

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1281

Short Title: Increase Dam Safety.

(Public)

Sponsors: Representative Jeralds.

Referred to: Appropriations.

May 10, 1991

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND
2 NATURAL RESOURCES TO COMPILE AN INVENTORY OF AND INSPECT
3 EXISTING SMALL DAMS AND TO REQUIRE DEVELOPERS AND
4 BUILDERS TO FILE A MAP OR PLAT WITH THE DEPARTMENT SHOWING
5 EXISTING OR PLANNED DAMS PRIOR TO OBTAINING A BUILDING
6 PERMIT OR RECORDING A SUBDIVISION PLAT.
7

8 Whereas, the North Carolina Dam Safety Act was enacted to provide for the
9 certification and inspection of dams in the interest of public health, safety, and welfare,
10 and to reduce the risk of a dam failure that results in a loss of life and property; and

11 Whereas, the existing dam safety program focuses its regulatory effort on
12 dams that are over 15 feet in height and impound more than 10 acre-feet of water; and

13 Whereas, there exist numerous dams throughout the State that are smaller
14 than 15 feet or impound less than 10 acre-feet of water that, due to the increased
15 urbanization of the State have come to present a real threat to human life and property,
16 and whose locations are not known to the State; and

17 Whereas, on at least one occasion in the recent past, the failure of a small
18 dam in the State has resulted in loss of human life and considerable property damage;

19 Now, therefore,

20 The General Assembly of North Carolina enacts:

21 Section 1. The Department of Environment, Health, and Natural Resources
22 shall survey the State and compile an inventory of dams that are less than 15 feet in
23 height or whose impoundment capacity is less than 10 acre-feet of water. As a part of
24 the survey, the Department shall inspect each small dam and assess its condition and the

1 threat posed by the dam to human life and property. Each small dam shall be scheduled
2 for subsequent inspections according to the results of the assessment.

3 Sec. 2. Part 3 of Article 21 of Chapter 143 of the General Statutes is
4 amended by adding a new section to read:

5 **"§ 143-215.38. Registration of small dams.**

6 (a) For purposes of this section, 'small dam' means any dam less than 15 feet in
7 height (measured from original stream bottom to crest of dam) or whose impoundment
8 capacity is less than 10 acre-feet.

9 (b) Prior to subdividing a tract of land or beginning any construction activity for
10 which a permit is required pursuant to G.S. 153A-357 or G.S. 160A-417, the person
11 applying for a construction permit or seeking to subdivide a tract of land shall file with
12 the Department a map or plat showing the location, size, and impoundment capacity of
13 any existing or planned small dams located on the affected tract of land. The
14 Department shall issue the party filing the map or plat certification showing that the
15 party has complied with this section.

16 (c) The Department shall inspect each small dam so identified to assess its
17 condition and any threat it poses to human life or property. Each small dam shall be
18 scheduled for subsequent inspections according to the results of the assessment.

19 (d) The Department may assess a fee, not to exceed ten dollars (\$10.00) per map
20 or plat filed, to cover the costs of processing. The Department may adopt rules to
21 implement this section in accordance with Chapter 150B."

22 Sec. 3. Article 5A of Chapter 39 of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 39-32.5. Recordation of plat showing location of dams.**

25 Every plat or map recorded pursuant to this Article shall show the location of all
26 existing and planned small dams, as defined in G.S. 143-215.38, on the tract of land
27 affected. The register of deeds shall not accept for registration or record any map or
28 plat of a real estate subdivision or development made after October 1, 1991, showing
29 existing or planned small dams unless the map or plat is accompanied by certification
30 from the Department of Environment, Health, and Natural Resources that the map or
31 plat has been filed with the Department in accordance with G.S. 143-215.38."

32 Sec. 4. G.S. 153A-357 is amended by adding a new subsection to read:

33 "(c) If an applicant for a permit under subsection (a) is required to register a small
34 dam pursuant to G.S. 143-215.38, no permit shall be issued unless the permit applicant
35 provides certification that a map or plat showing any existing or planned small dams on
36 the tract of land containing the activity has been filed with the Department of
37 Environment, Health, and Natural Resources in accordance with G.S. 143-215.38."

38 Sec. 5. G.S. 160A-417 is amended by adding a new subsection to read:

39 "(c) If an applicant for a permit under subsection (a) is required to register a small
40 dam pursuant to G.S. 143-215.38, no permit shall be issued unless the permit applicant
41 provides certification that a map or plat showing any existing or planned small dams on
42 the tract of land containing the activity has been filed with the Department of
43 Environment, Health, and Natural Resources in accordance with G.S. 143-215.38."

1 Sec. 6. There is appropriated from the General Fund to the Department of
2 Environment, Health, and Natural Resources the sum of \$225,000 for the 1991-92 fiscal
3 year and the sum of \$225,000 for the 1992-93 fiscal year to implement the provisions of
4 Section 1 of this act.

5 Sec. 7. This act becomes effective October 1, 1991, and applies to maps and
6 plats recorded and building permits applied for on or after that date.