

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 189\***  
**Senate Agriculture/Environment/Natural Resources Committee Substitute**  
**Adopted 8/28/01**

Short Title: Temporary Rules/Coastal Resources & Env. Mgt.

(Public)

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Sponsors:

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Referred to:

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February 21, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO  
3 ADOPT TEMPORARY RULES TO ESTABLISH ADDITIONAL EXCEPTIONS  
4 TO THE 30-FOOT BUFFER REQUIREMENT ALONG PUBLIC TRUST AND  
5 ESTUARINE WATERS IN CERTAIN CIRCUMSTANCES AND TO ALLOW  
6 STRUCTURAL MODIFICATIONS TO PIERS TO PREVENT OR MINIMIZE  
7 STORM DAMAGE, AND TO EXTEND THE TIME THAT TEMPORARY  
8 RULES TO PROTECT WATER QUALITY AND RIPARIAN BUFFERS IN  
9 CERTAIN RIVER BASINS WILL REMAIN IN EFFECT SO AS TO ALLOW  
10 THE ENVIRONMENTAL MANAGEMENT COMMISSION ADDITIONAL  
11 TIME TO CONSULT WITH PERSONS WHO ARE INTERESTED IN OR MAY  
12 BE AFFECTED BY THE ADOPTION OF PERMANENT RULES TO REPLACE  
13 THOSE TEMPORARY RULES.

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** Notwithstanding G.S. 150B-21.3(a) and 26 NCAC  
16 2C.0102(11), the Coastal Resources Commission may adopt temporary rules to amend  
17 15A NCAC 7H.0209(d) and 15A NCAC 7H.0209(e) to establish additional exceptions  
18 to the 30-foot buffer requirement set out in 15A NCAC 7H.0209(d) to allow the  
19 following uses that would otherwise be prohibited:

- 20 (1) Construction of a residential structure on a lot, parcel, or tract of 7,500  
21 square feet or less that was platted prior to 1 June 1999, that will be  
22 served by an on-site septic system, and that is located in an intensely  
23 developed area.  
24 (2) Construction of a residential structure, as provided in 15A NCAC  
25 7H.0209(e)(1), with a footprint of up to 1,200 square feet on a lot,  
26 parcel, or tract of 5,000 square feet or more that was platted prior to 1  
27 June 1999, where strict application of the buffer requirement would  
28 preclude construction of the residential structure.

1 (3) Construction of nonwater dependent uses that have minimal impact on  
2 water quality, including, but not limited to, fences.

3 **SECTION 2.** Notwithstanding G.S. 150B-21.3(a) and 26 NCAC  
4 2C.0102(11), the Coastal Resources Commission may adopt temporary rules to amend  
5 15A NCAC 7H.1205 to allow structural modifications to piers in existence on 1 July  
6 2001, to prevent or minimize damage due to storm events.

7 **SECTION 3.** Notwithstanding G.S. 150B-21.1(d), each temporary rule  
8 adopted pursuant to Sections 1 and 2 of this act shall become effective upon its adoption  
9 by the Coastal Resources Commission and shall remain in effect until a permanent rule  
10 to replace it becomes effective.

11 **SECTION 4.(a)** Notwithstanding G.S. 150B-21.1(d), temporary rules 15A  
12 NCAC 2B.0243 and 15A NCAC 2B.0244, which were adopted pursuant to Section 7.1  
13 of S.L. 1999-329 and which became effective on or before 1 July 2001, shall continue in  
14 effect until 1 September 2003 in order to provide sufficient time for the Environmental  
15 Management Commission to further consult with businesses and industries, local  
16 governments, landowners, and other interested or potentially affected persons in the  
17 upper and lower Catawba River Basin as to the appropriate scope of permanent rules to  
18 protect water quality and riparian buffers in that river basin. In developing permanent  
19 rules, the Commission shall consider whether riparian buffers on the main stem of the  
20 Catawba River and on lake shorelines are adequate to protect water quality in the river  
21 and whether riparian buffer protection requirements should or should not be extended to  
22 some or all of the tributary streams in the river basin, taking into account the sources of  
23 water quality degradation in the river, the topography of the land in the river basin, and  
24 other relevant factors.

25 **SECTION 4.(b)** Vested rights recognized or established under the common  
26 law or by G.S. 153A-344(b), 153A-344.1, 160A-385(b), or 160A-385.1 shall include  
27 the right, as provided in this subsection, to undertake and complete development in the  
28 Catawba River Basin without application of temporary rule 15A NCAC 2B.0243. The  
29 Commission and the Department shall not apply temporary rule 15A NCAC 2B.0243 to  
30 development with vested rights recognized or established under G.S. 153A-344(b),  
31 153A-344.1, 160A-385(b), or 160A-385.1 prior to 1 July 2001. The Commission and  
32 the Department shall not apply temporary rule 15A NCAC 2B.0243 to development  
33 with vested rights recognized or established under the common law prior to the date this  
34 section becomes effective if the Commission has issued a certification pursuant to G.S.  
35 143B-282(a)(1)u. prior to 1 July 2001. The Commission shall not adopt or enforce rules  
36 that confer or restrict a vested right to undertake or complete development. It is the  
37 intent of the General Assembly that this subsection apply only to the particular  
38 circumstances that are the subject of this section. This subsection does not establish a  
39 precedent as to the application of vesting under a zoning or land-use planning program  
40 administered by a local government or to any other environmental program.

41 **SECTION 4.(c)** Notwithstanding G.S. 150B-21.3(a), this section shall not  
42 be construed to authorize the adoption of additional temporary rules related to  
43 protection of water quality and riparian buffers.

1           **SECTION 5.** This act is effective when it becomes law.