

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 227*

Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
6/16/97

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Short Title: Inactive Haz. Sites Recordation.

(Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT RECORDATION OF AN INACTIVE HAZARDOUS
SUBSTANCE OR WASTE DISPOSAL SITE IS NOT REQUIRED IN CERTAIN
CASES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW
COMMISSION AND TO EXPEDITE THE PERMANENT CLOSURE OF LOW-
RISK SITES UNDER THE LEAKING PETROLEUM UNDERGROUND
STORAGE TANK CLEANUP ACT OF 1988.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-310.8 reads as rewritten:

"§ 130A-310.8. Recordation of inactive hazardous substance or waste disposal sites.

(a) After determination by the Department of the existence and location of an
inactive hazardous substance or waste disposal site, the owner of the real property on
which the site is located, within 180 days after official notice to him to do so, shall
submit to the Department a survey plat of areas designated by the Department which has
been prepared and certified by a professional land surveyor, and entitled 'NOTICE OF
INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE'. The Notice
shall include a legal description of the site that would be sufficient as a description in an

1 instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats,
2 and shall identify:

- 3 (1) The location and dimensions of the disposal areas with respect to
4 permanently surveyed benchmarks; and
5 (2) The type, location, and quantity of hazardous substances disposed of on
6 the site, to the best of the owner's knowledge.

7 Where an Inactive Hazardous Substance or Waste Disposal Site is located on more than
8 one parcel or tract of land, a composite map or plat showing all such sites may be
9 recorded.

10 (b) After the Department approves and certifies the Notice, the owner of the site
11 shall file the certified copy of the Notice in the register of deeds' office in the county or
12 counties in which the land is located.

13 (c) The register of deeds shall record the certified copy of the Notice and index it
14 in the grantor index under the names of the owners of the lands.

15 (d) In the event that the owner of the site fails to submit and file the Notice
16 required by this section within the time specified, the Secretary may prepare and file such
17 Notice. The costs thereof may be recovered by the Secretary from any responsible party.
18 In the event that an owner of a site who is not a responsible party submits and files the
19 Notice required by this section, he may recover the reasonable costs thereof from any
20 responsible party.

21 (e) When an inactive hazardous substance or waste disposal site is sold, leased,
22 conveyed, or transferred, the deed or other instrument of transfer shall contain in the
23 description section, in no smaller type than that used in the body of the deed or
24 instrument, a statement that the property has been used as a hazardous substance or waste
25 disposal site and a reference by book and page to the recordation of the Notice.

26 (f) A Notice of Inactive Hazardous Substance or Waste Disposal Site shall be
27 cancelled by the Secretary after the hazards have been eliminated. The Secretary shall
28 send to the register of deeds of the county where the Notice is recorded a statement that
29 the hazards have been eliminated and request that the Notice be cancelled of record. The
30 Secretary's statement shall contain the names of the landowners as shown in the Notice
31 and reference the plat book and page where the Notice is recorded. The register of deeds
32 shall record the Secretary's statement in the deed books and index it on the grantor index
33 in the name of the landowner as shown in the Notice and on the grantee index in the
34 name 'Secretary of Environment, Health, and Natural Resources'. The register of deeds
35 shall make a marginal entry on the Notice showing the date of cancellation and the book
36 and page where the Secretary's statement is recorded, and the register shall sign the entry.
37 If a marginal entry is impracticable because of the method used to record maps and plats,
38 the register of deeds shall not be required to make a marginal entry.

39 (g) ~~This section shall apply with respect to any facility, structure, or area where~~
40 ~~disposal of any hazardous substance or waste has occurred which~~ Recordation under this
41 section is not required for any inactive hazardous substance or waste disposal site that is
42 undergoing voluntary remedial action pursuant to this Part. ~~Part~~ unless the Secretary
43 determines that either:

1 (1) A concentration of a hazardous substance or hazardous waste that poses
2 a danger to public health or the environment will remain following
3 implementation of the voluntary remedial action program.

4 (2) The voluntary remedial action program is not being implemented in a
5 manner satisfactory to the Secretary and in compliance with the
6 agreement between the Secretary and the owner, operator, or other
7 responsible party.

8 (h) The Secretary may waive recordation under this section with respect to any
9 residential real property that is contaminated solely because a hazardous substance or
10 hazardous waste migrated to the property from other property by means of groundwater
11 flow if disclosure of the contamination is required under Chapter 47E of the General
12 Statutes. An owner of residential real property whose recordation requirement is waived
13 by the Secretary under this subsection and who fails to disclose contamination as required
14 by Chapter 47E of the General Statutes is subject to both the penalties and remedies
15 under this Chapter applicable to a person who fails to comply with the recordation
16 requirements of this section as though those requirements had not been waived and to the
17 remedies available under Chapter 47E of the General Statutes."

18 Section 2. Notwithstanding the provisions of G.S. 143-215.84 and G.S. 143-
19 215.94E and except as provided in subsection (d) of Section 1 of Chapter 648 of the 1995
20 Session Laws (1996 Regular Session), no person shall be required to clean up a discharge
21 or release from a leaking petroleum underground storage tank that has been classified as
22 having a Class CDE impact pursuant to subsection (b) of Section 1 of Chapter 648 of the
23 1995 Session Laws (1996 Regular Session).

24 Section 3. The Environmental Management Commission shall adopt the rule
25 required by G.S. 143-215.94V(b) and Section 6 of Chapter 648 of the 1995 Session Laws
26 (1996 Regular Session) as a temporary rule no later than 31 July 1997.

27 Section 4. This act is effective when it becomes law. Section 2 of this act
28 expires when the temporary rule required by Section 3 of this act becomes effective as
29 provided in G.S. 150B-21.3(a).