SENATE BILL 205:
Swimming Pools/Housing Regulatory Reform.

2025-2026 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 11, 2025
Introduced by:	Sen. Jarvis	**Prepared by:**	Kyle Evans
Analysis of:	PCS to Second Edition S205-CSRI-22		Chris Saunders Committee Counsel

OVERVIEW: The Proposed Committee Substitute (PCS) to Senate Bill 205 would:

- ***Provide that a local board of health may not adopt a rule concerning private pools serving single family dwellings otherwise exempt from regulation by the State, amend the exemption for private swimming pool rentals from regulation as public swimming pools, and make technical changes to that statute.***
- ***Limit certain local government zoning and development regulation authorities.***
- ***Extend certain periods related to vested rights.***
- ***Require local governments to designate administrative staff for development determinations.***
- ***Establish timelines for development approvals and rezoning requests.***
- ***Include conditional zoning under the definitions of "development permit" and "land development regulation."***
- ***Expand causes for civil action based on development regulations or development approvals or denials, expand standing to bring such actions, and expand private remedies available in such actions.***
- ***Require the Division of Highways to accept performance guarantees pending completion of subdivision streets.***

CURRENT LAW & BILL ANALYSIS:

PART I. SWIMMING POOL AMENDMENTS

Public swimming pools are subject to permitting requirements and rules enforced by the Department of Health and Human Services. Certain types of pools are exempt from regulation, including:

- Private pools serving a single-family dwelling and used only by the residents of the dwelling and their guests,
- Therapeutic pools used in physical therapy programs operated by medical facilities licensed by the Department or operated by a licensed physical therapist, and
- Therapeutic chambers drained, cleaned, and refilled after each individual use.

S.L. 2024-49 amended the law governing public swimming pools, effective July 1, 2025, to expand the exemption for private swimming pools to include private swimming pools offered for use to individuals

on a temporary basis through a sharing economy platform, provided that the swimming pools meet certain minimum safety and cleanliness requirements.

Local boards of health may adopt rules more stringent in areas regulated by the Commission for Public Health when the local board finds that a more stringent rule is required to protect the public health.

Section 1 would prohibit a local board of health from adopting a rule concerning a private pool serving a single family dwelling otherwise exempt from regulation by the Department of Health and Human Services pursuant to G.S. 130A 280.

Section 2 would rewrite the S.L. 2024-49 exemption for private swimming pools serving a single-family dwelling used only by residents and their guests to apply regardless of whether the guests gain use of the private pool through a sharing economy platform or pay a fee. In cases where a fee is exchanged for pool access, the private pool must be "maintained in good and safe working order."

This section would also make various technical and organizational changes to G.S. 130A-280.

PART II. LOCAL GOVERNMENT DEVELOPMENT REGULATION REFORM

LIMIT PLANNING AND DEVELOPMENT REGULATION AUTHORITY TO THAT EXPRESSLY GRANTED BY CHAPTER 160D OF THE GENERAL STATUTES

Section 3 would clarify that a local government may not exercise development regulation authority except as expressly authorized by Chapter 160D of the General Statutes unless the development regulation pertains to floodplain management regulations.

LIMIT ZONING REGULATION AUTHORITY

Section 4 would eliminate the ability of property owners to voluntarily consent to prohibited regulations related to building design elements, and would prohibit zoning and development regulations from doing any of the following:

- Setting a minimum width or length of structures regulated under the North Carolina Residential Code.
- Requiring or specifying the size, configuration, allocation, or number of parking spaces beyond the requirements of the Americans with Disabilities Act.
- Setting a minimum width, length, or square footage for driveways within a development unless the driveway abuts a public road.
- Setting design standards for public roads within a development in excess of those required by the Department of Transportation, except that a city could set such design standards if the city is financially responsible for the cost of the excess design standards and accepts ownership and maintenance of the public road.

This section would also require a local government to demonstrate that its zoning map and zoning regulations bear a rational and substantial relationship to (i) the local government's comprehensive plan and (ii) the public health, safety, and welfare.

LIMIT CURB CUT REGULATIONS

Section 5 would prohibit a city from regulating the size, location, or manner of construction of driveways except as expressly provided in Chapter 160D of the General Statutes, and would also require the city to provide "substantial evidence" that the need for such improvements is reasonably attributable to traffic

using the driveway and that the improvements serve the traffic of the driveway. "Substantial evidence" would mean "facts and information, other than mere personal preferences or speculation, that a reasonable person would accept in support of a conclusion."

REQUIRE ZONING DISTRICTS TO BE BASED ON DENSITY AND CLARIFY PROHIBITION ON CONDITIONS NOT AUTHORIZED BY LAW

Section 6 would define the term "dwelling unit."

Section 7 would, with respect to zoning regulations, do all of the following:

- Require that local governments classify residential zoning districts based on the number of dwelling units per acre rather than minimum lot size.
- Clarify that a local government may not incorporate into its zoning ordinance any regulation or condition not specifically authorized by law or accept any offer to consent to a condition not specifically authorized by law.
- Require that development approvals for permitted uses be made administratively.
- Require that a local government support its conditional zoning decisions with facts and information reasonably establishing a rational and substantial relationship between the conditional district and the public health, safety, and welfare.

VESTED RIGHTS MODIFICATIONS

Current law provides that the vested right to complete a project granted by the issuance of a development permit expires for an uncompleted development project if the development work is intentionally and voluntarily discontinued for 24 months. The statutory vesting period for a non-conformity also expires if the use is intentionally and voluntarily discontinued for 24 months. A vested right for a site-specific development plan is vested for two years; however, a local government may provide for site-specific development plan vesting for up to five years.

Section 8.(a) would provide that a vested right obtained by permit or other local government approval does not preclude the use or extinguish the existence of any other vested right or use by right attached to the property. This section would also automatically toll the 24-month discontinuance period for the duration of any emergency declaration where the defined emergency area includes the property.

Section 8.(b) would extend the minimum duration of a vested right for a site-specific development plan from two years to five years, and would allow the local government to provide for site-specific development plan vesting for up to eight years.

ESTABLISH JURISDICTION FOR LAND THAT LIES WITHIN MORE THAN ONE LOCAL GOVERNMENT

Section 9 would establish which local government would have planning and development jurisdiction over the parcel based on the availability of public water and sewer service from the local governments.

PERMIT CHOICE MODIFICATIONS

Section 10 would amend the definition of "development permit" to include legislative approvals, including conditional zoning, and the definition of "land development regulations" to include conditional zoning.

LOCAL GOVERNMENT TO DESIGNATE APPLICABLE STAFF FOR DEVELOPMENT DETERMINATIONS

Section 11 would require local governments to designate at least one administrative staff member charged with making administrative determinations. This section would also provide that fees must not exceed the actual, direct, and reasonable costs required to support, administer, and implement programs authorized by Chapter 160D.

REVIEW PERIODS ESTABLISHED FOR LOCAL GOVERNMENT APPROVALS AND DECISIONS

Sections 12.(a) and 12.(b) would establish a timeline for review of an application for a development approval and a rezoning request, respectively. Within 7 days, the local government or its staff must determine if the application is complete. When the application is deemed complete, the local government or administrative staff would have 20 days to perform an initial review of the completed application and notify the applicant of any required changes. The applicant would have 15 days to respond. If the applicant makes changes in response, the local government or administrative staff would have 10 days to review those changes. At the end of this period, the 90-day review period would begin. Failure to act within the 90-day period would constitute an approval of the application.

PROHIBIT WAITING PERIODS FOR REFILING OF DEVELOPMENT APPLICATIONS

Section 13 would prohibit any development regulation or unified development ordinance from including a waiting period that would prohibit a landowner, developer, or applicant from refiling a denied or withdrawn application for a zoning map amendment, text amendment, development application, or request for development approval.

ADMINISTRATIVE SUBDIVISION REGULATIONS/APPROVALS/APPEALS

Section 14 would change the process for subdivision approval to be solely by administrative staff. Once the subdivision approval has been entered on the face of the plat, the approval is valid indefinitely, unless and until the landowner applies for, and receives, a subsequent development approval. This would be in addition to any other vested rights under the common law or Chapter 160D of the General Statutes.

EXPAND CAUSES FOR CIVIL ACTION INVOLVING QUESTIONS OF INTERPRETATION AND CLARIFY STANDING IN SUCH CASES

Section 15 would amend G.S. 160D-1403.1 to provide that certain parties may bring a claim that a development regulation is arbitrary and capricious or a claim that a development approval or denial is ultra vires, preempted, in excess of statutory authority, made upon unlawful procedure, made in error of law, arbitrary and capricious, or an abuse of discretion.

Additionally, the section adds to the list of parties with standing to bring such a claim associations, organizations, societies, or entities whose membership is comprised of an individual or entity who (i) was a development permit applicant before the decision making board whose decision is being challenged or (ii) was a development permit applicant aggrieved by a final and binding decision of an administrative official charged with applying a development regulation. Under current law, only certain parties may bring an original civil action to challenge the enforceability, validity, or effect of a development regulation for any of the following claims: (1) the regulation is unconstitutional, (2) the regulation is ultra vires,

preempted, or otherwise in excess of statutory authority, or (3) the regulation constitutes a taking of property.

EXPAND PRIVATE REMEDIES FOR VIOLATIONS OF CHAPTER 160D

Section 16 would allow any person with standing to bring a civil action to enforce the provisions of Chapter 160D and recover damages, costs, disbursements, and other equitable relief.

Section 17 would provide that in an action where a city or county is found to be liable under G.S. 160D-1403.1, the court must also award the plaintiff reasonable attorneys' fees and costs.

PLAN CONSISTENCY SUBJECT TO JUDICIAL REVIEW

Under current law, zoning text or map amendments must be accompanied by a statement approved by the governing board statement describing whether its action is consistent or inconsistent with an adopted comprehensive or land use plan. This consistency statement is explicitly not subject to judicial review.

Section 18 would make the consistency statement subject to judicial review.

REQUIRE ANNUAL PUBLICATION OF LOCAL GOVERNMENT FINANCIAL REPORTS ON FEES ASSOCIATED WITH BUILDING CODE ENFORCEMENT

Under current law, by October 1 of 2023, 2024, and 2025, local governments were required to publish an annual financial report on how it used fees from the prior fiscal year for the support, administration, and implementation of its building code enforcement program.

Section 19 would require this annual report to continue indefinitely after 2025.

REQUIRE THE DIVISION OF HIGHWAYS TO ACCEPT PERFORMANCE GUARANTEES PENDING COMPLETION OF SUBDIVISION STREETS

Section 20 would require the Division of Highways to accept a performance guarantee under G.S. 160D-804.1 to ensure the completion of streets required by a development regulation. Upon receipt of a performance guarantee, the Division of Highways would be required to issue a certificate of approval regarding those streets.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective October 1, 2025, and apply to applications, approvals, and actions filed on or after that date. Any local government ordinance in effect on, or adopted subsequent to October 1, 2025, that is inconsistent with this act would be void and unenforceable. Unless expressly stated otherwise, the provisions of this act would not affect any right accrued or vested prior to its enactment.