

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 116
Committee Substitute Favorable 4/21/11

Short Title: Coastal Wetland Riparian Buffer Grandfather.

(Public)

Sponsors:

Referred to:

February 17, 2011

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

5 The General Assembly of North Carolina enacts:

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

- 8 (1) The definitions set out in G.S. 113A-103 and G.S. 143-212.
9 (2) The definitions set out in the Neuse River Basin Riparian Buffer Rule and
10 the Tar-Pamlico River Basin Riparian Buffer Rule.
11 (3) "Coastal wetlands" means marshland as defined in G.S. 113-229.
12 (4) "Commission" means the Environmental Management Commission.
13 (5) "Existing lot" means a lot of two acres in size or less that was platted and
14 recorded in the office of the appropriate county Register of Deeds prior to
15 August 1, 2000.
16 (6) "Neuse River Basin Riparian Buffer Rule" means 15A NCAC 02B .0233
17 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy:
18 Protection and Maintenance of Existing Riparian Buffers), effective August
19 1, 2000.
20 (7) "Tar-Pamlico River Basin Riparian Buffer Rule" means 15A NCAC 02B
21 .0259 (Tar-Pamlico River Basin: Nutrient Sensitive Waters Management
22 Strategy: Protection and Maintenance of Existing Riparian Buffers),
23 effective August 1, 2000.

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

29 **SECTION 2.(b)** Implementation. – The riparian buffer requirements of the Neuse
30 River Basin Riparian Buffer Rule and the Tar-Pamlico River Basin Riparian Buffer Rule shall
31 apply to development of an existing lot located adjacent to surface waters in the coastal area as
32 provided in this section. Where application of the riparian buffer requirements would preclude
33 construction of a single-family residence and necessary infrastructure, such as an on-site
34 wastewater system, the single-family residence may encroach on the buffer if all of the
35 following conditions are met:



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

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

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