

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 1388

Short Title: Brownfields Property Notifications. (Public)

Sponsors: Representatives Fisher; Goforth, Harrison, Rapp, and Wray.

Referred to: Environment and Natural Resources, if favorable, Commerce, Small Business,
and Entrepreneurship.

April 13, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE PUBLIC NOTICE REQUIREMENT REGARDING A
3 PROSPECTIVE DEVELOPER'S INTENT TO REDEVELOP A BROWNFIELDS
4 PROPERTY AND TO REMOVE THE CONDITION UNDER WHICH THE REGISTER
5 OF DEEDS IS NOT REQUIRED TO RECORD THE CANCELLATION OF THE
6 NOTICE OF BROWNFIELDS PROPERTY AFTER THE HAZARDS HAVE BEEN
7 ELIMINATED.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 130A-310.34(a) reads as rewritten:

10 "(a) A prospective developer who desires to enter into a brownfields agreement shall
11 notify the public and the community in which the brownfields property is located of planned
12 remediation and redevelopment activities. The prospective developer shall submit a Notice of
13 Intent to Redevelop a Brownfields Property and a summary of the Notice of Intent to the
14 Department. The Notice of Intent shall provide, to the extent known, a legal description of the
15 location of the brownfields property, a map showing the location of the brownfields property, a
16 description of the contaminants involved and their concentrations in the media of the
17 brownfields property, a description of the intended future use of the brownfields property, any
18 proposed investigation and remediation, and a proposed Notice of Brownfields Property
19 prepared in accordance with G.S. 130A-310.35. Both the Notice of Intent and the summary of
20 the Notice of Intent shall state the time period and means for submitting written comment and
21 for requesting a public meeting on the proposed brownfields agreement. The summary of the
22 Notice of Intent shall include a statement as to the public availability of the full Notice of
23 Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the
24 Department, the prospective developer shall provide a copy of the Notice of Intent to all local
25 governments having jurisdiction over the brownfields property. The prospective developer shall
26 publish the summary of the Notice of Intent in a newspaper of general circulation serving the
27 area in which the brownfields property is located and shall file a copy of the summary of the
28 Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of
29 Intent in the North Carolina Register. The prospective developer shall ~~also~~ conspicuously post a
30 copy of the summary of the Notice of Intent at the brownfields site. At the same time the
31 prospective developer publishes the summary of the Notice of Intent in a newspaper, the
32 developer shall notify every person who resides or owns property located within one-fourth
33 mile of any property boundary of the brownfields property by mailing the summary of the
34 Notice of Intent to residents and by mailing by certified mail the summary of the Notice of
35 Intent to property owners."

36 **SECTION 2.** G.S. 130A-310.34(c) reads as rewritten:



1 "(c) Any person who desires a public meeting on a proposed brownfields agreement
2 shall submit a written request for a public meeting to the Department within 21 days after the
3 public comment period begins. The Department shall consider all requests for a public meeting
4 and shall hold a public meeting if the Department determines that there is significant public
5 interest in the proposed brownfields agreement. If the Department decides to hold a public
6 meeting, the Department shall, at least 15 days prior to the public meeting, mail written notice
7 of the public meeting to all persons who reside or own property located within one-fourth mile
8 of any property boundary of the brownfields property, to persons who requested the public
9 meeting and meeting, and to any other person who had previously requested notice. The
10 Department shall also direct the prospective developer to publish, at least 15 days prior to the
11 date of the public meeting, a notice of the public meeting at least one time in a newspaper
12 having general circulation in such county where the brownfields property is located. In any
13 county in which there is more than one newspaper having general circulation, the Department
14 shall direct the prospective developer to publish a copy of the notice in as many newspapers
15 having general circulation in the county as the Department in its discretion determines to be
16 necessary to assure that the notice is generally available throughout the county. The
17 Department shall prescribe the form and content of the notice to be published. The Department
18 shall prescribe the procedures to be followed in the public meeting. The Department shall take
19 detailed minutes of the meeting. The minutes shall include any written comments, exhibits, or
20 documents presented at the meeting."

21 **SECTION 3.** G.S. 130A-310.35(e) reads as rewritten:

22 "(e) A Notice of Brownfields Property filed pursuant to this section may, at the request
23 of the owner of the land, be cancelled by the Secretary after the hazards have been eliminated.
24 If requested in writing by the owner of the land and if the Secretary concurs with the request,
25 the Secretary shall send to the register of deeds of each county where the notice is recorded a
26 statement that the hazards have been eliminated and request that the notice be cancelled of
27 record. The Secretary's statement shall contain the names of the owners of the land as shown in
28 the notice and reference the plat book and page where the notice is recorded. The register of
29 deeds shall record the Secretary's statement in the deed books and index it on the grantor index
30 in the names of the owners of the land as shown in the Notice of Brownfields Property and on
31 the grantee index in the name "Secretary of Environment and Natural Resources". The register
32 of deeds shall make a marginal entry on the Notice of Brownfields Property showing the date
33 of cancellation and the book and page where the Secretary's statement is recorded, and the
34 register of deeds shall sign the entry. If a marginal entry is impracticable because of the method
35 used to record maps and plats, the register of deeds shall ~~not be required to make a marginal~~
36 ~~entry record the cancellation in some other manner that adequately provides notice of the~~
37 ~~cancellation and that shows the date of cancellation and the book and page where the~~
38 ~~Secretary's statement is recorded."~~

39 **SECTION 4.** This act becomes effective October 1, 2009, and applies to property
40 that is subject to a brownfields agreement that is entered into on or after that date.