

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH30261-RT-16 (04/12)

Short Title: Coastal Hazards Disclosure. (Public)

Sponsors: Representative Harrison.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR DISCLOSURE OF COASTAL NATURAL HAZARDS
TO PURCHASERS OF COASTAL PROPERTIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 39 of the General Statutes is amended by adding a new section to read:

"§ 39-51. Disclosure of coastal natural hazards.

(a) Legislative Findings. – The General Assembly finds that there are many properties along the Atlantic Ocean that are particularly susceptible to coastal natural hazards, including but not limited to erosion, flooding, storm damage, and inlet migration. The natural features of the beach system are highly dynamic and there is a high degree of potential loss of life and property in certain particularly hazardous areas. The nature and extent of these coastal natural hazards for particular parcels of land are not readily apparent to or known by potential purchasers of property. It is therefore in the public interest that the General Assembly establish a system whereby purchasers of coastal properties subject to certain natural hazards can receive reasonable notice of these hazards prior to acquisition of property. Public disclosure of these hazards is essential to fully apprise prospective purchasers of the coastal natural hazards involved with development and use of property, to prevent any misrepresentation as to the coastal natural hazards affecting the property, and to allow potential purchasers to have complete and accurate information regarding property that may be affected by coastal natural hazards.

(b) Scope. – The provisions of this section apply to all properties that have been designated as ocean hazard areas of environmental concern by the Coastal Resources Commission pursuant to G.S. 113A-113 and G.S. 113A-115.

(c) Description of Coastal Natural Hazards Filed With the Clerk of Court. – The Coastal Resources Commission shall file with the clerk of court in each county that

1 includes property that has been designated as an ocean hazard area of environmental
2 concern a detailed description of each area and the specific coastal natural hazards that
3 affect the property, with appropriate supporting materials. The Coastal Resources
4 Commission shall update the filing whenever a designation in a county is amended.

5 (d) Disclosure Form. – The Coastal Resources Commission shall prepare and
6 make available at no charge a simple form on which a seller shall provide the
7 disclosures required by subsection (e) of this section. The form shall include
8 information relative to rules affecting potential development or redevelopment of the
9 property. Any information that is required to complete the disclosure form shall be
10 provided at no charge by the Coastal Resources Commission. The Coastal Resources
11 Commission shall maintain current information on annual erosion rates, storm recession
12 estimates, flood levels, inlet movement and other relevant data for all property subject
13 to this section. The disclosure form shall include notice of the remedies available under
14 subsection (h) of this section.

15 (e) Duties of Seller. – A seller of real property described in subsection (b) of this
16 section shall provide every prospective purchaser of the real property with a written
17 document that discloses the coastal natural hazards affecting the property. This
18 disclosure shall be made upon a form provided by the Coastal Resources Commission
19 and shall be made at least 72 hours prior to the time the purchaser signs a purchase
20 contract or at least 72 hours prior to the receipt of any consideration by the seller,
21 whichever occurs first. If the property is subject to Chapter 47E of the General Statutes,
22 disclosure as provided in that Chapter satisfies the requirements of this section.

23 (f) Limitations on Construction of Section. – This section shall not be construed
24 to relieve a seller of any other legal duty, obligation, or liability of disclosure. A
25 disclosure under this section shall not be construed to constitute a warranty by the seller
26 that the property may be developed or redeveloped or that the property is not subject to
27 hazards in addition to those required to be disclosed under this section.

28 (g) Exemption. – The requirements of this section shall not apply to any
29 gratuitous transfer of property, including, but not limited to those transfers made by gift,
30 bequest, will, or other means in which the transferor receives no consideration either
31 directly or indirectly from the recipient of the property.

32 (h) Remedies. – If a seller fails to make the disclosure required by subsection (e)
33 of this section, the purchaser has the rights set out in G.S. 47E-5(b). These rights shall
34 be in addition to any other remedies available under any other provision of law."

35 **SECTION 2.** G.S. 47E-4(b) reads as rewritten:

36 "(b) The North Carolina Real Estate Commission shall develop and require the
37 use of a standard disclosure statement to comply with the requirements of this section.
38 The disclosure statement shall specify that certain transfers of residential property are
39 excluded from this requirement by G.S. 47E-2, including transfers of residential
40 property made pursuant to a lease with an option to purchase where the lessee occupies
41 or intends to occupy the dwelling, and shall include at least the following characteristics
42 and conditions of the property:

- 43 (1) The water supply and sanitary sewage disposal ~~system;~~system.

- 1 (2) The roof, chimneys, floors, foundation, basement, and other structural
2 components and any modifications of these structural
3 ~~components;components.~~
4 (3) The plumbing, electrical, heating, cooling, and other mechanical
5 ~~systems;systems.~~
6 (4) Present infestation of wood-destroying insects or organisms or past
7 infestation the damage for which has not been ~~repaired;repaired.~~
8 (5) The zoning laws, restrictive covenants, building codes, and other
9 land-use restrictions affecting the real property, any encroachment of
10 the real property from or to adjacent real property, and notice from any
11 governmental agency affecting this real ~~property;andproperty.~~
12 (6) Presence of lead-based paint, asbestos, radon gas, methane gas,
13 underground storage tank, hazardous material or toxic material
14 (whether buried or covered), and other environmental contamination.
15 (7) The existence of coastal natural hazards that are required to be
16 disclosed under G.S. 39-51.

17 (b1) The disclosure statement shall provide the owner with the option to indicate
18 whether the owner has actual knowledge of the specified characteristics or conditions,
19 or the owner is making no representations as to any characteristic or condition. This
20 subsection does not apply to subdivision (7) of subsection (b) of this section."

21 **SECTION 3.** This act becomes effective 1 July 2006 and applies to all
22 property that is sold or offered for sale on or after that date. The Coastal Resources
23 Commission shall complete the filings required by G.S. 39-51(c), as enacted by Section
24 1 of this act, and shall develop the disclosure form required by G.S. 39-51(d), as enacted
25 by Section 1 of this act, no later than 1 January 2006.