



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 385**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H385-ARI-77 [v.3]

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Amends Title [YES]
H385-CSRI-38

Date _____, 2024

Senator Sanderson

1 moves to amend the bill on page 1, lines 17 through 22,
2 by rewriting those lines to read:

3
4 "(VI) REQUIRE THE COASTAL RESOURCES COMMISSION TO REVISE THE CAMA
5 RULES TO ELIMINATE A PERMIT REQUIREMENT FOR DOCK, PIER, AND
6 WALKWAY REPLACEMENT, AND TO ALLOW THE WIDTH AND LENGTH OF A
7 PIER, DOCK, OR WALKWAY TO BE ENLARGED BY NOT MORE THAN FIVE FEET
8 AND THE STRUCTURE HEIGHTENED, AT THE TIME OF REPAIR; (VII) EXCLUDE
9 AQUACULTURE FROM THE DEFINITION OF "DEVELOPMENT" FOR PURPOSES
10 OF CAMA AND LIMIT THE AUTHORITY OF THE MARINE FISHERIES
11 COMMISSION TO ADOPT RULES REGULATING AQUACULTURE EQUIPMENT;
12 (VIII) AMEND VARIOUS STATUTES GOVERNING COASTAL DEVELOPMENT;
13 AND (IX) REMOVE TIME LIMITS ON CERTAIN VIABLE UTILITY RESERVE
14 GRANTS.";

15
16 and on page 7, lines 9 through 16,
17 by rewriting those lines to read:

18
19 "SECTION 6.(c) Implementation. – For fixed docks, floating docks, fixed piers,
20 floating piers, or walkways damaged or destroyed by natural elements, fire, or normal
21 deterioration, activity to rebuild the dock, pier, or walkway to its pre-damage condition shall be
22 considered repair of the structure, and shall not require CAMA permits, without regard to the
23 percentage of framing and structural components required to be rebuilt. At the time a dock, pier,
24 or walkway damaged or destroyed by natural elements, fire, or normal deterioration is repaired,
25 the width and length of the dock, pier, or walkway structure may be enlarged by not more than
26 five feet, and the structure may be heightened, without need for a CAMA permit. The owner
27 shall, however, be required to comply all other applicable State and federal laws.";

28
29 and on page 7, lines 26 and 27,
30 by inserting between those lines:
31



* H 3 8 5 - A R I - 7 7 - V - 3 *

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"**SECTION 6.(f)** No later than July 1, 2024, the Department of Environmental Quality shall prepare and submit to the United States National Oceanic and Atmospheric Administration for approval by that agency the proposed changes made to the CAMA rules, as enacted by this section. The Department of Environmental Quality shall report to the Environmental Review Commission on the status of their activities pursuant to this section quarterly, beginning September 1, 2024, until such time as the General Assembly repeals this reporting requirement.

SECTION 6.(g) Subsections (a) through (e) of this section become effective on the later of the following dates and applies to applications for permits pending or filed on or after that date:

- (1) October 1, 2024.
- (2) The first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the National Oceanic and Atmospheric Administration has approved the changes made to the CAMA rules, as enacted by subsections (a) through (e) of this section, as required by subsection (f) of this section. The Secretary shall provide this notice along with the effective date of this act on its website.";

PART VII. EXCLUDE AQUACULTURE FROM THE DEFINITION OF "DEVELOPMENT" FOR PURPOSES OF CAMA AND LIMIT THE AUTHORITY OF THE MARINE FISHERIES COMMISSION TO ADOPT RULES REGULATING AQUACULTURE EQUIPMENT

SECTION 7.(a) G.S. 113A-103 reads as rewritten:

"§ 113A-103. Definitions.

...

- (5) a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or placement of a floating ~~structure~~ structure, except a floating structure used for aquaculture as defined in G.S. 106-758, in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5).
- b. The following activities including the normal and incidental operations associated therewith shall not be deemed to be development under this section:
...

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- 1 4. The use of any land for the purposes of planting, growing, or
2 harvesting plants, crops, trees, or other agricultural or forestry
3 products, including normal private road construction, raising
4 livestock or poultry, uses related to aquaculture and
5 aquaculture facilities as defined in GS 106-758, or for other
6 agricultural purposes except where excavation or filling
7 affecting estuarine waters (as defined in G.S. 113-229) or
8 navigable waters is involved;

9 ...

10 ...

- 11 (5a) "Floating structure" means any structure, not a boat, supported by a means of
12 floatation, designed to be used without a permanent foundation, which is used
13 or intended for human habitation or commerce. A structure shall be considered
14 a floating structure when it is inhabited or used for commercial purposes for
15 more than thirty days in any one location. A boat may be considered a floating
16 structure when its means of propulsion has been removed or rendered
17 inoperative.

18 "

19 **SECTION 7.(b)** G.S. 143B-289.52 is amended by adding a new subsection to read:

20 "(j) The Commission may not adopt rules regulating cages, poles, anchoring systems, or
21 any above-water frames or structural supports used to suspend or hold in place equipment or
22 floating structures used for aquaculture as defined in G.S. 106-758."

23 **SECTION 7.(c)** No later than July 1, 2024, the Department of Environmental
24 Quality shall prepare and submit to the United States National Oceanic and Atmospheric
25 Administration for approval by that agency the proposed changes made to Article 7 of Chapter
26 113A of the General Statutes, as enacted by subsection (a) of this section. The Department of
27 Environmental Quality shall report to the Environmental Review Commission on the status of
28 their activities pursuant to this section quarterly, beginning September 1, 2024, until such time
29 as the General Assembly repeals this reporting requirement.

30 **SECTION 7.(d)** Subsection (a) of this section becomes effective on the later of the
31 following dates and applies to applications for permits pending or filed on or after that date:

32 (1) October 1, 2024.

33 (2) The first day of a month that is 60 days after the Secretary of the Department of
34 Environmental Quality certifies to the Revisor of Statutes that the National Oceanic and
35 Atmospheric Administration has approved the changes made to Article 7 of Chapter 113A of the
36 General Statutes, as enacted by subsection (a) of this section, as required by subsection (c) of this
37 section. The Secretary shall provide this notice along with the effective date of subsection (a) of
38 this section on its website. The remainder of this section is effective when it becomes law.

39
40
41 **PART VIII. AMEND VARIOUS STATUTES GOVERNING COASTAL**
42 **DEVELOPMENT**

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SECTION 8.(a) G.S. 113A-103 reads as rewritten:

"§ 113A-103. Definitions.

As used in this Article:

...

(5) a. "Development" means any activity in a duly designated area of environmental concern ~~(except as provided in paragraph b of this subdivision)~~ involving, requiring, or consisting of: (i) land disturbing resulting from the construction or enlargement of a structure; structure, including the clearing or alteration of land as an adjunct of construction; (ii) excavation; (iii) dredging; (iv) filling; (v) dumping; (vi) removal of clay, silt, sand, gravel or minerals; (vii) bulkheading, bulkheading or driving of pilings; clearing or alteration of land as an adjunct of construction; (viii) alteration or removal of sand dunes; (ix) alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or (x) placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5). "Development" shall not include activities set forth in sub-subdivision b. of this subdivision.

...

(6) "Land disturbing activity" means any use of the land by any person that results in a change in the natural cover or topography of lands or submerged lands.

...."

SECTION 8.(b) G.S. 113A-113 reads as rewritten:

"§ 113A-113. Areas of environmental concern; in general.

(a) The Coastal Resources Commission shall by rule designate geographic areas of the coastal area as areas of environmental concern and specify the boundaries thereof, in the manner provided in this Part.

(b) The Commission may designate as areas of environmental concern any one or more of the following, singly or in combination:

...

(4) ~~Fragile or historic areas, and other~~ The following areas containing to the extent they contain environmental or natural resources of more than local significance, or where uncontrolled or incompatible development could result in major or and irreversible damage to important historic, cultural, scientific or scenic values or natural systems; ~~systems, which may include:~~

...

h. ~~Historic places that are listed, or have been approved for listing by the North Carolina Historical Commission, determined to be eligible for listing,~~ in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966; historical, archaeological, and other places and properties owned, managed or assisted by the State of North Carolina pursuant to Chapter 121; 1966, and properties

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or areas that are ~~or may be~~ designated by the Secretary of the Interior
as registered natural landmarks or as national historic landmarks;

...
(c) In those instances where subsection (b) of this section refers to locations identified by a specified agency, said agency is hereby authorized to make the indicated identification from time to time and is directed to transmit the identification to the Commission; provided, however, that no designation of an area of environmental concern based solely on an agency identification of a proposed location may remain effective for longer than three years unless, in the case of ~~paragraphs (4)a and d~~ sub-subdivisions a., d., and h. of subdivision (4) of subsection (b) of this section, the proposed site has been at least seventy-five percent (75%) acquired. Within the meaning of this section, "formal designation for acquisition" means designation in a formal resolution adopted by the governing body of the agency having ~~jurisdiction (or jurisdiction, or by~~ jurisdiction, or by its chief executive, if it has no governing body), together with a direction in said resolution that the initial step in the land acquisition process be ~~taken (as by~~ taken, such as filing an application with the Department of Administration to acquire property pursuant to ~~G.S. 146-23).~~ G.S. 146-23.

...."

SECTION 8.(c) G.S. 113A-118 reads as rewritten:

"§ 113A-118. Permit required.

(a) After the date designated by the Secretary pursuant to G.S. 113A-125, every person before undertaking ~~any~~ development in any area of environmental concern shall ~~obtain (in obtain,~~ in addition to any other required State or local permit) permit, a permit pursuant to the provisions of this Part. The permit applies only to development activities within the area of environmental concern, notwithstanding any related development activities outside the area of environmental concern.

...."

SECTION 8.(d) G.S. 113A-118.2 reads as rewritten:

"§ 113A-118.2. Development in Primary Nursery Areas and Outstanding Resource Waters areas of environmental concern.

Public ~~notice, notice and~~ opportunity for public comment, and ~~agency review by the~~ Division of Coastal Management of the Department shall be required for all development within the Primary Nursery Areas or Outstanding Resource Waters areas of environmental concern. Provided, however, that the Coastal Resources Commission may by rule exempt or issue general permits for minor maintenance and improvement projects as defined in G.S. 113A-103(5)c. and for single-family residential development pursuant to use standards or conditions adopted by the Coastal Resources Commission."

SECTION 8.(e) G.S. 113A-120 reads as rewritten:

"§ 113A-120. Grant or denial of permits.

(a) The responsible official or body shall deny an application for a permit only upon finding; issuance of written findings supported in detail, including its basis for concluding that conditions as may be identified pursuant to subsection (b) of this section are insufficient to avoid the finding, on the basis of any of the following:

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- (1) In the case of coastal wetlands, that the development would contravene an order that has been or could be issued pursuant to G.S. 113-230.
- (2) In the case of estuarine waters, that a permit for the development would be denied pursuant to G.S. 113-229(e).
- (3) In the case of a renewable resource area, that the development will result in loss or significant reduction of continued long-range productivity that would jeopardize one or more of the water, food or fiber requirements of more than local concern identified in subdivisions a through c of G.S. 113A-113(b)(3).
- (4) In the case of areas that have been designated as a fragile or historic area, or other area containing environmental or natural resources of more than local significance, significance where uncontrolled development could result in major and irreversible damage to important historic, cultural, scientific, or scenic values or natural systems under G.S. 113A-113(b)(4), that the development activities will directly result in major or and irreversible damage to one or more of the historic, cultural, scientific, environmental or scenic values or natural systems within the area being disturbed.~~systems identified in subdivisions a through h of G.S. 113A-113(b)(4).~~ For purposes of this subdivision, incidental disturbance of archaeological resources during development is not considered major and irreversible damage. Notwithstanding the foregoing, the responsible official or body may provide the results of any investigation conducted pursuant to G.S. 113A-124(a)(1) to the Department of Natural and Cultural Resources, and the Department of Natural and Cultural Resources may take actions within its statutory jurisdiction with respect to resources identified in the investigation.
- (5) In the case of areas covered by G.S. 113A-113(b)(5), that the development will jeopardize the public rights or interests specified in said subdivision.
- (6) In the case of natural hazard areas, that the development would occur in one or more of the areas identified in subdivisions a through e of G.S. 113A-113(b)(6) in such a manner as to unreasonably endanger life or property.
- (7) In the case of areas which are or may be impacted by key facilities, that the development is inconsistent with the written State guidelines or the local land-use plans, or would contravene any of the provisions of subdivisions (1) to (6) of this subsection.
- (8) In any case, that the development is inconsistent with the written State guidelines or the local land-use plans.
- (9) In any case, that considering engineering requirements and all economic costs there is a practicable alternative that would accomplish the overall project purposes with less adverse impact on the public resources.
- (10) In any case, that the proposed development would unreasonably contribute to cumulative impacts on waters subject to this Article. ~~effects that would be inconsistent with the written guidelines set forth in subdivisions (1) through (9) of this subsection.~~ Cumulative effects are impacts attributable to the

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collective effects of a number of projects on waters subject to this Article and
include the effects of additional projects similar to the requested permit in
areas available for development in the vicinity.

(b) In the absence of such findings, a permit shall be granted. The permit may impose
conditions on ~~be conditioned upon the applicant's amending his proposal to take whatever~~
~~measures or agreeing to carry out whatever terms of operation or use of the development~~
~~activities, or the operation or maintenance of the completed project, or both, that are reasonably~~
necessary to prevent a finding protect the public interest with respect to the applicable factors
enumerated in subsection (a) of this section. The applicant may amend its proposal to incorporate
conditions, and the Department may conduct additional investigation pursuant to
G.S. 113A-124(a)(1) prior to issuance of the permit to determine what conditions are reasonably
necessary, but the conditions must be specific, unambiguous, and minimize restriction on the
applicant's development activities to the greatest extent feasible.

...

(d) In making a determination to grant, deny, or condition a permit under this section, the
responsible body or official must base its determination on its own review and is not authorized
to incorporate conditions based on recommendations from other agencies unless expressly
authorized to do so under this Article or under other applicable law.

..."

SECTION 8.(f) G.S. 113A-124(a)(1) reads as rewritten:

"§ 113A-124. Additional powers and duties.

(a) The Secretary shall have the following additional powers and duties under this
Article:

- (1) To conduct or cause to be conducted, at the Department's sole cost and
expense, investigations of proposed developments in areas of environmental
concern in order to obtain sufficient evidence to enable a balanced judgment
to be rendered concerning the issuance of permits to build such developments.
Notice of investigations must be provided to applicants by the Department
within 30 days of receipt of a permit application, and investigation shall be
completed within 60 days of the notice."

SECTION 8.(g) No later than July 1, 2024, the Department of Environmental Quality
shall prepare and submit to the United States National Oceanic and Atmospheric Administration
for approval by that agency the proposed changes made to Article 7 of Chapter 113A of the
General Statutes, as enacted by subsections (a) through (f) of this section. The Department of
Environmental Quality shall report to the Environmental Review Commission on the status of
their activities pursuant to this section quarterly, beginning September 1, 2024, until such time
as the General Assembly repeals this reporting requirement.

SECTION 8.(h) Subsections (a) through (f) of this section become effective on the
later of the following dates and applies to applications for permits pending or filed on or after
that date:

- (1) October 1, 2024.
- (2) The first day of a month that is 60 days after the Secretary of the Department
of Environmental Quality certifies to the Revisor of Statutes that the National

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Oceanic and Atmospheric Administration has approved the changes made to Article 7 of Chapter 113A of the General Statutes, as enacted by subsections (a) through (f) of this section, as required by subsection (g) of this section. The Secretary shall provide this notice along with the effective date of this Section on its website.

PART IX. REMOVE TIME LIMITS ON CERTAIN VUR GRANTS

SECTION 9. G.S. 159G-36(d)(2) reads as rewritten:

"(2) Grants for the purpose set forth in G.S. 159-32(d)(6) to any single local government unit shall not ~~(i) exceed seven hundred fifty thousand dollars (\$750,000) in any fiscal year and (ii) be awarded for more than three consecutive fiscal years.~~year.";

and by renumbering the remaining section accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____