

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1512

Short Title: Coastal Hazards Disclosure.

(Public)

Sponsors: Representative Harrison.

Referred to: Rules, Calendar, and Operations of the House.

April 21, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR DISCLOSURE OF COASTAL NATURAL HAZARDS
3 TO PURCHASERS OF COASTAL PROPERTIES.

4 The General Assembly of North Carolina enacts:

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

7 "**§ 39-51. Disclosure of coastal natural hazards.**

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

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

26 (c) Description of Coastal Natural Hazards Filed With the Clerk of Court. – The
27 Coastal Resources Commission shall file with the clerk of court in each county that
28 includes property that has been designated as an ocean hazard area of environmental
29 concern a detailed description of each area and the specific coastal natural hazards that

1 affect the property, with appropriate supporting materials. The Coastal Resources
2 Commission shall update the filing whenever a designation in a county is amended.

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

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

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

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

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

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

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

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

42 (2) The roof, chimneys, floors, foundation, basement, and other structural
43 components and any modifications of these structural
44 ~~components;~~components.

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

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

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