 473 of
18 the Session Laws of 1975, as amended by Chapter 330 of the Session Laws of
19 1977 and Chapter 478 of the Session Laws of 1989.
- 20 (7) Section 7.5 of the Charter of the Town of Wrightsville Beach, being Chapter
21 611 of the Session Laws of 1989.
- 22 (8) Section 5.3 of the Charter of the Town of Highlands, being Chapter 519 of the
23 Session Laws of 1991.
- 24 (9) S.L. 1997-420, as amended by S.L. 2005-305 and Section 94 of S.L. 2006-264
25 (Cornelius, Davidson, Huntersville, and Nags Head).
- 26 (10) S.L. 2006-264 (Section 94(b)) (Matthews).
- 27 (11) Section 6.221 of the Charter of the City of Charlotte, being S.L. 2000-26, as
28 amended.
- 29 (12) S.L. 2000-108 (Kinston, Apex, Cary, Garner, and Morrisville).
- 30 (13) S.L. 2001-191, as amended by Section 1 of S.L. 2003-128 (Durham, Cary,
31 Garner, Morrisville, Knightdale, Fuquay-Varina, Spencer, and Raleigh).
- 32 (14) Section 5.1 of the Charter of the Town of Holly Springs, being S.L. 2003-73,
33 as amended.
- 34 (15) S.L. 2003-128, as amended by Section 71 of S.L. 2004-203 (Rutherfordton,
35 Wake County).
- 36 (16) Section 11.3 of the Charter of the Town of Mount Airy, being S.L. 2003-281,
37 as amended.
- 38 (17) S.L. 2003-246 (Rockingham, Smithfield, and Statesville).
- 39 (18) S.L. 2006-102 (Greenville).
- 40 (19) S.L. 2006-115 (Clayton, Reidsville).

41 **SECTION 4.** Any ordinances regulating the removal of trees from private property
42 that were adopted before the date this act becomes law without the express authorization of the
43 General Assembly are hereby repealed.

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